

TeamMate™ Global Subscription and Services Agreement

This TeamMate Subscription Agreement (this “Agreement”) is made by and between Wolters Kluwer Financial Services, Inc. (“WKFS”), and “Customer”, and governs Customer’s right to access and use the Application, effective as of the date Customer signs the Order Form for the Application or otherwise purchases or renews a Subscription to the Application. This Agreement will continue to govern any other Application(s) listed on any future Order Forms, subject to Section 11.1 hereof.

1. **DEFINITIONS.** Capitalized terms used but not defined elsewhere in this Agreement shall have the respective meanings set forth below:

- 1.1. “Affiliate” means with respect to an entity party to this Agreement, any entity which, directly or indirectly, controls, is controlled by or is under common control with such party, where control means the ability to direct the affairs of an entity through ownership of voting interest, contract rights or otherwise.
- 1.2. “Application” means the means the TeamMate™ electronic audit management software suite or the TeamMate™ electronic controls management software suite or the TeamMate™ Express application(s) listed on an Order Form, as such applications may be updated from time to time by WKFS in its sole discretion.
- 1.3. “Authorized User” means each individual employee of Customer or its authorized agents or subcontractors who uses the Application as operated or made available by or through Customer, regardless of whether such individual is actively Using the Software at any given time, and is covered by an appropriate Subscription hereunder. An Authorized User does not acquire individual rights in the Application other than the right to access and use such Application on Customer’s behalf and pursuant to the rights granted to Customer and subject to the terms and conditions of this Agreement, including subsection 2.5 hereof.
- 1.4. “Customer” means the person or entity identified as the customer on the Order Form(s). The term “Customer” can also include an Affiliate of the primary Customer.
- 1.5. “Designated Office(s)” means the site(s), location(s), and/or address(es) for which Customer purchases Subscriptions for the Application as identified in the Order Form(s).
- 1.6. “Fees” means the amounts payable by Customer to WKFS under the Order Form(s) and this Agreement.
- 1.7. “Online Account” means the authorized access into the Application as established by WKFS for use by any particular Authorized User, and includes the controls, permissions and data unique to such user.
- 1.8. “Online Account Access Information” means the private access information (for example, username and password) used by each Authorized User of the Application to access his/her individual Online Account.
- 1.9. “Order Form” means (i) a written order in a form approved by WKFS and executed by Customer that provides for Customer’s acquisition of Subscriptions to the Application, (ii) a written order in a form approved by WKFS and accepted by Customer by execution thereof and/or payment therefor that provides for Customer’s acquisition of any Subscriptions for additional Application(s); or (iii) any renewal form for Subscriptions sent to Customer by WKFS under which Customer exercises its right to renew. All Order Forms incorporate and are subject to the terms and conditions of this Agreement.
- 1.10. “Subscription” means the rights granted to Customer by WKFS to access and use the Application, pursuant to the terms of this Agreement.

The use of the word “including” means “including without limitation.”

2. RIGHT TO USE; CONDITIONS OF USE; OWNERSHIP

2.1. Right to Use.

2.1.1. **Grant of Right.** Subject to the terms and conditions of this Agreement, WKFS grants to

Customer a limited, nontransferable, nonexclusive right to access and use, and to permit Authorized Users to access and use, the Application solely for Customer's internal use and for the purpose of performing internal auditing or compliance management services for Customer, without any further right to access or use the Application in any manner. WKFS reserves all rights in and to the Application not expressly granted in this Agreement. Without limiting the generality of the foregoing, the right to access and use the Application granted herein does not cover any underlying components of the Application, WKFS's underlying application engines, or any other component of the Application or the operating environment within which the Application operates that is not intended by WKFS for access by any Authorized User.

2.1.2. Authorized Users. Customer shall purchase a Subscription for each Authorized User and shall not permit any person other than an Authorized User to use or access the Application. Customer shall cause each Authorized User to comply with the terms and conditions of this Agreement.

2.1.3. Third-Party Service Providers. Certain Applications may include functionality that is documented and intended to allow Third-Party Service Providers to access Customer's Online Account to view data specific to such Customer. Customer may provide such limited access to its Third-Party Service Providers; provided that such Third-Party Service Providers (a) use the Application only for Customer's internal business purposes and (b) agree to comply with and be bound by the terms of this Agreement. Customer hereby agrees to be fully responsible and liable for each and every Third-Party Service Provider (and its Users) full compliance with the terms and conditions of this Agreement, such that any breach of the terms of this Agreement by any such Third-Party Services Provider (or its Users) shall be deemed a breach by the Customer.

2.1.4. Condition of Rights. The rights granted to Customer under this Agreement are conditioned upon Customer's compliance with the terms of this Agreement and the Order Form(s), including the timely payment of all applicable Fees.

2.2. Protection of Online Account Access Information. WKFS will supply Customer with the means to create private Online Account Access Information for its Authorized Users so that such Authorized Users may log into their respective Online Accounts within the Application. Online Accounts are designed for private use and should only be accessed through Authorized User's Online Account Access Information. Customer is fully responsible for the protection and confidentiality of its Authorized Users' Online Account Access Information. Customer acknowledges and agrees that Customer is responsible for all use of the Application as made through Customer's and its Authorized Users' Online Accounts by any person and for insuring that all use of Customer's and its Authorized Users' Online Accounts is for authorized purposes only and complies fully with the provisions of this Agreement. Customer agrees to promptly notify WKFS of any unauthorized use of any Online Account Access Information or any other breach of security upon becoming aware thereof, assist in preventing any recurrence thereof and otherwise cooperate fully in any proceedings or other actions undertaken to protect the rights of WKFS.

