

Descartes Online Subscription Terms for SaaS Services

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These Descartes Online Subscription Terms for SaaS Services (these “Online Terms”) govern the purchase and Use of Descartes SaaS Services made available for online sale. These Online Terms are intended for use with an online ordering process (including click-through acceptance).

1. APPLICABILITY

1.1 Applicability. These Online Terms shall apply to any online order, checkout page, order confirmation, or similar transactional record (each, an “Online Order”) that references these Online Terms and incorporates them by reference. These Online Terms are in addition to any other terms and conditions provided under the Online Order.

1.2 Business Use. The Services are offered for business and commercial use. If an individual accepts these Online Terms on behalf of an entity, that individual represents and warrants that they have the authority to bind that entity.

1.3 Acceptance. Customer accepts and agrees to be bound by these Online Terms by clicking an “accept”, “agree”, “purchase”, “place order” or similar button, by completing an Online Order, by creating or administering an account to Use the Services, or by Using the Services after these Online Terms are presented.

1.4 Agreement Structure. Incorporation by Reference. The “Agreement” consists of: (a) the Online Order; (b) these Online Terms; and (c) the Documentation and the online policies referenced in the Online Order or these Online Terms, including, as applicable, Descartes’ Data Processing Agreement, as it relates to Descartes’ Processing of personal information as a processor, the applicable delivery policy and/or support policy for the Services, and Descartes’ applicable privacy policies as they relate to Descartes’ Processing of personal information as a controller.

1.5 Product Schedules. Descartes may present or make available additional service-specific terms applicable to particular Services (the “Product Schedules”). The Product Schedules applicable to the Services ordered through an Online Order may be accessed through the following link: <https://www.descartes.com/resources/legal-compliance/customer-agreements/product-schedules> and are hereby incorporated by reference and form part of the Agreement.

1.6 Data Processing Agreement. Where Descartes Processes Personal Data on Customer's behalf, Descartes' Data Processing Agreement (the "DPA") is incorporated by reference and governs such Processing. The DPA is available online at:

<https://www.descartes.com/legal/customer-agreements/data-processing-agreement>.

1.7 Delivery Policy and Support Terms. Customer's Use of Services is subject to the delivery policy and/or support policy identified by Descartes for the applicable Services, as may be made available online and incorporated by reference. Without limiting the foregoing, for GLN Services, the GLN Services Delivery Policy is incorporated by reference and available online at:

<https://www.descartes.com/legal/customer-agreements/gln-services-delivery-policy>.

1.8 Order of Precedence. In the event of an inconsistency between the Online Order and these Online Terms, the order of precedence to resolve any such inconsistency shall be as follows: (i) the Online Order; (ii) the DPA; (iii) any applicable Product Schedules; (iv) these Online Terms; and (v) any other document related to this agreement that is binding between the parties.

1.9 Changes to Online Terms. Descartes may update these Online Terms from time to time. Updated Online Terms will apply to new Online Orders placed after the published date of the updated Online Terms and to renewals occurring after that published date. Notwithstanding the foregoing, where required by applicable law or where the update does not materially reduce Customer's rights or materially increase Customer's obligations for the then-current Term, as reasonably determined by Descartes, the updated Online Terms shall take effect as of their published date.

2. ACCESS AND USER ACCOUNTS

2.1 Access to Services. Access to Services may require an individual to be authenticated against a user account (a "User Account") before being provided with access. The processing of personal data provided in setting up a User Account is governed by Descartes' commercial relationship privacy policy, available at: <https://www.descartes.com/privacy-center/commercial-relationship-privacy-policy>.

2.2 Administrative Users. Where the Services permit the use of an administrative user (an "Administrative User"), the Administrative User shall only create or manage User Accounts for Permitted Users. As between Descartes and Customer, Customer is solely responsible for the actions of its Administrative Users and Permitted Users and acknowledges that Descartes relies on Customer to validate whether an individual is permitted to access Services.

2.3 Security of User Accounts. Customer is solely responsible for ensuring that its Administrative Users and Permitted Users properly secure User Account credentials. Permitted Users may not share, transfer, provide, or otherwise allow any other person to access their User Account unless otherwise expressly permitted under the Agreement.

2.4 Defeating or Circumventing Access Controls. Customer shall not knowingly take any actions that are designed to, or that Customer ought reasonably know may defeat, circumvent, or otherwise avoid any controls Descartes may have in place to restrict, control, or enforce account limitations on the Use of Services.

2.5 Responsibility for Permitted Users. Customer is responsible for all Use of Services by its Permitted Users and Administrative Users and for ensuring their compliance with the Agreement. Permitted Users and Administrative Users are deemed to be acting on Customer's behalf for purposes of the Agreement.

3. CONNECTIONS, THIRD-PARTY TECHNOLOGY, INTEGRATIONS, AND USE RESTRICTIONS

3.1 Provision of Services. Subject to Customer's compliance with the Agreement, Descartes shall provide the Services to Customer during the Term in accordance with the Online Order and Documentation.

3.2 Updates and Modifications. Descartes may update or modify the Services from time to time, including for security, reliability, and feature improvements, provided that such update or modification does not result in a material loss of functionality of the Services as compared to the Services prior to the change (excluding Beta Features).

3.3 Connections with Other Systems. Some Services may allow for exchanging or receiving information and data with systems, networks, or applications owned by, controlled by, or maintained by a third party with which Customer has a commercial or contractual relationship ("External Data"), including Customer's vendors, suppliers, technology providers, partners, agents, or contractors (collectively, "Data Providers"). Where Customer subscribes to a connector or similar module intended to exchange External Data, Descartes' obligation is limited to providing the infrastructure, protocols, or connections necessary to allow External Data to be exchanged through the connector.

