SOFTWARE LICENSE TERMS AND CONDITIONS

THIS AGREEMENT IS A BINDING CONTRACT AND APPLIES TO CUSTOMER'S LICENSE OF SOFTWARE FROM KURVE SOLUTIONS ("Kurve"). NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY CUSTOMER TO KURVE APPLY; SUCH ADDITIONAL OR DIFFERENT TERMS ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO AND REJECTION OF SUCH TERMS IS HEREBY GIVEN BY KURVE.

BY MAKING A PURCHASE FROM OR PLACING AN ORDER WITH KURVE, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS UNLESS CUSTOMER AND KURVE HAVE AGREED TO A SEPARATE CONTRACT FOR THE LICENSE OF SOFTWARE BY KURVE TO CUSTOMER, IN WHICH CASE SUCH SEPARATE, FULLY-EXECUTED WRITTEN CONTRACT BETWEEN THE PARTIES OR CLICKTHROUGH CONTRACT PROVIDED BY KURVE AND ACCEPTED BY CUSTOMER WILL GOVERN.

Orders placed by Customer are not binding until accepted by Kurve. This Agreement is subject to change without prior notice; however, the version of this Agreement posted on the Website at the time that Customer placed an order will govern such order unless otherwise agreed in writing by Kurve and Customer.

1.   CERTAIN DEFINITIONS. In this Agreement:

"**Agreement**" means these terms and conditions.

"**Affiliate**" of a party means (i) an individual, corporation or other entity that, directly or indirectly, controls or is controlled by such party, and (ii) a corporation or other entity that is directly or indirectly controlled by the same individual, corporation or entity that directly or indirectly controls such party. An individual, corporation or other entity controls another if it holds voting securities of, or other ownership interests in, such other to which are attached more than 50% of the votes that may be cast for the election of directors of such other.

"**Annual Subscription Fees**" means the fees payable by Customer for the licenses granted hereunder, as set out in an Order.

"**Approved Server**" means any server that is identified in the Documentation as capable of running the Kurve Software.

"**Confidential Information**" means any information of a party, its affiliates or Kurve's that is disclosed to the other party or its affiliates under this Agreement and that is designated in writing as confidential or that a reasonable party would understand to be confidential, by the nature of the information or the circumstances in which it is disclosed. Notwithstanding the foregoing, Confidential Information does not include information that: (i) the Receiving Party independently develops without reference to the Disclosing Party's Confidential Information; (ii) is or becomes public knowledge through no fault of the Receiving Party; (iii) the Receiving Party already knows at the time the Receiving Party receives the Confidential Information from the Disclosing Party; or (iv) the Receiving Party receives from a third party not subject to confidentiality obligations. The Kurve Software and Documentation are Confidential Information of Kurve.

"**Customer Trademarks**" means Customer's design logos, product names, trademarks and/or trade names.

"**Deficiency**" means a Priority 1 Program Error or Priority 2 Program Error (as described in Appendix 1 to Exhibit B).

"**Delivery Date**" means the date upon which Kurve delivers or installs the Kurve Software to Customer's Site.

"**Disclosing Party**" means, with respect to any Confidential Information, the party disclosing such Confidential Information.

"**Documentation**" means the software product user guides, manuals, and other documentation for the Kurve Software that Kurve generally makes available to licensees of the Kurve Software, and includes updates thereto provided as part of the Technical Support.

"**Effective Date**" means the date of an Order.

"**Major Update**" means a bug fix, update, patch, module replacement or improved version of the whole or any part of the Kurve Software that is provided as part of Technical Support and is designated by Kurve, in its sole discretion, to be a Major Update, as indicated by a change in the number to the left of the decimal point in the product release number for the relevant Kurve Software.

"**Minor Update**" means a bug fix, update, patch, module replacement or improved version of the whole or any part of the Kurve Software that is provided as part of Technical Support and is designated by Kurve, in its sole discretion, to be a Minor Update, as indicated by a change in the number to the right of the decimal point in the product release number for the relevant Kurve Software.

"**Order**" means that document which incorporates this Agreement by reference and addresses relevant commercial license terms.

"**Program Error**" means a program error in a Kurve Software that is reproducible by Kurve and that causes a material failure of such Kurve Software to perform in accordance with the applicable Documentation.

"**Receiving Party**" means, with respect to any Confidential Information, the party receiving such Confidential Information.