2.3. Additional Online Terms. WKFS may post duplicative and/or additional relevant terms, conditions and/or policies ("Online Terms") at the online location where Authorized Users access the Application. Authorized Users will be subject to such Online Terms from and after the date on which such Online Terms are first posted; provided, however, that to the extent that there is a conflict between this Agreement and any Online Terms, the terms of this Agreement will govern.

2.4. Internet Connectivity; Disclaimer. WKFS (either itself or through a third party) will make the Application available for access via the Internet. Customer shall provide, at Customer's own expense, all necessary hardware, applications and Internet connectivity necessary to access the Application. Customer acknowledges that the Internet is known to be unpredictable in performance and may, from time to time, impede access to the Application or performance hereunder. Customer agrees that WKFS is not in any way responsible for any interference with Customer's use of or access to the Application arising from or attributable to the Internet and Customer waives any and all claims against WKFS in connection therewith.

2.5. Restrictions. Customer must not do or attempt to do, or permit others to do or attempt to do, any of the following: (a) modify, port, adapt or translate or create any derivative works from or based on

the Application, in whole or in part, (b) reverse engineer, decompile, disassemble or otherwise attempt to reduce the object code to or discover the source code of the Application, or (c) combine or merge the Application with, or incorporate it into, any other software, (d) rent, lease, distribute (or redistribute), except as authorized by this Agreement, provide or otherwise make available the Application, in any form, to any third party; (e) share any Online Account or Online Account Access Information with third parties; (f) create any “links” to or “frame” or “mirror” the Application or any portion thereof; or (g) defeat, disable or circumvent any protection mechanism related to the Application. In addition, Customer shall not violate or attempt to violate the security of WKFS’s networks or servers, including (x) accessing data not intended for Customer or log into a server or account which Customer is not authorized to access; (y) attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper written request and authorization; or (z) attempting to interfere with service to any user, host or network, including by means of submitting a virus, overloading, flooding, spamming, mail bombing or crashing.

2.6. Suspension of Access. In addition to any other suspension or termination rights of WKFS pursuant to this Agreement, WKFS may suspend or terminate Customer’s access to and/or use of, or otherwise modify, the Application and/or any component thereof, and/or any Online Account or any Online Account Access Information without notice (a) in the event Customer (including any Authorized User, Third-Party Service Provider or other person or entity acting through or on behalf of Customer) is determined by WKFS, in WKFS’s sole judgment, to have or attempted to have damaged, harmed or misused WKFS’s software, server, network or other systems; or (b) as necessary or appropriate to comply with any law, regulation, court order, or other governmental request or order or otherwise protect WKFS from potential legal liability or harm to its business. WKFS will use commercially reasonable efforts to notify Customer of the reason(s) for such suspension or termination action as soon as reasonably practicable unless such action is due to subsection (a) hereof. In the event of a suspension (other than due to subsection (a) hereof), WKFS will promptly restore Customer’s access to the Application as soon as the event giving rise to the suspension has been resolved as determined in WKFS’s discretion. Nothing contained in this Agreement will be construed to limit WKFS’s actions or remedies or act as a waiver of WKFS’s rights in any way with respect to any of the foregoing activities. WKFS will not be responsible for any loss or damages incurred by Customer as a result of any termination or suspension of access to or use of the Application as set forth in this Agreement.

2.7. Unauthorized Acquisition. WKFS expressly prohibits the use of any product or service from WKFS that has been improperly obtained and/or accessed. For purposes of illustration, but not limitation, examples include any product or service that: (a) is acquired from an unauthorized reseller or distributor; (b) is pirated, cracked or hacked, including through the use of Online Account Access Information established for use by another individual; (c) has been acquired with the intent or for the purpose to use in a manner that is illegal, fraudulent, in violation of this Agreement or otherwise outside the normal, stated and/or reasonably understood purpose of such product or service; or (d) is acquired with the use of false or inaccurate statements and/or information (e.g., false name, contact information, or payment information; or false declaration of the total number of end users).

2.8. Reservation of Rights & Ownership of Developed Materials. WKFS and its Affiliates and any applicable licensors, retain all intellectual property and other proprietary rights, including all patent, copyright, trade secret, trade name, trademark, and other proprietary rights, related to the Application which are protected under United States intellectual property laws and international treaty provisions. Any unauthorized use of any Application will result in cancellation of this Agreement as well as possible civil damages and criminal penalties. Customer is not permitted to use “Wolters Kluwer Financial Services, Inc.,” “WKFS,” “TeamMate” or any other trade or service marks of WKFS or any of its Affiliates in Customer’s announcements, advertising or other materials unless expressly agreed to in writing by an authorized representative of WKFS. Customer acknowledges and agrees that WKFS and its Affiliates and any applicable licensor’s retention of contractual and intellectual property rights is an essential part of this Agreement. WKFS and its Affiliates and any licensor (as applicable) will own and Customer hereby assigns to WKFS all rights in (i) any copy, translation, modification, adaptation or derivative work of the Application, including any improvement or development thereof, whether provided as part of Support, Services or otherwise, and whether or not developed by or for the Customer, and (ii) any suggestions, ideas, enhancement requests, feedback, or recommendations provided by or on behalf of Customer.

