

## PHONE APPLI THANKS Subscription Rules (Purchased Services)

PHONE APPLI THANKS Subscription Rules (hereinafter referred to as these "Rules") governs purchased services of the Services by Customers. These Rules constitute the terms and conditions of the Terms of Use of the Services as one unit with the Order Form submitted by the customer, and by submitting the Order Form to the Company or sales agent designated by the Company, the Customer shall be deemed to have represented that all the terms and conditions of the Terms of Use of the Services including contents of these Rules will be applicable.

### 1. DEFINITIONS

“Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under the common control with the subject entity. “Control,” for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Malicious Code” means viruses, worms, time bombs and Trojan horses, or other harmful or malicious code, files, scripts, agents or programs.

“Order Form” means an ordering document (including the supplements thereto) for purchase of the Services. The Order Form and these Rules constitute the terms and conditions of agreement as one unit between the Customer and the Company.

“Agreement” means an agreement to use the Services executed by submission by the Customer to the Company and the Company approving the same. These Rules shall constitute a part of the terms and conditions of the Agreement.

“Purchased Services” means Services that the Customer or Customer’s Affiliate purchases under an Order Form.

“Services” means an online application and platform that operates as an application installed in the Salesforce Services allocated solely to the Customer, that the Company provides via the designated website in accordance with the descriptions as per <https://phoneappli.net/en/> or other User's Guide, and that are subject to orders by the Order Form. This shall include associated offline components and support services, but exclude Third Party Applications.

“Subscription” means rights purchased by the Customer by the Order Form from the Company, under which the User may use the Services during a certain period.

“Third Party Application” means the online and Web-based application and offline software products provided by third parties, and which interoperate with the Service, and are specified to be the third party's applications by SFDC and the Company.

“Third Party Provider” means a company, etc. that provides the Third Party Application.

“User's Guide” means the operating manual at the URL designated by the Company, which will be updated as needed.

“User” means an individual who is authorized by the Customer to use the Service, for whom the Customer has purchased a subscription, and to whom the Customer (or the Company at the Customer's request) has supplied user ID and password. Users may include, but are not limited to, employees, consultants, contractors and agents of the Customer, and third parties with which Customer transacts business.

“Company” means Phone Appli. Inc.

“SFDC” means the Salesforce.com inc.

“Customer” means the company or Affiliates of the company that purchase the Services as stated on the Order Form.

“Customer Data” means all electronic data and information stored by the Customer in the Services.

## **2. RELATIONSHIP WITH CONNECTED SOLUTION**

### **2.1 Relationship with SFDC**

The Services is an application that operates upon connection with the SFDC Platform under the Salesforce OEM Partner Agreement of SFDC. In order to use the Services, Users must agree to the SFDC Service Conditions as per Attachment 1 separately, concerning use of the SFDC Platform connected to the Services.

### **3. PURCHASED SERVICES**

#### **3.1 Provision of purchased services**

The Company shall provide the purchased services to Customers during the period of use in accordance with the Agreement and applicable Order Form. Customers shall purchase the Services upon understanding the fact that provision of new functionalities, etc. in the future is not ensured as a condition for the Services.

#### **3.2 Subscriptions**

Unless otherwise provided in the applicable Order Form, (i) the Services are purchased as subscriptions, and Users exceeding the specified number of Users may not have access thereto, (ii) additional subscriptions may be added at the same price as the underlying subscription during the service period and (iii) any added subscriptions shall terminate on the same date as the underlying subscriptions. Subscriptions are for specified Users, and two or more Users may not jointly possess or use the same Subscriptions, however, if it becomes unnecessary for a given User to use the Services on a continuous basis, the Subscription may be re-allocated to a new User in place of the relevant former User.

### **4. USE OF THE SERVICES**

#### **4.1 The Company's responsibilities**

The Company shall assume the following responsibilities: (i) to provide standard support for the Purchased Services, or upgraded support if purchased separately, (ii) to use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which the Company shall give advance notice via Purchased Services), and (b) any unavailability caused by circumstances beyond the Company's reasonable control, including, but not limited to, act of God, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem, or Internet service provider failure or delay, and (iii) to provide the Services only in accordance with applicable laws and government regulations.