3.4 Relationship with Data Providers. Customer understands that Descartes may not have, and is under no obligation to have, a direct relationship or agreement with any Data Provider. Descartes is not responsible for the performance, or lack thereof, of any Data Provider or Data Provider's services, and Customer confirms that Descartes may consider a Data Provider to be Customer's agent as it relates to External Data.

3.5 Responsibility for External Data. As it relates to External Data, as between Descartes and Customer, Customer is solely responsible, to ensure that: (a) Customer has legally obtained all necessary licenses, rights, or permissions to provide External Data to Descartes and to permit Descartes to Use External Data to perform its obligations under the Agreement; (b) External Data is suitable for Customer's needs and Data Providers will provide External Data in compatible formats and through compatible secure protocols; (c) External Data is accurate,

complete, and updated as reasonably required; (d) Customer manages required communication or coordination with Data Providers and any delays arising from inadequate coordination shall be the responsibility of the Customer; (e) any data Descartes provides to Data Providers is stored and handled securely consistent with industry standards; and (f) the usage by Data Providers of External Data or Customer Data requested or provided through a connector or under the Agreement is consistent with Customer's expectations or intentions.

3.6 Third-Party Technology. Certain Services may enable Customer to Use additional functionality made available by third parties ("Technology Providers"). Products or services provided by a Technology Provider ("Third-Party Technology") may only be used in combination with the Services with which they are associated. Customer shall not modify, decompile, disassemble, or reverse engineer any Third-Party Technology and shall not remove or obscure any copy marks, trademarks, watermarks, or similar indicators or otherwise alter any such indicators in any way that would cause a reasonable person to believe that Customer owns the intellectual or moral rights to the Third-Party Technology. As Third-Party Technology is provided by independent Technology Providers, the length of term applicable to products or services identified as Third-Party Technology may be shorter than the length of Term for Descartes Services and Third-Party Technology may be subject to shorter termination notice provisions. Third-Party Technology shall be considered the Confidential Information of Descartes and subject to the same restrictions provided under the Agreement.

3.7 Technology Provider Policies. Customer understands that certain Technology Providers may require Customer to agree to user terms, acceptable use policies, or similar policies ("Technology Provider Policies"). If Customer, acting reasonably, is unable to comply with Technology Provider Policies and Descartes is unable or unwilling to provide a reasonable substitute, Customer may, as its sole remedy and upon thirty (30) days' written notice, terminate the portions of the Agreement related to the applicable Third-Party Technology only. Customer's continued use of the Third-Party Technology shall be deemed to be an acceptance of the Technology Provider Policies.

3.8 Integrated Technology. Certain Services may incorporate or include third-party technology, including but not limited to code libraries, data, or scripts, intended to be seamlessly integrated with the Services ("Integrated Technology"). Descartes shall be responsible for the performance of Integrated Technology as part of the Services and for ensuring Integrated Technology Providers comply with applicable restrictions that arise from the Agreement. Descartes may substitute Integrated Technology provided the substitution does not reasonably result in a material loss in functionality, features, or data security for the Services. In the event Customer believes it has suffered any damages as a result of an Integrated Technology, Customer will pursue those claims against Descartes only. Integrated Technology does not include tools or technology used by Descartes solely to create the Services but which is itself not included within the Services, including but not limited to any code editors, design tools, or general office software.

3.9 External Links. Certain Services may provide links to information maintained or provided by third parties or hosted on the general internet. The presence of any such links does not constitute an endorsement, sponsorship, recommendation, association, or affiliation by Descartes. Customer's access and use of external content is at Customer's own risk, and Customer is responsible for taking protective measures to guard against viruses and other destructive elements.

3.10 Use Restrictions. Customer shall not, and shall not permit any Administrative User, Permitted User, or third party to:

- Use the Services other than for Customer's internal business purposes;
- Use the Services contrary to the Documentation;
- Reverse engineer, decompile, disassemble, or otherwise attempt to derive source code from the Services (except to the extent such restriction is prohibited by applicable law and then only to the minimum extent required);
- Interfere with, disrupt, damage, or put at risk the Services, or any network, systems, or security measures supporting the Services;
- Circumvent or breach any security or authentication measures;
- Upload or transmit viruses, malware, corrupted files, or similar malicious code;
- Use the Services for unlawful purposes or in a manner that infringes or misappropriates the rights of others, including Descartes; or
- Post, promote, or transmit unlawful, harassing, defamatory, abusive, threatening, harmful, vulgar, obscene, hateful, racially or ethnically objectionable material through the Services.

3.11 Suspension. Where Descartes reasonably determines that a violation of Section 3.10 has occurred or that Customer's Use poses a security risk or may adversely impact the Services or other Descartes customers, Descartes may suspend access to the Services (temporarily or permanently, as reasonable under the circumstances) until the matter is remedied.

3.12 Beta Features. If Descartes makes beta, pilot, preview, or evaluation features available ("Beta Features"), those Beta Features are provided "as is", may be modified or discontinued at any time, and are excluded from any service level, availability, or support commitments unless expressly stated otherwise.

3.13 Mobile Applications. Where the Services include or are accessed through a Mobile Application, Customer may Use the Mobile Application solely in connection with Customer's valid subscription and subject to the Agreement. Mobile Applications may not function correctly without connectivity, and Descartes disclaims liability arising from poor connectivity or loss of communication caused by Customer equipment or networks. Unless otherwise permitted by Descartes, Customer shall Use only the most current version of a Mobile Application.