2.9. U.S. GOVERNMENT RESTRICTED RIGHTS. The Application is provided with RESTRICTED RIGHTS. Any access or use of the Application by the United States Government is subject to restrictions as set forth in FAR 12.212 or DFARS 227.7202-1(a), 227.7202-3(a) and 227.7202-4 (1995) and, to the extent required under U.S. federal law, the minimum restricted rights as set out in FAR 52.227-19 (DEC 2007) or FAR 52.227-14 (DEC 2007). To the extent any Technical Data is provided pursuant to the Agreement, such data is protected per FAR 12.211 and DFARS 227.7102-2 and to the extent explicitly required by the U.S. Government, is subject to limited rights as set out in DFARS 252.227.7015 (NOV 1995) and DFARS 252.227-7037 (SEPT 1999). In the event that any of the above referenced agency regulations are modified or superseded, the subsequent equivalent regulation shall apply. The name of the manufacturer is Wolters Kluwer Financial Services, Inc., 100 S. Fifth Stree, Suite 700, Minneapolis, MN 55402. If Customer is an agency, department, or other entity of any State government, the United States Government or any other public entity or funded in whole or in part by the United States Government, then Customer hereby agrees to protect the Application from public disclosure and to consider the Application exempt from any statute, law, regulation, or code, including any Sunshine Act, Public Records Act, Freedom of Information Act, or equivalent, which permits public access and/or use of the Application.

3. FEES AND PAYMENT

3.1. Fees. Customer must pay to WKFS the Fees for the Application (including associated Support) set forth on the Order Form(s). All Fees and expenses are quoted and invoiced in the currency specified in the applicable Order Form. All invoiced amounts are due and payable by Customer within thirty (30) days after the invoice date. Additional fees as documented on an Order Form may be charged for additional Support and/or Services. Customer agrees to pay all such Fees within thirty (30) days of the invoice date. WKFS may assess a late payment Fee equal to the lesser of one and one-half percent (1½%) of the unpaid amount or the highest interest rate allowed by applicable law for each succeeding thirty (30) day period or portion thereof in which Fees are not paid in full. In addition, WKFS, in its discretion, may suspend or deny access to the Application if there is an unpaid invoice that is outstanding. ALL SALES ARE FINAL.

3.2. Taxes. Fees are exclusive of any federal, state or local sales, foreign withholding, use, property, excise, service, value added, electronic/Internet commerce, export, import or similar taxes ("Tax(es)") now or hereafter levied, all of which shall be for Customer's account. Customer is responsible for directly paying any such taxes assessed against it, and Customer will promptly reimburse WKFS for any such taxes payable or collectable by WKFS. Such taxes do not include taxes based upon WKFS's income. Taxes are calculated on product plus additional charges, where applicable. Tax exemption certificates or direct pay permits, if any, must be submitted at the time of order. Customer acknowledges that the Application is pre-written software of general application. Customer hereby agrees to indemnify WKFS for any such Taxes and related costs, interest and penalties paid or payable by WKFS.

4. TERM & TERMINATION

4.1. Expiration of Rights. The initial term for Customer's Subscription to the Application (including Support) will commence on the effective date and continue for such initial term as shown on the applicable Order Form. Thereafter, Customer's Subscription will automatically renew for successive one (1) year renewal terms unless and until terminated. Subscription Fees for each successive renewal term are payable by Customer annually in advance. At the request of WKFS, Customer will provide WKFS with an update and/or confirmation of the number of Authorized Users of the Application and to the extent such number of Authorized Users has increased, Customer will pay WKFS such increased Subscription fees as required hereunder.

4.2. Expiration of Agreement. If the Subscription(s) granted under this Agreement are not renewed, then this Agreement will automatically expire and terminate upon the expiration of Customer's Subscription to the last Application governed under this Agreement.

4.3. Termination of Agreement for Cause by WKFS.

4.3.1. This Agreement, including all rights provided hereunder, may be terminated by WKFS for cause, in its sole discretion, (i) immediately upon notice to Customer if Customer commits an incurable breach of the terms or conditions of this Agreement, or (ii) if Customer fails to cure a curable breach of this Agreement within thirty (30) days of being provided with notice of such breach.

4.3.2. Termination of this Agreement pursuant to this subsection 4.3 will not require payment of a refund to Customer and will not affect: (a) Customer's obligation to pay any Fees due, or (b) any remedies available to WKFS by law or equity.

4.4. Effect of Expiration or Termination of Agreement. Upon any expiration or termination of this Agreement, all rights granted to Customer hereunder will immediately terminate and WKFS will have the right to immediately and indefinitely terminate Customer's access to and use of the Application. The following sections will survive the expiration or termination of this Agreement: subsections 2.4, 2.5, 2.7, 2.8, 2.9, 4.3, 4.4, 8.3, 8.4 and 8.5, and Sections 1, 7, 9, 10 and 11.

5. SUPPORT

5.1. Support. During each annual Subscription term, WKFS will provide such remote support services as WKFS provides generally to customers as part of its then current Application support program ("Support"). Unless otherwise provided in the Order, Support will be provided to Customer at no additional charge during each annual Subscription term.