#### **4.2 Customer responsibilities**

The Customer shall (i) be responsible for compliance by Users with the Agreement, (ii) be responsible for the accuracy, quality and legality of Customer Data, the means by which the Customer acquired the Customer Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of Services and Content, and notify the

Company promptly of any such unauthorized access or use, (iv) use the Services only in accordance with the User's Guide and applicable laws and government regulations, and (v) comply with various laws and regulations, Work Rules, employment agreements or internal regulations, etc. when Customer reimburses points to the User by means of salary or other methods, within the organization of the Customer.

The Customer shall not engage in the following acts: (a) to make the Services available to anyone other than Users, (b) to sell, resell, license, rent or lease the Services, (c) to use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) to use the Services to store or transmit Malicious Code, (e) to interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) to attempt to gain unauthorized access to any Service or systems or networks related thereto, (g) if the Customer is a direct competitor of Salesforce, to access or use any program, or to access or use the program for a competing purpose (to build competing products or services, or build products or services that use ideas, features, functionalities or images similar to the program), or for the purpose of benchmarking or monitoring, etc. of availability, capabilities or functionalities of the program

#### 4.3 Restrictions on use

The Services may be under restrictions. Such restrictions are specified in the User's Guide.

### **5. THIRD PARTY PROVIDER**

#### 5.1 Acquisition of products or services of Third Party

The Company may sell the Third Party Application by the Order Form. However, unless expressly stated otherwise on the Order Form, the Company does not warrant or support the products or services of Third Parties, irrespective of whether or not they are designated by the Company as "certified" or otherwise.

#### 5.2 Third Party Applications and Customer Data

When the Customer installs or activates a Third Party Application for combined use with the Services, the Customer shall allow the Company and provider of the relevant Third Party Application to be able to access the Customer Data necessary for interactive operation of the relevant Third Party Application and the Services. The Company is not responsible for any disclosure, modification or deletion of Customer Data resulting

from such access by the provider of the Third Party Application.

### 5.3 Setting concerning Third Party Application

The Customer may, upon subscription to or installation, etc. of the Third Party Application which is subject to linkage with the Services, select data items for linkage out of the linkable data items and configure the required linkage API, etc., and at its own responsibility conduct various linkages of data with the Third Party Application for linkage. If such linkage is conducted, the Customer shall allow the Company and the provider of the relevant Third Party Application to be able to access the Customer Data necessary for interactive operation of the relevant Third Party Application and the Services. The Company is not responsible for any disclosure, modification or deletion of Customer Data or data inside the Third Party Application resulting from linkage with the Third Party Application, as well as defects due to errors in linkage settings, or defects in the Third Party Application or defects in the environment of use of the Third Party Application. In addition, if the Customer is unable to do the configuration for linkage by itself, upon separate consultations, the Company may provide configuration services for fee for the Customer, however, even in such case, as well, the Company shall bear no responsibility for defects, etc. arising out of linkage.

## 6. CUSTOMIZATION OF THE SERVICES CARRIED OUT BY CUSTOMERS

6.1 For the Customer to create an application or object to be used with the Services, it is necessary to satisfy the requirements of force.com, the platform of SFDC that the Customer will use. Except for cases agreed otherwise, the Company will not warrant the effects or continuity of custom objects and APIs defined by the Customer, and may discontinue or change those without announcement, and Customer shall recognize such possibility and agree thereto.

## 7. SOFTWARE UPDATES

7.1 The Company shall modify and add to the Services as needed for the purpose of repair of defects and improvement of functionalities. Updates may be downloaded or installed from time to time via <https://phoneappli.net/en/> or other websites designated following the descriptions in the User's Guide.

7.2 In principle, the Company shall provide the services under the Agreement for the latest Services after updates, and Customer shall understand that with former versions (this means versions without the latest update to the Services), there is a possibility that

services under the Agreement may not be provided.