4. FEES AND PAYMENT

4.1 Fees. Customer shall pay Descartes the Fees in the amounts and on the terms set out in the Online Order. Unless otherwise expressly stated in the Online Order, all Fees are expressed in United States Dollars (\$USD).

4.2 Late Payments; Suspension. At Descartes' option, Descartes may assess a late payment fee equal to one and one half per cent (1.5%) of the unpaid amount for each succeeding thirty (30) day period (or portion thereof) that payment remains outstanding, unless those fees have been disputed in the manner set out in section 4.3 below. Failure by Customer to pay undisputed Fees when due is a material breach of the Agreement. If unpaid for a twelve-month period, the effective rate of interest would be 19.56% per annum. Descartes may suspend provision of Services for non-payment of undisputed Fees upon five (5) days' written notice.

4.3 Invoice and Billing Disputes. Customer shall promptly and carefully review statements and invoices reflecting activity under the Agreement. If Customer believes any adjustments are required with respect to amounts due, Customer shall notify Descartes in writing within ninety (90) days after the applicable invoice or report is received. If Customer fails to notify Descartes within that time, Descartes will not be required to investigate or effect any related adjustment absent willful misconduct by Descartes.

4.4 Taxes. Fees are exclusive of taxes, assessments, or duties that may be assessed, including, without limitation, sales, use, excise, value added, personal property, electronic/internet commerce, export, import, and withholding taxes, but excluding taxes based on Descartes' net income. Customer shall directly pay any such taxes assessed against it, including without limitation, all taxes that arise out of transactions completed by Customer using the Descartes Services. Customer shall promptly reimburse Descartes for any such taxes payable or collectable by Descartes. If withholding tax applies, Customer shall pay such additional amounts as necessary to ensure Descartes receives the full amount due as if no withholding had been required.

4.5 Overage Fees. Where the Online Order provides for only a fixed quantity of transactions, uses, events, or other units ("Quantity"), and is silent on any usage beyond the Quantity ("Extra Usage"), Extra Usage will be invoiced to Customer in arrears as an overage fee. Unless otherwise specified in the Online Order, the overage fee will be calculated as follows:

$$\text{Overage Fee} = (\text{Extra Usage}) \times ((\text{Extended Amount} \div \text{Quantity}) \times 1.25)$$

For the purposes of this Section 4.5, "Extended Amount" means the base Fees payable for the Quantity during the applicable billing period, as set out in the Online Order. Unless otherwise specified in the Online Order, overage fees will be calculated and invoiced on the same billing cycle as the Services to which they relate.

4.6 Collection Expenses. Unless prohibited or limited by applicable law, Customer shall reimburse Descartes for reasonable collection-related expenses, including reasonable attorneys' fees, incurred by Descartes in collecting Customer's past due amounts.

4.7 Credit Card, ACH, and Other Electronic Payments. If Customer pays Fees by credit card, automated clearing house (“ACH”) debit entries, or other electronic payment methods accepted in the online ordering workflow, Customer shall provide all necessary payment information (“Payment Information”) and shall promptly update Payment Information if it changes. Customer authorizes Descartes (and its payment processors) to charge the Payment Information for Fees payable under the Agreement, including renewals, applicable taxes, and any late, early termination, default, processing, overage, collection insufficient funds, or interest fees owed under the Agreement.

4.8 Billing Agents; Accounts Payable Services. Descartes may designate an Affiliate or other third party as a billing agent. Where Customer uses a third-party accounts payable service to process invoices or payments, Descartes is not obligated to accept terms that create new obligations on Descartes or modify Descartes’ rights or obligations under the Agreement. To the extent such service charges fees to Descartes, Customer shall reimburse Descartes for those fees.

4.9 No Set-Off. Customer shall not withhold, offset, or deduct any amounts from Fees payable to Descartes except to the extent required by applicable law.

4.10 Responding to Audits and Legal Requests. Unless otherwise prohibited by law, where Descartes receives any subpoena, search warrant, court order, governmental or regulatory request, audit, or other similar compulsory process that arises out of or relates to Customer, Customer’s Use of the Services, any Permitted User, Descartes’ status as a vendor to Customer, or seeks access to any Customer Data, Customer shall reimburse Descartes for any and all reasonable costs and expenses (including internal administrative costs and reasonable attorneys’ fees) which are incurred by Descartes in reviewing, responding to, or otherwise complying with any such request. Such amounts may be invoiced by Descartes as they are incurred and shall be payable in accordance with the terms of this Agreement.

5. TERM AND TERMINATION

5.1 Term. The Agreement shall be in force for the term specified in the Online Order (the “Term”) unless earlier terminated in accordance with the Agreement.

5.2 Renewal; Non-Renewal. Unless the Online Order states otherwise, subscriptions automatically renew for successive renewal terms equal to the initial Term (or for twelve (12) months if the initial Term is longer than twelve (12) months), unless Customer provides notice of non-renewal through the then-current online cancellation method (or by written notice where the Online Order so permits) at least ninety (90) days prior to the end of the then-current Term.

5.3 Termination by Either Party. The Agreement may be terminated by a party if the other party is subject to an Insolvency Event, or by a non-breaching party if: (a) the other party commits a material breach of the Agreement (including failure to pay Fees when due) and such breach

remains uncured thirty (30) days after notice; or (b) immediately upon material breach by either party of any obligations set forth in Section 9 (Confidentiality of Data).