5.2. WKFS Support Obligations. Throughout the applicable Subscription term, provided that Customer is not then in default of its obligations under this Agreement (including payment obligations) and subject to the exclusions set forth in Section 5.3, WKFS will provide or cause to be provided the following Support services: (a) telephone help-desk, and electronic and/or remote access support to assist Customer in its Use of the Application and respond to any reported failures of the Application (provided that this support shall not be in lieu of obtaining training with respect to the Application, for which there is a service charge); (b) provision of such updates and versions as WKFS from time to time produces and distributes generally to licensees under Support for no additional fees; and (c) such other support services as WKFS provides generally to licensees as part of its then current support and maintenance program.

5.3. Exclusions. WKFS Support will not include: (a) resolution of problems resulting from: (i) any modification of or damage to the Application or its operating environment by Customer, (ii) Customer's failure to operate the Application in an approved hardware and software environment or otherwise in accordance with applicable WKFS Documentation; (b) Services, including but not limited to any installation, implementation and other Services; or (c) any tax, accounting, legal or other professional or expert advice of any kind, including any advice regarding the appropriate handling of tax and accounting issues, or otherwise.

5.4. Termination of Support. If Customer's Subscription to use the Application is terminated for any reason, Support will terminate automatically as to such Application.

6. SERVICES

6.1 General. WKFS may offer certain additional services related to the Application. Such services may include, but are not limited to: (i) implementation services; (ii) training for Customer personnel; (iii) file conversion services; and (iv) any other services specifically identified in an Order Form (hereinafter referred to as "**Services**"). WKFS will provide Services, at Customer's election and following Customer's signature and WKFS's acceptance of an Order Form describing the nature, scope, project assumptions, fees, duration, location(s) of the covered Services, in each case in accordance with such Order Form and subject to the terms and conditions of this Agreement.

6.2 Services Performance. In performing Services, WKFS may assign WKFS personnel, authorized agents or qualified third-party contractors ("**Consultants**"). Customer agrees to provide the information, facilities, personnel and equipment, including, if applicable, suitably configured computers, that may reasonably be identified by WKFS as necessary or appropriate to the performance of any Services. Customer shall advise WKFS of any hazards to the health and safety of WKFS's personnel on the Customer's premises and provide WKFS's personnel with appropriate information regarding applicable safety and security procedures.

6.3 Services Pricing. Unless otherwise provided in the applicable Order Form, all Services shall be

provided on a time and expense/materials basis at WKFS's then current rates. WKFS reserves the right to impose a higher rate for Services performed upon the request or with the approval of Customer in excess of a forty (40) hour week or during weekend or holiday periods. Estimates are provided for Customer's information only and are not guaranteed. Customer shall pay or reimburse WKFS for all reasonable travel and other out-of-pocket expenses incurred in connection with WKFS's performance of Services hereunder.

7. CUSTOMER'S PROFESSIONAL RESPONSIBILITY AND WARRANTIES

7.1. Professional Responsibility. Customer understands, agrees and acknowledges that:

- 7.1.1. Use of the Application does not relieve Customer of responsibility for the preparation, content, accuracy (including computational accuracy), and review of financial statements and work papers prepared by Customer while using the Application or any other work product generated by Customer while using the Application;
- 7.1.2. Customer will neither inquire nor rely upon WKFS for any tax, accounting, legal or other professional or expert advice of any kind;
- 7.1.3. Customer will retrieve in a timely manner any electronic communications made available to Customer by WKFS; and
- 7.1.4. Customer is fully and solely responsible for: (a) selection of adequate and appropriate Applications to satisfy Customer's business needs and achieve Customer's intended results; (b) use of the Application; (c) all results obtained from the Application; (d) selecting, obtaining and maintaining all hardware, software, computer capacity, Internet service, program and system resources and other equipment and utilities needed for access to and use of the Application, and for all costs associated therewith; and (e) selection, use of, and results obtained from any other programs, computer equipment or services used with the Application.

7.2. Customer's Representations. Customer represents, warrants and covenants that:

- 7.2.1. Customer has full power and authority to enter into this Agreement and all Order Forms hereunder and to perform its obligations under this Agreement and such Order Forms, and that this Agreement and all such Order Forms have been duly authorized and constitute valid and binding obligations of Customer;
- 7.2.2. Customer is accessing and using the Application solely for Customer's own internal use;
- 7.2.3. Customer will not access or use the Application to create a product, service or database that competes with WKFS or any Application;
- 7.2.4. Customer is responsible for complying with all rules, regulations and procedures of local, state, federal and foreign authorities applicable to Customer and its business;
- 7.2.5. Customer will be solely responsible for compliance with this Agreement by the Authorized Users;
- 7.2.6. Customer will not otherwise violate the rights of any third party while accessing or using the Application;
- 7.2.7. Customer has sole responsibility for all data, information, records or files that are uploaded and/or stored on the Application by or on behalf of Customer ("**Customer Data**");
- 7.2.8. Customer agrees not to: upload or transmit any Customer Data: (i) that Customer does not have the lawful right to copy, transmit, distribute, and display (including any Customer Data that would violate any confidentiality or fiduciary obligations that Customer might have with respect to the Customer Data); (ii) for which Customer does not have the consent or permission from the owner of any personally identifiable information contained in the Customer Data; (iii) that infringes, misappropriates or otherwise violates any intellectual property or other proprietary rights or violates any privacy rights of any third party (including any copyright, trademark, patent, trade secret, or other intellectual property right, or moral right or right of publicity); (iv) that is false or misleading; (v) that is defamatory, obscene, or offensive; or (vi) that violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil or criminal liability;
- 7.2.9. Customer will not use the Application to transmit, route, provide connections to or store any material that violate or promote the violation of any of the restrictions of subsection 7.2.8 above;
- 7.2.10. WKFS reserves the right, in its sole discretion, at any time, to remove any Customer Data that it believes to be in violation of this Agreement; and
- 7.2.11. WKFS does not claim any ownership rights in any Customer Data. However, by making Customer Data available through the Application, Customer grants WKFS the nonexclusive, worldwide, transferable right, on a royalty-free basis, with a right to sublicense this right only to third parties assisting WKFS in providing the Application or otherwise fulfilling