7.3 The customer shall understand that there will be some impact on the environment of the Customer from updates of the Software. Customer must make own judgments at its own responsibility whether or not an update to the Software conforms to the environment and objectives of the Customer in installing the updated Software.

#### **7a. ADDITION OF SERVICES**

7a.1 Services to which the Company indicates that these Rules are applicable and agreed upon by Customer (hereinafter referred to as the "Added Services") after execution of the Agreement shall constitute a part of the Purchased Services and the Services respectively, and rights to use the relevant services shall constitute a part of the Subscription.

##### **7a.2**

Unless otherwise provided separately, these Rules shall be applicable to the Added Services.

#### **8. FEES AND PAYMENT OF PURCHASED SERVICES**

##### **8.1 Fees for the User**

The customer shall pay all fees specified in all Order Forms under the Agreement. Fees are based on Services purchased and not actual use. Except for cases otherwise provided in these Rules, fees paid are non-refundable. Fees for Subscriptions purchased shall in principle be paid in lump sum for a 12-month portion based on monthly periods for months that start on commencement the date of use of the Subscription and the anniversary date of each month. In the case of application for additional IDs, the agreement term shall be from the monthly period as stated in the above, including the day of commencement of use of additional ID, to the end of the agreement before the addition.

##### **8.2 Invoicing and payment**

Customer shall pay fees to the Company or a party designated by the Company (hereinafter referred to as the "Biller") by the method of payment specified in the Order Form. Unless otherwise provided in the Order Form, the invoiced amount must be paid no later than 30 calendar days after the invoice date as the due date.

### 8.3 Overdue charges

If any invoiced amount is not received by the Company or the Biller by the due date, the Company may charge overdue charges at the rate of 14.6% per year on the outstanding balance from the due date to the completion of payment.

### 8.4 Suspension of Service and Acceleration

If any charge owed by Customer to the Company or Biller under the Agreement is 30 days or more overdue, the Company may accelerate the Customer's unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend the Services until such amounts are paid in full.

### 8.5 Taxes

Unless otherwise provided, the Company's fees do not include any taxes, levies, duties or moneys in an amount corresponding thereto (hereinafter collectively referred to as "Taxes"). Customer is responsible for paying all Taxes associated with its purchases under the Agreement.

## **9. PROPRIETARY RIGHTS**

### 9.1 Reservation of Rights

The Company reserves all of its right, title and interest in and to the Services, including all related intellectual property rights. No rights are granted by the Company to the Customer under the Agreement other than as expressly set forth in the Agreement.

### 9.2 Restrictions

The customer shall not conduct the following: (i) to permit access to the Services by a third party, (ii) to alter a part of the Services, (iii) to reproduce, frame or mirror any part of any Service or Contents, (iv) to conduct reverse-engineering of the Services (v) to access for the purpose of development of competing products or services, or benchmarks.

### 9.3 Customer data attribution

The Customer alone owns all rights to and interests in all of the Customer Data between the Customer and the Company.

### 9.4 Suggestions

The Company may use all suggestions, improvement requests and other feedback given

by the Customers (including Users) relevant to the Service or incorporate these into the Services

## **10. CONFIDENTIALITY**

### **10.1 Definition of Confidential Information**

“Confidential Information” means all information disclosed by a party (hereinafter referred to as “Disclosing Party”) to the other party (hereinafter referred to as “Receiving Party”), whether orally or in writing, that is designated as confidential or that should reasonably be understood as being confidential given the nature of the information and the circumstances of disclosure. Confidential Information of the Customer includes Customer Data; Confidential Information of the Company includes the Services. In addition, Confidential Information of each party includes the terms and conditions of the Agreement and all Order Forms. However, Confidential Information (except for Customer Data) does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received by the Receiving Party from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

### **10.2 Protection of Confidential Information**

Except as otherwise authorized by the Disclosing Party in writing, and in the cases specified in Section 2.3 and Section 5.2 of these Rules, (i) the Receiving Party shall use the same degree of care that it uses in protecting the confidentiality of its own confidential information not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of the Agreement and (ii) to limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need that access for purposes consistent with the Agreement, and the Receiving Party shall sign confidentiality agreements with those parties containing confidentiality obligations of the same degree as these provisions, and those parties shall assume confidentiality obligations of the same degree as the Receiving Party.