5.4 Termination by Descartes. Descartes may terminate the Agreement immediately upon a material breach by Customer of Section 6 (Ownership of Intellectual Property). Descartes may terminate the Agreement upon one-hundred and twenty (120) days' notice if Descartes discontinues provision of the Services, or a material aspect of the Services, set out in the Online Order to all customers of such Services.

5.5 Consequences of Termination. Upon and after expiration or termination of the Agreement, all rights to Use the Services shall immediately terminate, and Customer shall immediately cease Use of the Services.

5.6 Data Export and Deletion. Customer is responsible for exporting Customer Data prior to expiration or termination, using available export functionality. Where commercially reasonable and supported by the Services, Descartes may, at its sole and absolute discretion and subject to a one-time fee, provide time-limited access following termination for data exporting purposes, provided Customer remains current on all Fees and not otherwise in breach of the Agreement. Retention and deletion of Personal Data are governed by the DPA.

5.7 Survival. In addition to any provisions expressly stated to survive, Sections 4 (Fees and Payment), 5.7 (Survival), 6 (Ownership of Intellectual Property), 7 (Warranties), 8 (Limitation of Liability), 9 (Confidentiality of Data), 11 (Indemnification), 12 (Indemnification Procedure), 13 (Notices), 14 (Miscellaneous), and 15 (Definitions) shall survive expiration or termination of the Agreement.

6. OWNERSHIP OF INTELLECTUAL PROPERTY

6.1 Ownership. Descartes and its licensors shall have and retain all right, title, and interest, including all intellectual property rights, in and to the Services, Documentation, and any software, source or object code, algorithms, formulae, data models, processes, or methodology produced by, used by or derived by Descartes in providing the Services, including but not limited to any modifications, enhancements, changes, or additions thereto. To the extent of any interest of Customer therein (including, to the extent that any services performed by Descartes may constitute a "work made for hire"), Customer irrevocably agrees to assign and, upon its creation, automatically assigns to Descartes the ownership of such intellectual property rights absolutely and without the necessity of any additional consideration. Customer agrees to do and perform such other acts and things and to execute and file such other agreements, documents, certificates or instruments as may be considered reasonably necessary or advisable by Descartes in order to carry out the intent of this provision and should Customer be unable or unwilling to do so, Customer irrevocably appoints Descartes and its duly authorized officers as Customer's agent and attorney to do all such acts and things and to execute and file all such aforementioned documents.

6.2 No Sale. Notwithstanding any use of the terms “sale” or “purchase”, Customer acknowledges that Customer is only provided a right to Use the Services during the Term and that nothing in the Agreement transfers ownership to Customer of the Services or any underlying intellectual property rights.

6.3 Application Data. As between Customer and Descartes, Descartes retains all rights to application data generated by or provided by the Services (“Application Data”). Customer shall not reuse, repurpose, create derivative works from, scrape, extract, store, cache, retain, save or otherwise use or maintain Application Data except as reasonably connected to Customer’s intended use of the Services, or where storage is only incidental or is a byproduct of a reasonable automated data backup or disaster recovery process. Customer shall not resell, whether for compensation or otherwise, or provide Application Data to any third party without Descartes’ prior written consent.

6.4 Feedback. Customer and its Administrative User or Permitted Users may provide suggestions, responses, advice, or ideas for improving or otherwise modifying the Services or any other Descartes products, services, process, or strategy (“Feedback”). Nothing in this Agreement or in the parties’ dealings arising out of or related to this Agreement, except where this Section 6.4 is specifically disclaimed, will restrict Descartes’ right to use, profit from, disclose, publish, keep secret, or otherwise exploit any Feedback, nor require Descartes to compensate or credit Customer or any individual providing such Feedback. Where Feedback includes Customer’s existing Confidential Information, only the specific information or parts that reference Customer’s Confidential Information shall be excluded from the definition of Feedback and the Feedback as a whole shall not be deemed or designated as Customer’s Confidential Information.

7. WARRANTIES

7.1 Authority. Each party warrants that: (a) it is duly organized, validly existing, and in good standing under the laws of its jurisdiction of organization; (b) it has the power and authority to enter into the Agreement and to perform its obligations; (c) the individual accepting the Agreement on its behalf has authority to do so; and (d) the obligations created by the Agreement constitute legal, valid, and binding obligations enforceable in accordance with their terms.

7.2 Services Warranty. Descartes warrants that the Services shall perform substantially in accordance with a reasonable interpretation of the applicable Documentation during the Term. The warranty set out in this Section 7.2 shall not apply to any Beta Features.

7.3 Disclaimer of Implied Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THE ONLINE ORDER OR THESE ONLINE TERMS, THE SERVICES ARE PROVIDED ON AN “AS IS” BASIS AND DESCARTES AND ITS LICENSORS MAKE NO REPRESENTATIONS, WARRANTIES, OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY SERVICES OR OTHER DELIVERABLES PROVIDED

UNDER THE AGREEMENT, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, DESCARTES DISCLAIMS ANY COLLATERAL WARRANTIES AND ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT.

7.4 No Uninterrupted Operation; No Error-Free Warranty. WITHOUT LIMITING THE GENERALITY OF SECTION 7.3, DESCARTES DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL OPERATE UNINTERRUPTED OR BE FREE FROM DEFECTS OR ERRORS, OR THAT THE SERVICES ARE DESIGNED TO MEET CUSTOMER'S BUSINESS REQUIREMENTS.