WKFS's obligations hereunder, to possess, store, use, copy, distribute and process Customer Data on the Application on Customer's behalf and on behalf of Clients (if applicable) solely for the purposes of fulfilling WKFS's obligations and/or exercising WKFS's rights hereunder. Customer represents, warrants and covenants to WKFS that WKFS's use of the Customer Data in compliance with the foregoing license grant shall not infringe, misappropriate or otherwise violate any intellectual property rights, or other rights, of any third party.

- 7.3. **Indemnification.** Customer agrees to indemnify and hold harmless WKFS, its employees, officers, directors and Affiliates against any and all liability (including damages, recoveries, deficiencies, interest, penalties and reasonable attorney's fees) to third parties relating to: (a) Customer's breach of any of its obligations, representations and/or warranties under this Agreement; or (b) except to the extent of claims for which WKFS is liable under Section 8 below, Customer's use of the Application and/or any third party software, application or service.

8. WKFS WARRANTIES

- 8.1. **WKFS's General Warranties.** WKFS represents and warrants that: (i) it has title to the Application or the right to grant Customer the rights granted hereunder; (ii) the Application does not violate any third party's United States patent, copyright or trade secret rights; and (iii) WKFS has not inserted any virus or similar device to erase data. Customer's sole and exclusive recourse and remedy, and WKFS's sole, exclusive and entire liability, for a breach of items (i) and (ii) by WKFS shall be the exercise of Customer's indemnity rights under subsection 8.2 below. For a breach of item (iii), Customer's sole and exclusive recourse and remedy - and WKFS's sole, exclusive and entire liability - shall be to terminate the Agreement and obtain a refund of the Fees paid for the directly affected Application less an allocation for use made by Customer prior to the breach.

8.2. Indemnification by WKFS.

- 8.2.1. Subject to the other terms and conditions set forth herein, WKFS agrees to defend Customer, its employees, officers and directors, at WKFS's sole cost and indemnify Customer (by paying for damages finally awarded against Customer or any amounts payable in any settlement entered into in compliance with this Agreement) from and against any claims, demands, actions or proceedings by any third parties alleging that Customer's use of the Application as provided and permitted herein infringes or violates such third party's United States patent, copyright or trade secret rights; provided that: (i) WKFS is notified promptly in writing of the claim; (ii) WKFS controls the defense, settlement and approval of the claim; and (iii) Customer cooperates reasonably, assists and gives all necessary authority to WKFS and reasonably required information in connection with the defense or settlement of the claim.
- 8.2.2. WKFS's indemnity obligations under subsection 8.2.1 hereof will not apply if and to the extent that they arise from or relate to: (i) the access or use of the Application in any manner other than as provided and permitted by WKFS hereunder and as required to be used by Customer hereunder; (ii) the use of the Application in combination with any intellectual property, services, reports, documentation, hardware, software, data or technology not supplied by WKFS; or (iii) any Customer Data or other data or information, or other intellectual property supplied by Customer, an Authorized User or any third party.
- 8.2.3. If any Application becomes, or in WKFS's opinion, is likely to become, the subject of a third party claim covered by WKFS's indemnification obligations under subsection 8.2.1, then WKFS may, in its sole discretion and at its sole cost and expense: (i) procure for Customer the right to continue using such Application; (ii) modify the infringing portion of the Application so as to render it non-infringing but still appropriate for its intended use under this Agreement; or (iii) replace the infringing portion of the Application with non-infringing items with substantially similar functionality. If WKFS reasonably determines that none of the foregoing is commercially practicable, then WKFS may elect to terminate this Agreement and grant Customer a refund of the Fees paid for the affected Application less an allocation for use made by Customer prior to the termination.
- 8.2.4. This Section 8.2 states WKFS's entire liability and the sole and exclusive remedy of Customer, its employees, officers, directors and Affiliates and any Authorized User with respect to any actual or claimed infringement or other violation of any third party's intellectual property rights.

- 8.3. **Limited Warranty.** EXCEPT AS STATED IN SUBSECTION 8.1, THE APPLICATION, SUPPORT AND SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED. WKFS

DISCLAIMS AND EXCLUDES ANY AND ALL OTHER WARRANTIES INCLUDING ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IRRESPECTIVE OF ANY COURSE OF DEALING OR PERFORMANCE, CUSTOM OR USAGE OF TRADE. CUSTOMER BEARS THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE APPLICATION. WKFS DOES NOT WARRANT THAT THE APPLICATION OR ANY COMPONENT THEREOF WILL BE UNINTERRUPTED, THAT THEIR USE OR OPERATION WILL BE ERROR OR DEFECT FREE, THAT THE APPLICATION OR ANY COMPONENT THEREOF WILL ALWAYS BE ACCESSIBLE OR AVAILABLE, OR THAT ALL APPLICATION DEFECTS WILL BE CORRECTED. CUSTOMER WILL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE AND SUITABILITY OF THE APPLICATION AND WKFS WILL HAVE NO LIABILITY THEREFOR.