### **10.3 Compelled disclosure**

The Receiving Party may disclose the Confidential Information of the Disclosing Party when compelled by the laws and regulations to do so.

## **11. WARRANTIES AND DISCLAIMERS**

### **11.1 Warranties of the Company**

The Company warrants that the Services perform materially in accordance with the User's Guide. For any breach of the relevant warranty, the Customer's exclusive remedies are those described in Sections 14.3 (Termination Events) and 14.4 (Refund or Payment upon Termination) below.

### **11.2 Disclaimers**

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE COMPANY MAKES NO WARRANTY OF ANY KIND, AND THE COMPANY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMERS MUST BY THEMSELVES JUDGE WHETHER OR NOT USE OF THE SERVICES WILL CONFORM TO THEIR ENVIRONMENT AND OBJECTIVES IN THE USE OF THE SERVICES, AND PERFORM NECESSARY INSTALLATION.

## **12. MUTUAL INDEMNIFICATION**

### **12.1 Indemnification by the Company**

If any third party makes claims or performs such legal procedures as bringing suits (hereinafter referred to as the "Claim") against the Customer alleging that the use of the Services allowed under the Agreement infringes or misappropriates such third party's intellectual property rights, the Company shall indemnify Customer from any damages finally awarded against the Customer in the Claim and reasonable attorney fees borne by the Customer; provided that the Customer (a) promptly gives the Company written notice of the existence and details, etc. of the Claim, (b) handles the Claim with approval of the Company (except that the Company may not give consent to any settlement of the Claim unless it unconditionally releases the Customer of all liability), and (c) gives the Company all reasonable assistance, at the Company's expense.

### **12.2 Indemnification by Customer**

If any third party makes a Claim against the Company alleging that the Customer Data or use of the Services by the Customer in violation of the Agreement infringes or misappropriates such third party's intellectual property rights, or violates any applicable laws, the Customer shall indemnify the Company as in the preceding Section in

accordance with the same conditions as those provided in the preceding Section, at the Customer's expense.

### 12.3 Exclusive Remedy

Article 12 (Mutual Indemnification) of these Rules describes the indemnified party's exclusive remedy against the other party.

## **13. LIMITATION OF LIABILITY**

### 13.1 Limitation of Liability

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY FOR AN INCIDENT ARISING OUT OF OR RELATED TO THE AGREEMENT EXCEED THE AMOUNT PAID BY THE CUSTOMER UNDER THE AGREEMENT IN THE TWELVE MONTHS PRECEDING THE APPLICABLE INCIDENT, REGARDLESS OF WHETHER AN ACTION IS IN CONTRACT OR TORT OR OTHER THEORIES OF LIABILITY.

### 13.2 Exclusion of Consequential and Related Damages

IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY LOST PROFITS, REVENUES, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, OR PUNITIVE DAMAGES, REGARDLESS OF THE REASON.

## **14. TERM AND TERMINATION**

### 14.1 Term of Agreement

The Agreement commences on the date Customer first submits the Order Form to the Company and the Company agrees thereto, and remains in effect until all Subscriptions under the Agreement have expired or the Agreement is terminated.

### 14.2 Term of Purchased Subscriptions

The term of subscription purchased by the Customer shall become effective on the commencement date as specified in the applicable Order Form and remain in effect during the term as provided in the relevant Order Form. Subscriptions will automatically renew for additional periods of one year, unless either party notifies the other party otherwise at least 30 days before the end of the relevant term and the same rule shall apply thereafter. List price during the relevant renewed term shall be the same as the list price during the term before renewal, however, this shall not apply to the case

when the Company notifies the Customer of a price increase in writing no later than 30 days in advance of the expiration of the relevant term before renewal, and in such instance the relevant price increase shall go into effect as of the renewal date, and remain in effect thereafter.