"**Site**" means Customer's facilities at the address set forth in an Order.

"**Sunset Policy**" means that Kurve will provide Technical Support on Supported Versions of the Kurve Software.

"**Supported Version**" means the then-current version and the two previous versions of the Kurve Software. For greater certainty, a change in the number to the left of the decimal point in the product release number indicates a new version.

"**Technical Support**" means the services set out in Appendix 1 to Exhibit B.

"**Term**" has the meaning ascribed to such term in Section 6.1.

"**Territory**" means worldwide.

"**Kurve Software**" means the object-code version of Kurve's software programs set forth on Exhibit A (including any related Kurve application programming interfaces), together with related Updates and Documentation.

"**Kurve Trademarks**" means Kurve's design logo, the product names of the Kurve Software, as set forth on Exhibit A, and any other marks or logos of which Kurve notifies Customer in writing.

"**Trademarks**" mean the Kurve Trademarks or Customer Trademarks or both, as the context requires.

"**Update**" means a Major Update or Minor Update.

"**Warranty Period**" means the period of thirty (30) days after Delivery Date.

2.   LICENSE GRANTS

2.1   Kurve Software

Subject to the terms and conditions of this Agreement, Kurve grants to Customer a non-exclusive, non-transferable, non-sublicenseable license during the Term to use the Kurve Software within the Territory on an Approved Server at the Site.

2.2   Copies

Subject to the terms and conditions of this Agreement, Kurve grants to Customer a non-exclusive, non-transferable, non-sublicenseable license during the Term to make only such copies of the Kurve Software as are necessary for installation or reasonable for archival and backup purposes. Customer shall reproduce on such copies all proprietary notices that appear on the original copy. All copies shall be located at the Site.

2.3   Restrictions on Use

Customer shall not itself, and shall not authorize or enable a third party to:

a) use the Kurve Software on behalf of any third party as a service bureau, or on a "software as a service" basis, or otherwise;
b) use, reproduce, modify, lease, rent, permit concurrent use of, or distribute the Kurve Software other than as expressly permitted in this Agreement;
c) make the Kurve Software available to third parties;
d) disassemble the Kurve Software or unbundle any software it contains;
e) prepare or create derivative works of the Kurve Software;
f) reverse engineer, decompile, or otherwise derive the source code of the Kurve Software; or
g) remove or modify any proprietary notices from the Kurve Software.

3.   DELIVERY AND INSTALLATION

3.1   Delivery

Kurve will deliver the Kurve Software to Customer at the Site in accordance with the timeframe and in the manner to be mutually agreed by the parties

3.2   Installation

Customer shall ensure that the Kurve Software is installed (i) by Kurve, or (ii) by installers certified by Kurve. Kurve has no obligation to install any Kurve Software under this Agreement, (iii) or by Customer after receiving 1 session of installation training.

4.   TECHNICAL SUPPORT

4.1   Technical Support

Kurve shall provide Technical Support, as described and subject to the provisions in Appendix 1 to Exhibit B, and Customer shall accept and pay for Technical Support, in respect of the Kurve Software throughout the Term.

4.2   No Obligation to Provide Other Services

Kurve has no obligation to provide any services under this Agreement, other than Technical Support. The parties may enter into a separate services agreement for the provision of certain additional services.

5.   PAYMENTS

5.1   Payments

Customer shall pay the Annual Subscription Fees set forth in an Order. Kurve may invoice the Annual Subscription Fees as described in an Order. All payments set forth in this Agreement are stated in United States dollars and shall be paid to Kurve in United States dollars within thirty (30) days following the date of Kurve's invoice. Any amount that remains unpaid after the due date is subject to a late charge calculated at the rate of 1.5% per month or the maximum rate allowed by law, whichever is less, from the due date until such amount is paid.

5.2   Taxes

All amounts set out or referred to in this Agreement are exclusive of all taxes, duties and levies, however designated or computed. Customer will pay all taxes, duties, and levies, including without limitation sales, use, or value-added taxes, duties and withholding taxes, based upon or payable in respect of this Agreement, the transactions, licenses, products or services provided for hereunder or the payments made hereunder, excluding any taxes based upon Kurve's net income.

6.   TERM AND TERMINATION

6.1   Term

This Agreement will commence on the Effective Date and will continue in force and effect for a period of three (3) years unless otherwise provided for in an Order (the "Term"), unless terminated earlier as provided in this Agreement.