7.5 High-Risk Use. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE SERVICES WERE NOT DESIGNED FOR USE IN ANY SITUATION WHICH MAY LEAD TO INJURY OR DEATH, INCLUDING, WITHOUT LIMITATION, USE TO CONTROL SELF-DRIVING VEHICLES OR ANY FORM OF HUMAN MASS TRANSIT.

8. LIMITATION OF LIABILITY

8.1 Aggregate Liability. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATED TO THE AGREEMENT OR ANY SERVICES (INCLUDING FOR BREACH OF CONTRACT, TORT, OR ANY OTHER LEGAL OR EQUITABLE THEORY), SHALL BE LIMITED TO THAT PARTY'S ACTUAL DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL FEES PAID UNDER THE AGREEMENT TO DESCARTES BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM. NOTWITHSTANDING THE FOREGOING, DESCARTES' MAXIMUM AGGREGATE LIABILITY IN RELATION TO ANY CLAIMS ARISING OUT OF OR RELATING TO BETA FEATURES SHALL BE LIMITED TO USD1000.00.

8.2 Consequential Damages. TO THE EXTENT PERMITTED BY APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY, OR DESCARTES' LICENSORS OR SUPPLIERS, BE LIABLE TO ANY OTHER PARTY OR ANY OTHER PERSON, FIRM, CORPORATION, OR ENTITY FOR SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, MULTIPLE, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL OR BUSINESS PROFITS, LOSS OF REVENUE, WORK STOPPAGE, DATA LOSS OR COMPUTER MALFUNCTION, OR ANY DAMAGES IN THE NATURE OF LOST OPPORTUNITY COSTS OR COSTS FOR PROCUREMENT OF AN ALTERNATIVE TO DESCARTES' SERVICES PROVIDED UNDER THE AGREEMENT, WHETHER SUCH DAMAGES ARE ALLEGED IN TORT, CONTRACT OR OTHERWISE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.2A No Liability of Directors, Officers, Employees, or Shareholders. BOTH PARTIES AGREE THAT IN NO EVENT WILL THE OTHER PARTY'S DIRECTORS, OFFICERS, EMPLOYEES, MEMBERS, OR SHAREHOLDERS BE LIABLE FOR ANY DAMAGES, INCLUDING DIRECT, INCIDENTAL, ORDINARY, PUNITIVE, EXEMPLARY, INDIRECT, SPECIAL, CONSEQUENTIAL OR ANY OTHER DAMAGES, ARISING OUT OF THE AGREEMENT.

8.3 Exclusions from Limitation of Liability. NOTWITHSTANDING THE FOREGOING, NOTHING IN THE AGREEMENT SHALL LIMIT: (A) EITHER PARTY’S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING SOLELY FROM THAT PARTY’S WILLFUL ACTIONS OR GROSS NEGLIGENCE; (B) ANY LIABILITY ARISING FROM THAT PARTY’S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; (C) CUSTOMER’S LIABILITY FOR NON-PAYMENT OF FEES OWED UNDER THE AGREEMENT; (D) CUSTOMER’S LIABILITY ARISING FROM ANY INFRINGEMENT OF DESCARTES’ INTELLECTUAL PROPERTY RIGHTS CAUSED BY CUSTOMER; OR (E) EITHER PARTY’S INDEMNIFICATION OBLIGATIONS UNDER SECTION 11.1 OR 11.2.

8.4 Time for Commencement of Action. NO ACTION AGAINST DESCARTES OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, OR SHAREHOLDERS, REGARDLESS OF FORM (INCLUDING NEGLIGENCE), ARISING OUT OF ANY CLAIMED BREACH OF THE AGREEMENT OR TRANSACTIONS UNDER THE AGREEMENT OR OTHERWISE RELATED TO THE AGREEMENT MAY BE BROUGHT BY CUSTOMER MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION HAS FIRST ARISEN.

8.5 IMPROPER RELIANCE. DESCARTES’ SERVICES ARE NOT INTENDED TO REPLACE CUSTOMER’S OR ITS PERMITTED USERS’ OWN JUDGMENT, DUE DILIGENCE, OR DECISION-MAKING ABILITIES AND DESCARTES DISCLAIMS ANY REPRESENTATION, STATEMENT, SUGGESTION, OR INFERENCE TO THE CONTRARY. CUSTOMER IS EXPRESSLY ADVISED THAT IT SHOULD NOT BE RELYING ON THE SERVICES TO MAKE DECISIONS ON CUSTOMER’S BEHALF. ACCORDINGLY, AND NOTWITHSTANDING ANY PROVISION TO THE CONTRARY, DESCARTES SHALL NOT BE LIABLE OR RESPONSIBLE FOR ANY CONSEQUENCE ARISING FROM ANY DECISION, ACTION, OR INACTION THAT COULD HAVE BEEN AVOIDED OR REASONABLY MITIGATED BY CUSTOMER OR A PERMITTED USER ENGAGING IN REASONABLE DUE DILIGENCE IN THE USE OF THE SERVICES OR ANY RESULTS GENERATED BY THE SERVICES.

9. CONFIDENTIALITY OF DATA

9.1 Confidential Information. In the performance of the Agreement, each party may disclose to the other certain Confidential Information. “Confidential Information” means any information disclosed by a party hereunder to another party hereunder relating to an Agreement which consists of information (including any copies, extracts, summaries or adaptations of such information), regardless of the form of its disclosure, that, by its nature or by the circumstances in which it is disclosed, ought reasonably be considered to be confidential, but which excludes any information that is, at the time of disclosure, publicly available. Notwithstanding the foregoing, Descartes Services along with its related Documentation as well as the service levels, specifications, performance restrictions and data configuration requirements of Descartes Services, the results of any tests run on Descartes Services, the contents of any security audit or certification conducted on any Descartes systems, facilities, or Services, any information provided through Descartes’ technical support portals or websites about any of Descartes Services, any information or commentary on future changes or functionality of any Descartes

Services, and any pricing for Descartes' Services shall be deemed to be Confidential Information of Descartes.