#### 14.3 Termination Events

A party may terminate this Agreement, for (i) when a breach remains unremedied at the expiration of such period upon 30 days written notice requesting remedy to the other party of the breach, or for (ii) through (iv) immediately without making any formal demand: (i) where there is a breach of the provisions of the Agreement by the other party, (ii) where the other party is subject to forcible execution, auction, or delinquency disposition for taxes and dues, (iii) where the other party has payments suspended, or is subject to a petition for legal proceedings including bankruptcy proceedings, civil rehabilitation proceedings, corporate reorganization proceedings or special liquidation proceedings, or where the other party commences the voluntary liquidation proceedings, (iv) where the other party breaches the representations and warranties as provided in Section 15.1.

#### 14.4 Termination by the Company

If the Customer breaches the restrictions under item (ii) through (v) of Section 9.2, or if the Customer is a direct competitor of the Company, the Company may terminate this Agreement immediately without any formal demand.

#### 14.5 Non-occurrence of obligation for indemnification

If the Agreement is terminated pursuant to Section 3 of this Article or the preceding Section, the party that terminates the Agreement shall bear no obligation to indemnify the other party for damage incurred due to termination.

#### 14.6 Refund or payment upon termination.

If the Agreement is terminated by the Customer in accordance with event of termination as referred to in Section 3 of this Article, the Company shall refund the Customer any prepaid fees covering the remainder of the period of use after the effective date of termination; provided, however, that if the Customer has paid fees to the Biller, the Biller shall refund the prepaid fees covering the remainder of the period of use after the effective date of termination.

If the Agreement is terminated by the Company in accordance with event of termination,

the Customer shall pay any unpaid fees covering the remainder of the term of all Order Forms to the Company or the Biller, as designated by the Company. In no event shall termination relieve Customer of its obligation to pay any fees payable to the Company for the period prior to the effective date of termination.

#### 14. 7 Customer Data download

Before termination of the agreement of the Subscription to the Purchased Service, if it is necessary for the Customer, the Customer may download the file of Customer Data using the download function of the Services. After termination of the Agreement, the Company shall assume no obligation to retain and provide Customer Data to Customers, and unless prohibited under the law, the Company shall delete all Customer Data in the System or in other possession or under the management of the Company and the Customers may state no objection thereto.

#### 14.8 Surviving Provisions

Article 4, Section 2 (Customer responsibilities), Article 8 (Fees and Payment of Purchased Services), Article 9 (Proprietary Rights), Article 10 (Confidentiality), Article 11 (Warranties and Disclaimers), Article 12 (Mutual Indemnification), Article 13 (Limitation of Liability), Article 14, Section 5 (Non-occurrence of obligation for indemnification), Section 6 (Refund or payment upon termination), Section 7 (Customer Data download) and Article 15 (General Provisions) shall survive any termination or expiration of the Agreement.

### **15. GENERAL PROVISIONS**

#### 15.1 Elimination of Anti-social Forces

Each party represents and warrants the following facts: (i) the party itself is not an anti-social force, (ii) the party has never been an anti-social force, (iii) the party will not use anti-social forces, (iv) executives, etc. of the party are not anti-social forces, nor do they have any relationship with anti-social forces (v) the party that controls the decisions of financial and business policies of the party is not an anti-social force, nor does it have any relationship with anti-social forces.

#### 15.2 Notice

Except as otherwise specified in this Agreement, all notices, permissions and approvals related to the Agreement shall be in writing (including electronic means) and shall be effective upon personal delivery to the coordinator as stated on the Order Form, or upon

the elapse of the period when normally those documents should have arrived. Notices to the Company shall be sent to the address designated by the Company.

### 15.3 Assignment

Neither party may assign any of its rights or obligations hereunder without the other party's prior written consent; notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent, to an Affiliate thereof or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Provided, however, this provision shall not apply to the case of sale of all or substantially all of the party's assets to a direct competitor of the other party, or an affiliate of a direct competitor.

### 15.4 Governing Law

This Agreement and all conflicts arising out of or in relation to the Agreement shall be governed by the laws of Japan.

### 15.5 Jurisdiction

Any conflicts arising out of or in relation to this Agreement shall be subject to the exclusive jurisdiction of Tokyo District Court as court of first instance.