6.2   Termination for Customer's Default

Kurve may terminate this Agreement by written notice if Customer:

(i)   breaches its obligations under Section 2.3 (Restrictions on Use) or 9 (Confidentiality);
(ii)   materially breaches any other term of this Agreement and fails to cure such breach within

thirty (30) days following written notice from Kurve;

(iii)   admits in writing its inability to pay its debts as they become due, applies for or consents to the appointment of a trustee, receiver, or other custodian, makes a general assignment for the benefit of its creditors, or initiates any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law; or

(iv)   becomes subject to any bankruptcy, dissolution or liquidation proceedings which are not dismissed or resolved within one-hundred twenty (120) days.

6.3   Termination for Kurve's Default

Customer may terminate this Agreement by written notice if Customer:

(i)   breaches its obligations under 9 (Confidentiality);

(ii)   materially breaches any other term of this Agreement and fails to cure such breach within thirty (30) days following written notice from Customer;

(iii)   admits in writing its inability to pay its debts as they become due, applies for or consents to the appointment of a trustee, receiver, or other custodian, makes a general assignment for the benefit of its creditors, or initiates any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law; or

(iv)   becomes subject to any bankruptcy, dissolution or liquidation proceedings which are not dismissed or resolved within one-hundred twenty (120) days.

6.4   Effects of Expiration or Termination

Upon expiration of this Agreement or termination for any reason whatsoever:

(i)   all licenses granted to Customer hereunder shall terminate;

(ii)   Customer will promptly cease using the Kurve Software; and

(iii)   Customer will promptly destroy (or return if requested by Kurve) all copies of the Kurve Software in Customer's possession or control and, if requested by Kurve, provide a certificate stating that Customer has done so, signed by an officer of Customer.

6.5   Other Remedies and Consequences

The termination or expiration of this Agreement or any license granted hereunder does not prevent or limit either party from pursuing any other remedy or remedies available to it at law or equity, including without limitation injunctive relief, nor does such termination or expiration relieve Customer of any remaining obligation hereunder to pay amounts otherwise due to Kurve. Except to the extent otherwise provided in this Agreement, upon expiration or termination of this Agreement for any reason, each party will promptly return or destroy (at the other party's option) all copies of the other party's Confidential Information in such party's possession or control.

6.6   Survival

Sections 2.3 (Restrictions on Use), 5 (Payments), 6.4 (Effects of Expiration or Termination), 6.5 (Other Remedies and Consequences), 7 (Indemnity), 8.3 (Disclaimers), 9 (Confidentiality), 10 (Proprietary Rights), 12 (Limitation of Liability), and 13 (General Provisions) will survive any termination or expiration of this Agreement.

7.   INDEMNITY

7.1   Intellectual Property

Subject to Section 7.2, Kurve will defend or settle any claim brought or allegation made against Customer by a third party that Kurve Software, or Customer's use or deployment of the Kurve Software infringes upon, misappropriates or otherwise violates such party's trademark, copyright or patent enforceable in the Territory. Kurve's obligations under this Section 7.1 are subject to the conditions that Customer (i) notifies Kurve in writing of any such claim promptly upon learning of it (provided Kurve's indemnification obligations hereunder shall only be lessened to the extent Customer's failure to provide such notice materially impacts Kurve's ability to defend against such claim) and allows Kurve to have sole control of the defense and all related settlement negotiations, and (ii) cooperates with Kurve, at Kurve's expense, in defending or settling the claim. Kurve has no obligation with respect to any settlement, payment or admission made, or cost or expense incurred, without Kurve's prior written consent. This Section 7.1 states Kurve's entire liability and Customer's exclusive remedy for infringement claims, actions, suits, and proceedings relating to the subject matter of this Agreement.

7.2   Exceptions

Kurve will have no liability for any claim or allegation that is based upon:

(i)   use of a version of the Kurve Software that is not a Supported Version; or
(iii)   any modification of the Kurve Software that was not made by Kurve.

Kurve will not be liable for damage, loss, or other liability to the extent the same falls within the scope of liability for which Customer is responsible under Section 7.4.