9.2 Non-Disclosure. The receiving party ("Recipient") shall protect the disclosing party's ("Discloser's") Confidential Information using reasonable care and shall not disclose, reproduce, use, distribute, or transfer, directly or indirectly, such Confidential Information except as reasonably required pursuant to or for performance of the Agreement, and including for greater certainty for the purpose of assessing Recipient's actual or potential obligations under the Agreement or how to meet any such obligations. Recipient acknowledges and agrees that the Confidential Information provided by Discloser shall remain the sole and exclusive property of Discloser or the third party providing such information to Discloser. For greater clarity, the disclosure of Confidential Information to Recipient does not confer upon Recipient any license, interest, or rights of any kind in or to the Confidential Information, except as expressly provided under the Agreement. Recipient shall limit access to Discloser's Confidential Information to those of its or its Affiliates' employees and independent contractors who have a legitimate need to know and are bound by confidentiality obligations at least as protective as those herein.

9.3 Exceptions to Non-Disclosure. Nothing in the Agreement shall prohibit or limit Recipient's disclosure or use of information if Recipient can establish that (i) at the time of disclosure such information was generally available to the public; (ii) after disclosure by Discloser and prior to any disclosure by Recipient, such information becomes generally available to the public, except through breach of the Agreement by Recipient; (iii) such information was in Recipient's possession prior to the time of disclosure by Discloser and was not acquired directly or indirectly from Discloser; (iv) the information became available to Recipient from a third party who, to the knowledge of Recipient, does not owe a confidentiality obligation to Discloser; (v) the information was developed by or for Recipient independently of the disclosure of such information by Discloser; (vi) the Confidential Information is disclosed by Recipient pursuant to a requirement of a governmental agency or by operation of law, provided that, with respect to item (vi), Recipient shall first, if permitted by law to do so, notify Discloser prior to disclosure in order to give Discloser an opportunity to seek an appropriate protective order and/or waive compliance with the terms of the Agreement and shall disclose only that part of the Confidential Information which Recipient is required to disclose or (vii) the information relates to the tax treatment or the tax structure of the transactions contemplated herein, where "the tax treatment or the tax structure" is limited to any facts relevant to the U.S. federal income tax treatment of the transaction and does not include information relating to the identity of the parties.

9.4 Protection of Confidential Information. Recipient shall implement appropriate physical, administrative, organizational, technical, and personal security measures based on the type and nature of the Confidential Information and the level of risk associated with it, in order to protect the Confidential Information provided to Recipient by Discloser. Recipient shall retain all such Confidential Information, including Confidential Information that is contained on back-up media, in a logically secure environment that protects it from unauthorized access, modification, theft,

misuse and destruction. Recipient shall ensure that platforms hosting the Discloser's Confidential Information are configured to conform to industry standard security requirements and that hardened platforms are monitored for unauthorized change. Recipient's security policy shall not allow Confidential Information received by Discloser in electronic format to be stored on personal desktops, laptops, or removable data storage devices, unless the device is password protected and the Confidential Information is encrypted using industry standard encryption technology. Where Recipient's measures to protect its own Confidential Information affords greater protection and care, then Recipient shall use those same measures instead to protect the Confidential Information provided by Discloser.

9.5 Destruction of Confidential Information. Upon termination of the Agreement and upon request by Discloser, Recipient shall promptly destroy, according to industry best practices, Confidential Information of Discloser in Recipient's possession or control and discontinue all further use of that Confidential Information, except copies that must be retained due to legal, archival, or regulatory requirements, which shall remain subject to the confidentiality obligations for as long as retained. Upon the Discloser's request, the Recipient shall promptly confirm in writing these actions have been taken.

10. PERSONALLY IDENTIFIABLE INFORMATION

10.1 Processing as a Controller. Where Descartes has collected directly from an individual, or where Descartes is deemed by law or regulation to be the entity responsible for determining the purposes and means of the processing of personally identifiable information, the handling of that information will be performed as per Descartes' applicable privacy policy, available at: <https://www.descartes.com/privacy-center/commercial-relationship-privacy-policy>.

10.2 Processing on Customer's Behalf. Where personal information is provided by Customer and Descartes processes that personal information on Customer's behalf, processing will be performed in accordance with the DPA incorporated by reference under Section 1.6.

10.3 Processing for Contract Management. Any personal information provided by or collected by either party and provided to the other solely for administering or managing the Agreement (including invoicing) will be processed in accordance with that party's own privacy policies. Where that individual or the processing of their personal information is subject to the General Data Protection Regulation (Regulation (EU) 2016/679), and the information is not provided directly by that individual, Customer undertakes to provide to the individual an information notice directing them to Descartes commercial relationship privacy policy, found at <https://www.descartes.com/privacy-center/commercial-relationship-privacy-policy>, or to otherwise provide them a similar information notice compliant with Article 14 of the General Data Protection Regulation (Regulation (EU) 2016/679).