8.4 Limitation of Liability and Damages. NEITHER PARTY (AND, IN THE CASE OF WKFS, ITS AFFILIATES, CONSULTANTS, DISTRIBUTORS, AGENTS, SUBCONTRACTORS AND LICENSORS) WILL HAVE ANY LIABILITY TO THE OTHER OR ANY THIRD PARTY (INCLUDING ANY CONTRACTOR, AGENT, AFFILIATE OR CLIENT OF CUSTOMER) FOR ANY LOSS OF PROFITS, SALES, BUSINESS, DATA, OR OTHER INCIDENTAL, CONSEQUENTIAL, OR SPECIAL LOSS OR DAMAGE, INCLUDING EXEMPLARY AND PUNITIVE DAMAGES, OF ANY KIND OR NATURE RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, THE APPLICATION, SUPPORT AND/OR SERVICES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY WITH RESPECT TO ANY VIOLATION OF EITHER PARTY'S INTELLECTUAL PROPERTY RIGHTS AS SET FORTH HEREIN. THE TOTAL LIABILITY OF WKFS AND ITS AFFILIATES, CONSULTANTS, DISTRIBUTORS, AGENTS, SUBCONTRACTORS AND LICENSORS TO CUSTOMER OR ANY THIRD PARTY RESULTING FROM OR ARISING OUT OF THIS AGREEMENT, THE APPLICATION, SUPPORT AND/OR SERVICES FOR ANY AND ALL CLAIMS OR TYPES OF DAMAGES SHALL NOT EXCEED THE TOTAL FEES FOR THE APPLICATION OR SERVICES PAID HEREUNDER BY CUSTOMER IN THE TWELVE-MONTH PERIOD PRECEDING THE DATE SUCH CLAIM OR CAUSE OF ACTION FIRST AROSE. WKFS is not an insurer with regard to performance of the Application. Customer agrees to assume the risk for: (a) all liabilities disclaimed by WKFS herein, and (b) all alleged damages in excess of the amount of the limited remedy provided hereunder. The allocations of liability in this subsection 8.4 represent the agreed, bargained-for understanding of the parties and WKFS's compensation hereunder reflects such allocations. THE LIMITATION OF LIABILITY AND TYPES OF DAMAGES STATED IN THIS AGREEMENT ARE INTENDED BY THE PARTIES TO APPLY REGARDLESS OF THE FORM OF LAWSUIT OR CLAIM A PARTY MAY BRING, WHETHER IN TORT, CONTRACT OR OTHERWISE, AND REGARDLESS OF WHETHER ANY LIMITED REMEDY PROVIDED FOR IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

8.5 Third Party Products. The Application may contain code, content, features, functionality, and components that are provided by third-parties. Furthermore, the Application may require data and information from third-parties in order to work properly. ANY SUCH THIRD-PARTY PRODUCTS OR SERVICES SHALL BE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND BY WKFS. ALL RIGHTS AND OBLIGATIONS WITH RESPECT TO SUCH THIRD-PARTY PRODUCTS OR SERVICES SHALL BE GOVERNED EXCLUSIVELY BY THE TERMS AND CONDITIONS OF AGREEMENTS PROVIDED BY SUPPLIERS OF SUCH THIRD-PARTY PRODUCTS OR SERVICES AND CUSTOMER HEREBY RELEASES WKFS FROM ALL LIABILITY AND RESPONSIBILITY WITH RESPECT THERETO.

9. DISPUTE RESOLUTION

9.1. Audit. Upon WKFS's written request, Customer must furnish WKFS with a signed certificate verifying that the Application is being accessed and used in compliance with all of the terms and conditions of this Agreement, including being accessed and used only by Authorized Users and to the extent permitted herein, by Third-Party Service Providers. At its expense, WKFS, itself or by its third party agents, may audit Customer's compliance with the requirements of this Agreement. Any such audit will be conducted not more than once per calendar year and during regular business hours at Customer's facilities and will not unreasonably interfere with Customer's business activities. During any such audit WKFS and its designees may have access to Customer's computer systems and records and conduct forensic reviews thereof and may interview any of Customer's current and former employees and contractors. If WKFS determines that Customer has not paid the Fees required pursuant to this Agreement for Customer's access or use of the Application, Customer will be invoiced for such Fees, plus an additional 1.5% monthly interest rate, or the maximum lawful amount, of the unpaid Fees (dating back to the time when such fees should have been paid). Customer shall pay (directly or by reimbursing WKFS) the reasonable cost of the audit if the audit detects unpaid Fees that exceed five percent (5%) of the total Fees actually paid for the period so

audited. This right shall not limit or preclude any additional remedies available to WKFS provided by law or equity.

9.2. Limitations Period. Except for collection actions which may be brought by WKFS at any time and without limiting claims for indemnification hereunder, any claim or cause of action arising under or otherwise relating to this Agreement, any Order Form, or the subject matter hereof or thereof, whether based on contract, tort (including negligence) or otherwise, must be commenced within one year from the date such claim or cause of action first arose.