7.3   Mitigation

If the Kurve Software or any portion or component thereof is held or is believed by Kurve to infringe upon a third party's rights, Kurve may, at its option and expense:

(i)   obtain for Customer a license to continue using such item; or
(ii)   modify the Kurve Software so that it becomes non-infringing; or
(iii)   if neither of the foregoing alternatives is reasonably available, and with Customer's consent (which shall not be unreasonably withheld), terminate Customer's license to use such Kurve Software and refund to Customer a prorated portion of the Annual Subscription Fees paid by Customer therefor.

7.4   Indemnification by Customer

Customer will defend or settle any claim brought or allegation made against Kurve or a Kurve Affiliate by a third party (i) arising out of the combination, operation or use of the Kurve Software with any other item, (ii) arising out of the overlaying or other modifications by Customer of third-party content; or (iii) based on use of the Kurve Software by or on behalf of Customer after Kurve has notified Customer of its belief (supported by reasonable basis) that such activities may constitute an infringement of the intellectual property rights of a third party. Customer's obligations under this Section 7.4 are subject to the conditions that Kurve (i) notifies Customer in writing of any such claim promptly upon learning of it (provided Customer's indemnification obligations hereunder shall only be lessened to the extent Kurve's failure to provide such notice materially impacts Customer's ability to defend against such claim) and allows Customer to have sole control of the defense and all related settlement negotiations, and (ii) cooperates with Customer, at Customer's expense, in defending or settling the claim. Customer has no obligation with respect to any settlement, payment or admission made, or cost or expense incurred, without Customer's prior written consent.

8. WARRANTIES AND DISCLAIMERS

8.1 Warranties

Kurve warrants to Customer that:

(i) Kurve has the right to grant the licenses granted in this Agreement on the terms and conditions set forth herein;

(ii) no third party has made any claim of infringement of intellectual property rights with respect to the Kurve Software;

(iii) the Kurve Software will not, at the time of delivery to Customer, contain any software locks or drop dead devices that have been designed by Kurve to render inaccessible or impair the operation of the Kurve Software;

(iv) Kurve will use commercially reasonable efforts to ensure that the Kurve Software will not, at the time of delivery, contain any virus, Trojan horse, worm or other such software routine intended to maliciously render inaccessible or impair the operation of the Kurve Software or any other hardware, software or data;

(v) Kurve will repair or provide a workaround for any Deficiency reported to Kurve by Customer during the Warranty Period; and

(vi) Technical Support will be provided by qualified personnel in a good and workmanlike manner.

8.2 Termination

If Customer reports a Deficiency within the Warranty Period and Kurve fails to repair or provide a workaround for such Deficiency within ninety (90) days after receipt of such notice, Customer may terminate its license to use the relevant Kurve Software on written notice to Kurve, in which event Kurve shall promptly refund to Customer all Annual Subscription Fees paid hereunder for such Kurve Software.

8.3 Disclaimers

THE WARRANTIES SET FORTH IN SECTION 8.1 ARE THE ONLY WARRANTIES PROVIDED BY KURVE FOR THE KURVE SOFTWARE AND TECHNICAL SUPPORT. TO THE FULLEST EXTENT POSSIBLE UNDER APPLICABLE LAW, KURVE DISCLAIMS, ON BEHALF OF ITSELF AND ITS KURVE'S AND THE KURVE AFFILIATES, ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS EXPRESS OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OR CONDITIONS (i) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, TITLE, NON-INFRINGEMENT, OR SUCCESSFUL SYSTEM INTEGRATION, (ii) THAT THE KURVE SOFTWARE ARE ERROR-FREE, (iii) THAT OPERATION OF THE KURVE SOFTWARE WILL BE SECURE OR UNINTERRUPTED, OR (iv) THAT THE KURVE SOFTWARE WILL MEET CUSTOMER'S REQUIREMENTS. NEITHER KURVE, NOR ITS AFFILIATES OR KURVE'S WILL BE LIABLE FOR ANY REPRESENTATIONS, WARRANTIES, OR GUARANTEES MADE TO SUBSCRIBERS CONCERNING THE KURVE SOFTWARE PROVIDED TO CUSTOMER.