11. INDEMNIFICATION

11.1 Descartes Indemnification. Subject to the Indemnification Procedure, Descartes shall defend Customer, at Descartes' expense, from and against any claim brought by a third party alleging that any Services provided by Descartes to Customer under the Online Order infringe any (i) European Union, United Kingdom, United States, or Canadian patent, (ii) European Union, United Kingdom, United States, or Canadian trademark, (iii) copyright, or (iv) trade secret, and shall indemnify Customer against all damages and costs assessed against Customer that are payable as part of a final judgment or settlement.

11.1A Infringement Mitigation. If the Services become, or in Descartes' opinion are likely to become, the subject of an infringement claim, Descartes may, at its sole option and/or election use reasonable commercial efforts to: (a) obtain for Customer the right to continue Using the Services pursuant to the Agreement; (b) replace or modify the Services to make them non-infringing while remaining functionally equivalent; or (c) if (a) or (b) are not practicable, terminate the Agreement.

11.1B Exclusions. Descartes' indemnification obligations under Section 11.1 shall not apply to any claim arising out of: (i) the combination of the Services with other products or services not owned, developed, or deployed by or on behalf of Descartes; (ii) modification of the Services, or part thereof, unless such modification was made by or for Descartes; (iii) unauthorized Use of the Services; (iv) Customer's failure to update or Use the most recent version of the Services; or (v) infringement caused by any action of Customer.

11.1C Exclusive Remedy. THIS SECTION 11.1 STATES THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF DESCARTES (AND ITS LICENSORS) TO CUSTOMER AND CUSTOMER'S SOLE REMEDY WITH RESPECT TO DESCARTES' SERVICES' INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

11.2 Customer Indemnification. Subject to the Indemnification Procedure, Customer shall defend, indemnify, and hold harmless Descartes and Descartes' officers, directors, employees, agents, and shareholders from any liability, damages, costs, and expenses (including, without limitation, reasonable attorneys' fees) arising from third-party claim or claims (including claims brought by Permitted Users or any of Customer's employees, agents, or consultants or any other entity Customer provides access to the Descartes Services) arising from or relating to: (i) Use of the Services by Customer or a Permitted User; (ii) misuse of or distribution of User Accounts by Customer to anyone other than Permitted Users; (iii) any contract, other than the Agreement, that is dependent on or involves the Use of the Services; (iv) the results of any professional services provided by Descartes where Descartes is following mutually agreed upon directions, designs, or general instructions of Customer; or (v) where Descartes has agreed to host or display any logos, trademarks, branding, or images on Customer's behalf pursuant to Customer's reasonable instructions; provided that this indemnification does not apply to matters for which Descartes has an indemnification obligation under the Agreement.

12. INDEMNIFICATION PROCEDURE

12.1 Notice of Indemnification. A party seeking indemnification pursuant to the Agreement (an “Indemnified Party”) from or against the assertion of any claim by a third person (a “Third Person Assertion”) shall give prompt notice (a “Notice of Claim”) to the party from whom indemnification is sought (the “Indemnifying Party”); provided that failure to give prompt notice shall not relieve the Indemnifying Party of liability except to the extent the Indemnifying Party has suffered actual material prejudice by such failure.

12.2 Assumption of Defense. Within twenty (20) business days of receipt of a Notice of Claim, the Indemnifying Party shall have the right, exercisable by written notice to the Indemnified Party, to assume the defense of the Third Person Assertion. If the Indemnifying Party assumes the defense, it may select counsel that is reasonably acceptable to the Indemnified Party.

12.3 Failure to Defend. If the Indemnifying Party does not timely assume the defense, or having assumed the defense, unreasonably fails to defend, then, upon twenty (20) days’ written notice, the Indemnified Party may assume the defense and shall be entitled, as part of its damages to indemnification for the reasonable costs of such defense.

12.4 Conflicts of Interest. If the Indemnifying Party has been advised by written opinion of counsel to the Indemnified Party that use of the same counsel would present a conflict of interest, the Indemnified Party may select its own counsel and the reasonable costs of such defense shall be borne by the Indemnifying Party. The Indemnifying Party may continue to handle its own representation through its own counsel.

12.5 Settlement. The party controlling the defense shall have the right to consent to the entry of judgment with respect to, or otherwise settle, the Third Person Assertion with the prior written consent of the other party, which consent shall not be unreasonably withheld.

12.6 Participation; Cooperation. Notwithstanding the assumption of the defense of a Third Party Assertion by either party in accordance with the Agreement, the other party shall reasonably cooperate in the defense or prosecution of any Third Person Assertion and may participate, at its own expense, in the defense or settlement.

13. NOTICES AND COMMUNICATIONS

13.1 General Notices. Any notices, demands, or other communications pursuant to the Agreement shall be in writing and delivered either in person, by first class mail (registered or certified where available, via airmail if overseas), overnight courier, or electronically in PDF or similar format to the address or email specified in the Online Order (or as otherwise designated by written notice). Notices to Customer may also be provided electronically to Customer’s Permitted Users and/or Administrative User via the notification mechanism within the Services or via Descartes’ customer support portal. Any notices of fee increases or changes in payment

methods may, in addition to the above, be provided with or within a regularly scheduled invoice. All such notices shall be effective upon receipt.

13.2 Security Notices. Notwithstanding anything to the contrary, Descartes will only send notices related to the security or integrity of Descartes' network, products, services, systems, or any data managed by or under the care of Descartes to Customer via the security contact designated by Customer in Descartes' online support portal (or, if not designated, via the primary administrative contact). Customer agrees that notices in this manner shall satisfy any requirement to provide notice in writing.