9.3. Jurisdiction. The parties hereto, and each of them, acknowledge that they have had the opportunity to be represented by independent counsel of their choice prior to entering into this Agreement and any Order Form hereunder. Customer agrees that this Agreement shall be interpreted and enforced according to the laws of the State of New York, without any regard to conflicts of law rules that would require another jurisdiction's law to apply, and shall be treated as if executed and performed in the Borough of Manhattan, New York City, New York. All disputes arising out of or relating to this Agreement shall be instituted and prosecuted exclusively in Borough of Manhattan, New York City, New York, with Customer specifically consenting to extraterritorial service of process for that purpose. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply in any respect to this Agreement or to the parties in general.

9.4. Waiver of Jury Trial. EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY ORDER FORM OR THE SUBJECT MATTER HEREOF OR THEREOF.

9.5. Enforcement. Customer will pay all of WKFS's attorneys' fees and costs and expenses incurred in the enforcement of any of the provisions of this Agreement.

9.6. Remedies. Customer acknowledges that the Application and other proprietary information of WKFS are unique and that, in the event of any breach of this Agreement by Customer, WKFS may not have an adequate remedy at law, and will be entitled to seek injunctive or other equitable relief without the necessity of proving actual damages. Unless specifically stated otherwise elsewhere in this Agreement, the various rights, options, elections, powers and remedies of a party or parties to this Agreement shall be construed as cumulative and no one of them exclusive of any others or of any other legal or equitable remedy, which said party or parties might otherwise have in the event of breach or default in the terms hereof.

9.7. Notices. All notices, demands, consents or requests given by a party hereto must be in writing and sent by delivery via a third party, nationally recognized tracked express mail service, postage prepaid, addressed to either Customer's billing address or Wolters Kluwer Financial Services, Attn: TeamMate Sales, 100 S. Fifth St., Suite 700, Minneapolis, MN 55402 with a copy to Wolters Kluwer Financial Services, Attn: Legal, 100 S. Fifth St., Suite 700, Minneapolis, MN 55402. Customer agrees to always provide WKFS with Customer's most current contact information, including Customer's address, phone number, fax number and e-mail address.

9.8. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, such provision shall be, to the maximum extent permitted by applicable law, construed or limited, and/or deemed replaced by a revised provision, to the extent (and only to the extent) necessary to render it valid, legal and enforceable and, as nearly as possible, to reflect and achieve the parties' intentions in agreeing to the original provision. If it is not possible to so construe, limit or reform any such provision, then the invalid, illegal or unenforceable provision shall be severed from this Agreement. In any event, the remaining provisions of this Agreement shall be unaffected thereby and shall continue in full force and effect.

9.9. Waiver. A party's failure or delay to require compliance with any term of this Agreement, or to exercise any right provided herein, shall not be deemed a waiver by such party of such term or

right. No failure or delay in exercising any right or remedy or requiring the satisfaction of any condition under this Agreement, and no course of dealing between the parties, shall operate as a waiver or legally bar a party from enforcing any right, remedy or condition. All waivers must be made in writing and signed by the waiving party and any such waiver on one occasion is effective only in that instance and only for the purpose that it is given and is not to be construed as a waiver on any future occasion.

10. CONFIDENTIALITY

10.1. **Nonuse and Nondisclosure.** Customer and WKFS agree that during the term hereof and for four (4) years after termination or expiration of this Agreement, or for such longer period as may be required by applicable law or regulation, all non-public information furnished or disclosed to the other pursuant to this Agreement, including the terms of Customer's Order Form(s), proprietary information within the Application, Customer Data, WKFS internal policies, procedures or third party audit or attestation reports and any discussions between the parties regarding other potential business relationships (the "Confidential Information"), shall be held in strict confidence by the other party, and will not be used other than as provided herein or made available or disclosed to any third party without the other party's prior written consent. Each party also agrees to restrict dissemination of such Confidential Information to only those persons in their respective organizations or third-party consultants or service providers who have a need to know such Confidential Information to perform the obligations under this Agreement. Each party will be deemed to have fulfilled its confidentiality obligations under this Section 10 if it affords the other party's Confidential Information at least the same degree of care it takes in protecting its own confidential information from unauthorized disclosure (but in no event using less than a reasonable degree of care).

10.2. **Exceptions.** Notwithstanding the above restrictions, neither party will have any obligation for any nonuse or nondisclosure of Confidential Information which (i) is now or subsequently enters the public domain through means other than disclosure by a party hereto in breach of the terms of this Agreement; (ii) is lawfully obtained from a third party without an obligation of confidentiality; (iii) is independently developed by such party or is already lawfully in the possession of the receiving party free of any obligation of confidence to the other party; or (iv) is required to be disclosed by law, by court order or by order of any government or administrative tribunal having jurisdiction over the recipient, provided that the recipient must, to the extent legally permitted, notify the disclosing party of any such requirement prior to disclosure in order to afford such other party an opportunity to seek a protective order to prevent or limit disclosure, and the recipient will reasonably cooperate with the disclosing party's efforts to obtain such protective order.

10.3. **Expiration.** Upon termination or expiration of this Agreement, both parties agree to destroy all copies of written Confidential Information. Notwithstanding any of the foregoing, WKFS shall be entitled to keep copies of Confidential Information (i) preserved or recorded in any computerized data storage device or component (including any hard drive or database) or saved automatically to standard back-up or archival systems, and/or (ii) as required by applicable law or regulation; provided, that such Confidential Information shall remain subject to the confidentiality requirement of this Agreement. The disclosing party will retain all proprietary rights to the information it discloses hereunder, regardless of the expiration of the obligations under this Section 10.