### 15.6 Entire Agreement

This Agreement (including all Exhibits, documents attached to the Agreement and the Order Forms) is the entire agreement between the Company and the Customer and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Any modification, amendment or waiver of any of the provisions of the Agreement shall be effective only when agreed to in writing with a signature, or with name and seal affixed, or with an electronic approval by the party that accepts the request for the relevant modification, amendment or waiver; provided, however, if there is any conflict or inconsistency among the main texts of the Agreement, Exhibits to the Agreement or attached documents, the conditions of the relevant Exhibit or attached documents shall prevail.

This agreement was revised November 24, 2020, and is in effect from that date.

Attachment 1 SFDC Service Agreement

“AppExchange” means the online directory of applications that interoperate with the SFDC Services published on <http://www.salesforce.com/jp/appexchange> or its successor website.

“Partner” means Phone Appli Inc.

“Partner Application” means PhoneAppli.

“Platform” means online and Web-based platform services provided by SFDC to the Partner in relation to provision of the Partner Application to the Customer by the Partner.

“SFDC Services” means the online and Web-based application and platform services that are provided to the general public via <http://www.salesforce.com/jp> or other designated websites, which includes associated offline components but excludes the AppExchange application.

“Subscription” means rights purchased by the Customer from the Partner, which the User may use the Services during a certain period.

“SFDC” means the Salesforce.com inc.

“User” means employees, representatives, consultants, contractors or agents of the Customer who are authorized by the Customer to use the Service, for whom the Customer has purchased a subscription of the Partner Application, and to whom the Customer (or SFDC or the Partner at the Customer’s request) has supplied a user ID and password.

“Customer” means the corporate organization of the Customer that executes a contract to purchase a subscription to use the Partner Application in accordance with the terms and conditions as provided in this SFDC Service Agreement together with other terms and conditions requested by the Partner.

“Customer Data” means all electronic data and information stored by the Customer in

the Services (and as long as these are permanently resident in the Services).

#### 1. Use of the Services

(a) By each subscription to the Partner Application, together with other conditions requested by the Partner, rights to use the Services via the Partner Application shall be granted to one User in accordance with the terms and conditions provided in this SFDC Service Agreement. Subscriptions may not be shared or used by two or more Users (provided, however, that this may be re-assigned as needed to a new User, replaced with a previous User who comes not to need to use the Services due to the end of the employment relationship with the Customer, or other relocation of posts or duties) For clarification, a subscription of the Customer to use the Platform hereunder shall not include a subscription to use the SFDC Services. If a Customer desires to use the SFDC Services or its functionalities or any of the services, or to create or use additional custom objects that exceed those that can be referenced by the Partner Application provided by the Partner to the Customer, the Customer shall refer to [www.salesforce.com/jp](http://www.salesforce.com/jp) for the relevant Services and directly contact SFDC. The Customer shall agree that, if the Customer is able to access the SFDC Services overall or is able to use any of the SFDC Services inside the Partner Application that exceed the functionalities stated in the User's Guide of the Partner Application by accessing the Partner Application, and besides the Customer has not applied for use of the relevant access under a separate agreement with SFDC, the Customer will not access the relevant functionalities nor will it use those, and use of the relevant functionalities by the Customer, or creation or use of additional custom objects that will exceed those that can be referenced by the Partner Application in a form provided by the Partner of the Customer to the Customer shall constitute a material breach of this Agreement.

(b) Even if the Customer can access the Platform or SFDC Services via the Partner Application, the Partner shall be the sole provider of the Partner Application, and the Customer shall have an agreement relationship solely with the Partner. Even if the Partner discontinues the business or in any other case where the Partner suspends or is incapable of provision of the Partner Application, SFDC shall not be obligated to provide the Partner Application, or refund the fees paid by the Customer to the Partner to the Customer.

(c) The Customer shall (i) assume responsibility for all activities arising under the Customer's user account, (ii) assume responsibility for all of the contents of the

Customer Data, and (iii) strive to make commercially reasonable efforts to prevent unauthorized access to or unauthorized use of the Platform or the SFDC Services, and if the Customer discovers unauthorized use, the Customer shall notify the Partner or SFDC promptly, and (iv) comply with all applicable domestic and/or foreign laws and regulations on use of the Platform and SFDC Services.