9. CONFIDENTIALITY

9.1 By virtue of this Agreement and the Order, the parties may have access to information that may reasonably be considered proprietary or confidential to one another, including the terms and pricing under this Agreement and Order ("Confidential Information"). Each party (i) shall, and shall cause its personnel to, hold and deal with in strict confidentiality all Confidential Information of the other party disclosed under this Agreement or under any Order; and (ii) agrees not to use any of

the Confidential Information except in the furtherance of its obligations under this Agreement, provided that each party acknowledges that, for the purposes hereof, its respective Confidential Information excludes any data, documentation or other information which (a) is in the public domain other than as a result of a disclosure by the receiving party in breach of this Agreement; (b) was known to the receiving party prior to receipt thereof from the disclosing party; (c) is or becomes available to the receiving party on a non-confidential basis from a source other than the disclosing party, if that source or its source is not in breach of any obligation of confidentiality to the disclosing party; (d) the receiving party can show to have been developed independently by the receiving party without using the Confidential Information of the disclosing party; or (e) must be disclosed pursuant to applicable laws, regulations or court order, provided that if permitted by law, the receiving party gives the disclosing party prompt notice of its intent to disclose such information so that the disclosing party may seek a protective order or other appropriate remedy or waive compliance with these terms. If such protective order or other remedy is not or cannot be obtained, or the disclosing Party waives compliance with these terms, the receiving Party will furnish only that portion of the Confidential Information that is legally required and will exercise its best efforts to obtain reliable assurances that the Confidential Information will be treated on a confidential basis. Upon request, at the expiration of this Agreement, each party shall return or destroy all Confidential Information of the other party then in its possession. The Kurve Software shall be deemed to be Kurve's Confidential Information

10.   PROPRIETARY RIGHTS

10.1   Kurve Software and Kurve Trademarks

Nothing in this Agreement transfers any ownership rights in the Kurve Software or Kurve Trademarks, including without limitation intellectual property rights and registrations, to Customer. Customer acquires no right, title or interest in any such materials other than the licenses granted hereunder.

10.2   Customer Trademarks

Customer retains all rights, including without limitation intellectual property rights and registrations, in and to all Customer Trademarks. Kurve acquires no right, title or interest in any such materials other than the right to use Customer Trademarks granted hereunder.

11.   TRADEMARKS

11.1   Kurve Trademarks

Kurve grants to Customer a non-transferable, non-exclusive worldwide license during the term of this Agreement to use, and Customer agrees that it shall use, the Kurve Trademarks in conjunction with the Kurve Software and on Customer's website. Customer shall submit all proposed uses of a Kurve Trademark to Kurve for written approval, and shall not use any such Kurve Trademark except in accordance with Kurve's approval. Kurve shall not unreasonably condition, delay or withhold such approval.

11.2   Customer Trademarks

Customer grants to Kurve a non-transferable, non-exclusive worldwide license during the term of this Agreement to use Customer Trademarks on marketing and promotional materials related to the Kurve Software and on Kurve's website. Kurve shall submit all proposed uses of a Customer Trademark to Customer for written approval, and shall not use any such Customer Trademark except in accordance with Customer's approval. Customer shall not unreasonably condition, delay

or withhold such approval.

11.3   Trademark Usage

Each party will use the other party's Trademarks in accordance with the trademark guidelines, if any, made available by such other party. Neither party will use the other party's Trademarks or any other mark in a manner that is likely to cause confusion with such other party's Trademarks. All usage of a Trademark will inure to the benefit of the party owning such Trademark. Neither party will register the other party's Trademarks without such other party's prior written consent. Neither party will contest the ownership of the Trademarks of the other party. Each party will, at the request of the other party from time to time, supply a reasonable number of samples of all materials bearing any of such other party's Trademarks to confirm compliance with this Section. If either party notifies the other party in writing of any failure to comply with this Section within thirty (30) days of the receipt of such samples, such other party will suspend distribution and use of the materials that are not in compliance until the using party has satisfied the owning party that the foregoing requirements have been met.   Customer will not use any Kurve Trademarks in any way that implies that the Kurve Software is the proprietary product of Customer or of any party other than Kurve or its Kurve's.

12.   LIMITATION OF LIABILITY

12.1   Exclusion of Certain Damages

TO THE EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR A BREACH OF SECTION 9, NONE OF KURVE AND ITS AFFILIATES AND KURVE'S, OR CUSTOMER AND ITS AFFILIATES, WILL BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY (i) LOSS OF PROFITS, BUSINESS OR DATA, (ii) INTERRUPTION OF ANY BUSINESS, OR (iii) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHTSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH IN THIS AGREEMENT.