11. MISCELLANEOUS

11.1. **Entire Agreement.** This Agreement, along with the Order Form(s) and any other terms otherwise published by WKFS outside of this Agreement, constitutes the entire and exclusive agreement, understanding and representation, express or implied, between Customer and WKFS with respect to the subject matter hereof; it is the final expression of that agreement and understanding, and it supersedes all prior agreements and communications between the parties (including all oral and written proposals), with respect to said subject matter. In the event of a conflict, this Agreement will control, then the Order Form, and then any other terms provided by WKFS, unless WKFS explicitly acknowledges and upholds the particular conflict in such other document. Oral statements made about the Application, Support and/or Services will not constitute warranties, will not be relied on by Customer, and will not be binding or enforceable. No supplement, modification or amendment of this Agreement will be binding unless executed in writing by WKFS and Customer, provided that WKFS may supplement this Agreement if such supplement is a clarification or is otherwise not adverse to Customer. WKFS reserves the right to revise this Agreement from time to time in its discretion, provided that any such revisions shall not be

effective with respect to Customer until the commencement of Customer's next renewal term, if any.

- 11.2. **Evaluation Use.** If the Application is made available to Customer on an evaluation, demonstration or trial basis, then this Agreement will govern Customer's access and use except as modified by this subsection 11.2. Any Application made available to Customer for evaluation, demonstration or trial purposes shall only be accessed and used for a limited period of time. Certain functionality of such Application may be disabled or restricted. Commercial use of such Application is not authorized, is outside the scope of this Agreement, and is a violation of U.S. and international copyright laws. Access to any Application made available on an evaluation, demonstration or trial basis shall be terminated and disabled by WKFS upon the conclusion of the evaluation, demonstration or trial. Customer must purchase a Subscription from WKFS before accessing or using the Application for any commercial purpose. The following sections of this Agreement shall not apply to any Application made available to Customer on an evaluation or trial basis: subsections 2.1, 8.1 and 8.2, and Sections 3, 4 and 5.
- 11.3. **Force Majeure.** WKFS shall not be held liable for the failure to perform any obligation, or for the delay in performing any obligation, arising out of or connected with this Agreement if such failure or delay results from or is contributed to by any cause beyond its reasonable control including failures or delays caused by the act or omission of any governmental authority, fire, flood, failures of third party suppliers, acts or omissions of carriers, transmitters, providers of telecommunications or Internet services, vandals, hackers or other event beyond its reasonable control.
- 11.4. **Export Restrictions.** Customer is advised that the Application may be subject to access and export controls under United States laws and regulations, including the U.S. Export Administration Regulations, and diversion contrary to U.S. law and regulation is prohibited. Customer agrees to not directly or indirectly access, export, import or transmit the Application from or to any country, end user or for any end use that is prohibited by any applicable U.S. regulation or statute (including those countries embargoed from time to time by the U.S. government or the United Nations). Additionally, Customer agrees not to directly or indirectly access, export, import, transmit or use the Application contrary to the laws or regulations of any other governmental entity that has jurisdiction over such access, export, import, transmission or use. Customer represents and agrees that neither the United States Bureau of Industry and Export Administration nor any other governmental agency has issued sanctions against Customer or otherwise suspended, revoked or denied Customer's export privileges.
- 11.5. **Modification/Replacement of Application.** WKFS reserves the right, in its sole discretion and without first consulting with Customer, to discontinue or modify the Application or any component thereof for any reason. If the Application is discontinued during the term of a Subscription granted hereunder, then WKFS will, in its discretion, either: i) provide a pro-rata refund of the Fees paid for the discontinued Application and any related Support; or ii) provide Customer with access to a product having substantially similar or greater functionality (with WKFS reserving the right to charge additional Fees for any such greater functionality) for the remainder of the then current Subscription term.
- 11.6. **No Third Party Beneficiary.** No third party is intended to be or shall be a third party beneficiary of any provision under this Agreement. WKFS and Customer shall be the only parties entitled to enforce the rights set out in this Agreement.
- 11.7. **Assignment.** Neither this Agreement, the rights granted hereunder nor the Application may be sublicensed, assigned, sold, hypothecated, or transferred by Customer without the prior written consent of WKFS, which shall not be unreasonably withheld in the case of an internal restructuring involving Customer unrelated to a change in ownership. Any attempt to sublicense, assign or transfer any of the rights, duties or obligations under this Agreement without the prior written consent of WKFS shall automatically terminate the rights granted hereunder and shall be void and of no effect. WKFS may assign this Agreement or delegate its duties, in whole or in part, without any consent of Customer. Customer agrees that WKFS's retention of these contractual and other legal rights is an essential part of this Agreement.

Data Transmission Notification. The Application may transmit to the servers on which the Application is hosted, various information relating to how Customer and its Authorized Users access and/or use the Application, as well as general information about Customer's and its Authorized Users' computer system from which the Application is being accessed (for example, system configuration, type of internet connectivity, RAM, CPU, operating system, browser version), as well as certain records that Customer has created while using the Application. WKFS may use this information for purposes of improving, enhancing or further developing the Application, for internal quality assurance and software error checking, to assist users with multiple offices and as otherwise necessary or appropriate to perform its obligations pursuant to this Agreement. WKFS shall keep this information confidential in accordance with Article 10 hereof.