(d) The Customer shall use the Platform and SFDC Services only for the purpose of the internal business objectives of the Customer, and shall not engage in the following: (i) licensing, sublicensing, sales, resales, rentals, leasing, transfer, assignment, distribution, time-sharing or other commercial use, or provision to a third party other than the Users of the Platform or SFDC Services, or provision thereof by means other than as set forth in this SFDC Services Agreement, (ii) transmission of spam or other repeated messages or nuisance emails in violation of the applicable laws and regulations, (iii) transmission or storage of things harmful to children, things that infringe the rights of third parties including the privacy rights of third parties, indecent things, threatening things, things that damage the dignity of third parties, or any other illegal or unlawful thing, (iv) transmission or storage of viruses, worms, time bombs and Trojan horses, or other harmful or malicious code, files, scripts, agents or programs, (v) interfering with or disrupting the integrity or capabilities of the Platform or SFDC Services or data included therein, or (vi) attempting to attain unauthorized access to the Platform or SFDC Services, or systems or networks related thereto.

(e) Customers must not engage in the following acts: (i) alteration or reproduction of the Platform or SFDC Services, or creation of derivatives based thereon, (ii) framing or mirroring of contents that constitute a part of the Platform or SFDC Services; however, this shall exclude acts on the Intranet of the Customer, or any other internal business objectives of the Customer, (iii) reverse engineering of the Platform or SFDC Services, (iv) access to the Platform or SFDC Services for the following objectives: a) development of competing products or services, b) making reproductions of the ideas, features, functionalities or graphics of the Platform or SFDC Services

## 2. Third Party Providers

The Partner and other Third Party Providers (may possibly be listed on the website of SFDC, including providers of AppExchange applications) will provide products and services related to the Platform or SFDC Services and Partner Application. The relevant products and services shall include introductions, customizations and other consulting

services related to use by the Customer of the Platform, SFDC Services and Partner Applications (including offline and online), such as data exchange between the Platform or SFDC Services and the Partner Application, or provision of additional functionalities within the user interface of the Platform, SFDC Services and Partner Application through the use of the application programming interface of the Platform or SFDC Services. Concerning such products or services, irrespective of whether or not they are designated by SFDC as “certified,” “approved” or otherwise, SFDC will make no warranty for the relevant Third Party Provider or products or services thereof (including, but not limited to, the Partner Application or other products or services of the Partner). Data exchange or other interoperating relationships (including, but not limited to, the Partner Application) between the Customer and Third Party Provider and purchase by the Customer of products or services (including, but not limited to the Partner Application) provided by the relevant Third Party Provider are only between the Customer and the relevant Third Party Provider. Moreover, SFDC or the Partner may provide certain additional functionalities (not defined as a part of the Platform or the SFDC Services) as required, with additional fees, on the basis of pass-through or OEM base, in relation to separate purchase of the relevant additional functionalities by the Customer, in accordance with conditions designated by the Licensor and agreed upon by the Customer. Use of the relevant additional functionalities by the Customer shall be in accordance with the relevant conditions, and if the relevant conditions are not consistent with this SFDC Service Agreement, the relevant conditions shall prevail.

### 3. Proprietary rights

Subject to limited rights granted expressly under this Agreement, SFDC reserves all of its right, title and interest in relation to the Platform and the SFDC Services, including all of the related intellectual property rights. No rights are granted by SFDC to the Customer under this Agreement other than as expressly set forth in this SFDC Service Agreement. The Platform and the SFDC Services are deemed to be Confidential Information of SFDC, and except for as granted in this SFDC Service Agreement, the Customer shall not use these nor shall it disclose these to any third party.

### 4. Compelled disclosure

If the Customer or SFDC is compelled by the laws and regulations to disclose Confidential Information, the party shall notify the other party in advance concerning the relevant compulsion of disclosure (to the extent allowed legally) and if the other party desires to state objections to the disclosure, the party shall give reasonable

assistance at the expense of the other party.