12.2   Claims by Third Parties

NEITHER PARTY NOR ITS AFFILIATES WILL BE LIABLE FOR ANY CLAIM AGAINST THE OTHER PARTY BY ANY THIRD PARTY, EXCEPT AS PROVIDED IN SECTION 7.

12.3   Limit of Liability

NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, EXCEPT FOR A PARTY'S OBLIGATIONS UNDER SECTION 7 AND FOR BREACH OF SECTION 9 OR CUSTOMER'S BREACH OF SECTION 2.3, THE TOTAL LIABILITY OF EITHER PARTY FOR DAMAGES OR CLAIMS IN ANY WAY RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY USED, WILL NOT EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER TO KURVE UNDER THIS AGREEMENT AS OF THE DATE ON WHICH THE CLAIM ARISES.

12.4   Acknowledgement

The parties acknowledge that the terms and conditions of this Agreement, including without limitation the amount of fees payable hereunder, are in consideration of the allocation of risks between Customer and Kurve and the limitations and exclusions of liability set out herein.

13.   GENERAL PROVISIONS

13.1   Notices

All notices given under this Agreement shall be in writing, in English, and sent by nationally recognized overnight courier service or by registered or certified mail to the contact set out in the Order.

Notices will be deemed to have been given when received.

13.2   Assignment

This Agreement will inure to the benefit of and be binding upon the parties and their respective successors and permitted assigns. Neither Kurve nor Customer may assign or otherwise transfer, whether by operation of law or otherwise, this Agreement or any portion thereof or any rights or obligations under this Agreement without the prior written consent of the other. Consent will not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, either party may assign this Agreement to a purchaser of all or substantially all of the assignor's assets, provided such assignee agrees in writing to assume and be bound by all of assignor's obligations under this Agreement.

13.2   Relationship of the Parties

The parties are independent contractors. This Agreement does not create any agency, partnership, joint venture, or employment relationship between the parties. Neither party nor its licensees or agents has any authority to bind the other.

13.4   Publicity

All press releases and other public announcements under this Agreement shall be approved by both parties in writing prior to release, which approval shall not be unreasonably withheld or delayed. The parties hereby agree to issue a press release as described in Exhibit C.

13.5   Governing Law

This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

13.6   English

This Agreement is in the English language only, which language is controlling in all respects, and no versions in any other language will be binding on the parties.

13.7   Compliance with Laws

Each of the parties will comply with all applicable laws and regulations. Without limitation, Customer will not import, export, or re-export, directly or indirectly, any Kurve Software to any country in violation of the laws and regulations of any applicable jurisdiction, including without limitation the United States of America. Customer represents and warrants that it is not required to obtain approvals from any governmental entity to execute this Agreement or to perform its obligations hereunder.

13.8   Severability, Waiver

The invalidity or unenforceability of any provision of this Agreement shall not affect the remaining provisions of this Agreement, which will remain in full. No waiver of any default or breach of a provision hereof shall be binding unless in writing, nor shall the waiver of any default or breach affect a party's rights with respect to any other or future default or breach.

13.9   Force Majeure

Neither party will be liable for failure or delay in the performance of its obligations, other than payment of money, due to strike, riot, fire, flood, natural disaster, or other cause beyond such party's control, provided that such party gives prompt written notice of such condition to the other party and resumes its performance as soon as practicable. If either party's performance under this Agreement is delayed for one-hundred and eighty (180) days or more, the other party may terminate this Agreement.

13.10   Entire Agreement

This Agreement, together with all Exhibits referenced herein, constitutes the entire agreement between the parties concerning its subject matter and supersedes all prior or contemporaneous agreements, discussions, negotiations and understandings. This Agreement shall not be amended except in a writing signed by an authorized representative of each party.

13.11   Cumulative Remedies

Except as expressly indicated, no right or remedy conferred by this Agreement is exclusive of any other right or remedy available at law or in equity.

13.12   Interpretation

Section headings are for convenience only and shall not be deemed to be part of this Agreement. Use of the terms "hereunder", "herein", "hereby", and similar terms refer to this Agreement.

13.13   No Third Party Beneficiaries

This Agreement and the parties' respective performance of obligations hereunder are not intended to benefit any person or entity not a party to this Agreement. No person or entity not a party to this Agreement shall have any rights hereunder nor the right to require the performance hereunder by either of the respective parties hereto.

Kurve Software	- Brings in real time data from parent software - Allows for the creation of custom reports from parent software data, including calculation helpers. - Allows for the creation of custom graphs with data from parent software.

Customer commits to a minimum support term equal to the Term. Technical Support includes:

1.   Updates and Technical Support

1.1   Subject to the Sunset Policy and provided that Customer pays to Kurve the License Fees set forth above in Table 1, Kurve will provide to Customer: (i) Technical Support as set forth in Appendix 1 to Exhibit C; and (ii) Updates during the Term of the Agreement.

1. <u>Contact Information</u>

Kurve Support Contacts

Kurve will provide Customer with an URL that Customer may use to report Program Errors. For priority 1 or 2 errors (as defined in Section 4 below), Customer agrees to notify Kurve via a URL to be provided by Kurve to Customer.

Kurve's Technical Account Manager (TAM) will identify a designated support team to work with Customer's Technical Liaisons. A member of the Kurve support team will contact Customer's designated Technical Liaisons below following execution of this Agreement.

Customer's Technical Liaisons

Customer's Technical Liaisons as specified in an Order are responsible for all communications with Kurve's technical support representatives. Such liaisons will have sufficient technical expertise and will have completed the appropriate Kurve training courses in order to perform Customer's obligations hereunder.

2. <u>Back-end Support</u>

Kurve will provide back-end support to Customer for Programs Errors not resolved by Customer pursuant to Customer's support policies and in accordance with Section 3 (First and Second Level Support) as set forth below.

To facilitate the provision of Technical Support services hereunder, Customer agrees to:
(a) provide Kurve with high speed remote access to Customer's server;
(b) ensure that all installation of the Kurve Software are done by Kurve certified installers; and
(c) ensure that the Kurve certified installers provide all required installation and architecture documentation of the Customer's system to the Kurve support team.

Once Customer has identified a Program Error, one of its Technical Liaisons is to contact Kurve support team. Kurve will make reasonable efforts to correct significant Program Errors that Customer identifies, classifies and reports to Kurve and that Kurve substantiates. Kurve may reclassify Program Errors if it reasonably believes that Customer's classification is incorrect. Customer will provide sufficient information to enable Kurve to duplicate the Program Error before Kurve's response obligations will commence. Kurve will not be required to correct any Program Error caused by: (a) Customer's unauthorized incorporation or attachment of a feature, program, or device to the Kurve Software, or any part thereof; (b) any nonconformance caused by accident, transportation, neglect, misuse, alteration, unauthorized modification, or unauthorized enhancement of the Kurve Software; (c) the failure to provide a suitable installation environment; (d) use of the Kurve Software for other than the specific purpose for which Kurve's software programs are designed and Licensed; (e) Customer's use of defective media or defective duplication of Kurve's software; or (f) Customer's failure to incorporate any Updates previously provided to Customer that correct such Program Errors.

Kurve will resolve each significant Program Error by providing either a reasonable workaround, an object code patch, or a specification plan for how Kurve will address the problem and an estimate of how long it will take to rectify the defect.

Kurve reserves the right to charge Customer additional fees at its then-standard rates for services performed in connection with reported Program Errors which are later determined to have been due to hardware or software not supplied by Kurve. Notwithstanding the foregoing, Kurve has no obligation to perform services in connection with Program Errors (i) resulting from hardware or software not supplied by Kurve; or (ii) which occur in a release of the Kurve Software which is not the then-current release or a Previous Supported Version.

Kurve will provide Customer with proactive information on known problems and problem resolution via the Kurve URL when available.

3. Support Levels

Customer, and not Kurve, will provide first and second level technical support to its Subscribers and end users.

First Level Technical Support. First level technical support consists of the following tasks: (i) log the Subscriber calls; (ii) confirm the environment (versions of software, any time-of-day coincidences, hardware); (iii) verify whether it is a problem (or an operator error); and (iv) isolate the problem to a "platform" (such as hardware or operating system).

Second Level Technical Support. Second level technical support consists of the following: (i) reproduce the environment at the time of failure; (ii) reproduce the problem, if possible; (iii) confirm that Customer has the latest software or hardware; (iv) swap equipment (if the hardware is a possible cause); and (e) collate the logged Subscriber or end user calls and look for patterns (predict failures, etc.).