## 5. Proposals

Customer shall agree that SFDC has free, worldwide, assignable, sublicensable, non-cancellable and permanent license enabling it to use, or incorporate into the products or services of SFDC, all proposals, improvement requests, suggestions or other feedback provided by the Customer or the Users of the Customer in relation to the Platform or operation of the SFDC Services.

## 6. Termination

Use by the Customer of the Platform and the SFDC Services may be terminated or canceled immediately due to any of the following reasons by giving notice: (a) breach of this SFDC Service Agreement by the Customer or any User, (b) cancellation or expiration of the agreement between the Partner and SFDC under which the Partner provides the Platform as a part of the Partner Application, or (c) breach by the Partner of obligations to SFDC concerning the Subscription provided by SFDC to the Customer in relation to the SFDC Service Agreement

## 7. Non-cancellability of Subscription

A Subscription to the Platform and SFDC Services may not be cancelled during the period of subscription; provided, however, that this shall not apply to the case where otherwise provided in the agreement between the Customer and the Partner.

## 8. Data capacity

The Platform and SFDC Services shall include a certain cumulative amount of memory capacity provided for free for each subscription. For specific information, the Customer is requested to contact the Partner of the Customer. The Customer may purchase additional memory capacity from the Partner.

## 9. No warranties

SFDC will make absolutely no warranty whatsoever as to, including but not limited to the Platform, the SFDC Services and the Partner Application, express or implied, regardless of whether under the laws and regulations. SFDC will make absolutely no warranty whatsoever as to the reliability, timeliness, quality, adaptability, availability, or integrity of the Partner Application. SFDC will make no representations or warranties as follows: (A) the Partner Application is usable and operable in combination with the

SFDC Services or other applications, software, systems or data safely, in a timely fashion, without suspension or errors, (B) the Partner Application, Platform or SFDC Services are in conformance with the requirements or expectations of Customers, (C) data stored using the Partner Application is accurate, reliable and secure, (D) errors or failures in the Partner Application, Platform or SFDC Services will be modified, (E) no virus or harmful components exist in the Partner Application or system used by the Partner for the use of the Partner Application. The Platform and SFDC Services shall be provided strictly on an “as is” basis. To the maximum extent allowed under the laws and regulations, SFDC denies all terms and conditions, representations and warranties concerning the Partner Application and the Services express or implied, regardless of whether under the laws and regulations, and the relevant denial includes but is not limited to, warranties on merchantability, conformance with specific purposes or non-infringement of the rights of a third party.

#### 10. Disclaimer

IN NO EVENT SHALL SFDC BEAR ANY LIABILITY FOR ANY DAMAGE INCLUDING, BUT NOT LIMITED TO, DIRECT OR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR DERIVATIVE DAMAGES, OR DAMAGE BASED ON LOST PROFITS TO CUSTOMERS OR USERS. THIS DISCLAIMER SHALL BE APPLICABLE REGARDLESS OF WHETHER AN ACTION IS IN CONTRACT OR TORT OR OTHER THEORIES OF LIABILITY, OR EVEN WHEN THE CUSTOMER IS NOTIFIED OF THE POSSIBILITY OF THE RELEVANT DAMAGE.

#### 11. Additional contact

SFDC may contact the Customer in relation to new SFDC Services functionalities and offerings.

#### 12. Google Program and Services

Functionalities of the Platform or SFDC Services that interoperate with Google Programs and Services shall be subject to the fact that the applicable Google Application Program Interface (hereinafter referred to as “API”), SFDC Services, and applicable Google applications for joint use with the Platform are usable on a continuous basis. If Google, Inc. suspends provision of the relevant API or Program to SFDC under reasonable conditions, SFDC may suspend provision of the relevant functionalities and the Customer or Partner may not acquire the right to receive any

refund, reduction or other indemnification due to suspension of the relevant provision.

### 13. Third Party Beneficiary

SFDC shall be a third party beneficiary for contracts between the Customer and the Partner only concerning this SFDC Service Agreement.