Third Level Technical Support. Third level technical support consists of the following: (i) review findings escalated by second level support; (ii) review Program Errors believed to be related to the Kurve Software; (iii) develop course of action to the Program Error; and (iv) deliver fixes to the Program Error in accordance with the response and repair times in this Appendix.

4. Targeted Response/Repair Times

To ensure a prompt response, Program Errors identified by Customer as being a priority 1 or priority 2 incident should be reported in writing via the Kurve URL. Kurve will use reasonable efforts to communicate with Customer about the Program Error via e-mail through Kurve's on-line call tracking system within the following targeted response times:

Priority	Program Error Description	Targeted Response Time (Time to acknowledge receipt of problem and engage Kurve support resources)	Targeted Repair Time
P1 – Service Down	Total loss of production system functionality (system down) or performance has been so severely impacted that Customer's organization cannot reasonably continue work.	Kurve will make commercially reasonable efforts to respond within 2 Business Day	Kurve will provide a work-around or restore current processing within 4 working days provided that Customer fully

	Partial loss of production system functionality (diminished capacity) in the subscriber services provisioning flow, or a major functional use case is not working as designed. For greater certainty, this P1 classification is specifically limited to complete functional failures in a production system – not transactional failures. A major functional use case must be failing for all orders of that type (not for a single subscriber or small set of subscribers) to be classified as a P1 error.		co-operates with Kurve to deploy work-around or restore current processing.
P2 – Service Degrade	A minor functional use case is not working in most or all cases, or a major functional use case has errors not impacting the subscriber base or operational activities.	Kurve will make commercially reasonable efforts to respond within 2 Business Day	Kurve will provide a work-around or correct errors causing malfunction within 5 working days provided that Customer fully co-operates with Kurve to deploy work-around or to correct errors.
P3 – Feature Failure	Reports of isolated malfunctions or suspected defects that do not affect vital system functional use cases. Single or small group of customer issues where an order or service is not provisioned correctly.	Kurve will make commercially reasonable efforts to respond within 2 Business Day	Fix provided in future release.
P4 – Feature Request	Enhancement Request for a non supported item requested by Customer.	Kurve will make commercially reasonable efforts to respond within 3 Business Days	
P5 – Inquiry	General inquiries by Customer.	Kurve will make commercially reasonable efforts to respond within 3 Business Days	

Repair Time obligations are highly dependent on the reasonable availability of Customer Technical Liaison to assist in analysis and troubleshooting of Customer's production environment. Customer Technical Liaison must reasonably co-operate with Kurve to deploy work-around or restore current processing in a timely manner, as requested by Kurve.

5.   <u>Updates</u>

Kurve will provide all generally available Minor and Major Updates of Licensed Software to Customer.

6.   <u>Program Error Classification</u>

Kurve may reclassify Program Errors if it reasonably believes that Customer's classification is incorrect. Customer will provide sufficient information to enable Kurve to duplicate the Program Error before Kurve's response obligations will commence, pursuant to the process described in Section 2 above.

7.   <u>Technical Support Hours of Operation</u>

Technical Support regular hours of operation are 8:30am to 5:00pm EST, Monday to Friday, excluding Kurve's observed statutory holidays.

8.   <u>Third Party Hardware and Software Support</u>

Technical Support Services provide support for Licensed Software on Approved Servers. Kurve has no obligation to provide services for third Party hardware and software under the terms of this Agreement. For greater certainty, Kurve will provide support for all Kurve Software referenced in Exhibit A, operating on third party software and servers as outlined in the Documentation, however, services required to install, operate, maintain and troubleshoot third party software and servers is the responsibility of Customer.

EXHIBIT C

PRESS RELEASES/MARKETING

1.   <u>Press Releases</u>. All public announcements under this Agreement must be approved by both parties in writing prior to release and will include a quote attributable to an equal level of executive officer of each party, which approval shall not be unreasonably withheld or unduly delayed. The parties will cooperate to issue a press release concerning this Agreement within thirty (30) days of the execution of this Agreement.

2. <u>Marketing</u>. Customer will use reasonable efforts to support Kurve in the marketing and sale of its Software. Support may include, but is not limited to, items such as:

- Customer testimonial
- White paper on deployment
- References
- Speaking engagements at industry tradeshows
- Use of Customer Logo(s) on website

the substance of which shall be mutually agreed by the parties.