13.3 Operational Communications. Customer affirms and agrees that Descartes may use any contact details or information provided to Descartes by Customer or Customer's Permitted Users as part of any account registration process or other similar such process in order to communicate with Customer and its Permitted Users regarding Descartes products or services, including but not limited to service notices, operational updates, and product-related updates and information. Customer grants affirmative consent, on behalf of itself and its Permitted Users, to receive such communications and confirms that all individuals whose contact details are shared with Descartes have also consented to be contacted for these purposes.

14. MISCELLANEOUS

14.1A Export and Sanctions Compliance. In connection with this Agreement, Customer agrees to comply with all applicable import, re-import, sanctions, anti-boycott, export, and re-export control laws and regulations, including all such laws and regulations that apply to the Descartes Services or to a U.S. company, such as the Export Administration Regulations, the International Traffic in Arms Regulations, and economic sanctions programs implemented by the Office of Foreign Assets Control (OFAC) (collectively, "Trade Laws"). For clarity, Customer is solely responsible for compliance with applicable Trade Laws related to the manner in which Customer chooses to use the Descartes Services.

Customer represents and warrants that Customer and Customer's financial institutions, or any party that owns or controls Customer or its financial institutions, is not subject to sanctions or otherwise designated on any list of prohibited or restricted parties pursuant to applicable Trade Laws, including but not limited to the lists maintained by the United Nations Security Council, the U.S. Government (including OFAC, the U.S. Department of Commerce, and the U.S. Department of State), the European Union or its Member States, or other applicable government authority. Where Descartes reasonably determines that provision of the Services would be contrary to any applicable Trade Laws due to Customer, an Affiliate of Customer, or Customer's country of registration or location, being or becoming at any time during the term of the Agreement designated or otherwise subject to economic sanctions or restrictions by Canada, the United States of America, the United Kingdom, or any international trade organization, including but not limited to the European Union or the United Nations, Descartes

may immediately terminate the Agreement for breach on ten (10) days' notice to Customer, or such shorter period as may be required under applicable law.

14.1B Corporate Compliance. Descartes shall, in performance of its obligations under this Agreement, comply with Descartes Code of Business Conduct and Ethics, Descartes Anti-Corruption Policy, and any other policy or code which may be posted from time to time by Descartes on the following webpage: <https://www.descartes.com/legal/compliance>.

14.2 Assignment. Neither party may assign or transfer the Agreement or any obligation hereunder except with the prior written consent of the other party (not to be unreasonably withheld) or to an Affiliate provided all rights and obligations are assigned and notice is provided in advance.

14.3 Publicity. Neither party may issue, publish, or otherwise cause to be publicized any announcement indicating that the parties have entered into a commercial relationship without the other party's prior written consent (email being sufficient), which consent shall relate to both the form and content of the announcement.

14.4 Governing Law. Unless expressly stated otherwise in the Online Order, the Agreement shall be governed by and construed under the laws of the province of Ontario, Canada and the parties submit to the exclusive jurisdiction of the courts of that jurisdiction, excluding conflicts of law principles and excluding the United Nations Convention on Contracts for the International Sale of Goods.

14.5 Force Majeure. "Force Majeure" means an act of God, war, natural disaster, epidemic or pandemic, governmental regulations, communication or utility failures, or casualties. A party (the "Claiming Party") will not be in breach of the Agreement or otherwise liable to the other party (the "Non-claiming Party") for any delay in performance or any non-performance of any obligations (and the time for performance will be extended accordingly) if and to the extent that the delay or non-performance is owing to Force Majeure. This clause only applies if (i) the Claiming Party could not have avoided the effect of the Force Majeure by taking precautions which, having regard to matters known to it before the occurrence and relevant factors, it ought reasonably to have taken but did not take; and (ii) the Claiming Party has used reasonable endeavors to mitigate the effect of the Force Majeure and to carry out its obligations in any other way that is reasonably practicable. The Claiming Party shall promptly notify the Non-claiming Party of the nature and extent of the circumstances giving rise to Force Majeure. If Force Majeure prevails for a continuous period in excess of three (3) months after the date it begins, the Non-claiming Party may give notice to terminate the Agreement, with a termination date not less than thirty (30) clear days after the notice is given.

14.6 No Agency. Nothing in the Agreement constitutes either party as the agent of the other for any purpose and neither party has authority to bind the other or to contract in the name of or create liability against the other, in any way or for any purpose.

14.7 Descartes is a Non-Party. Customer agrees that Descartes shall not be considered a party to any commercial agreement between Customer and any third party, notwithstanding that Customer may Use the Services to fulfill obligations under that third-party agreement.

14.8 Entire Agreement. The Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, proposals, or representations, whether written or oral, including but not limited to any prior terms for the provision of the Services identified in the Online Order.

14.9 Severability. If any provision of the Agreement is held to be invalid or unenforceable, the remaining provisions will remain in full force and effect and the invalid provision will be replaced by a valid provision that most closely reflects the parties' intent.

14.10 Waiver. No failure or delay by either party in exercising any right or remedy operates as a waiver. Any waiver must be in writing and signed by the waiving party.

14.11 No Third-Party Beneficiaries. No provision of the Agreement shall be construed to provide or create any third-party beneficiary right or any other right of any kind in a third party, unless said right is expressly provided for under this Agreement.

15. DEFINITIONS

15.1 "Administrative User" means a User Account provided to Customer that is permitted to create or manage other User Accounts within the Services.

15.2 "Affiliate" means an entity that, directly or indirectly: controls, is controlled by, or is under common control with a party, where "control" means ownership of more than fifty percent (50%) of the outstanding voting securities or the ability to direct management and policies.

15.3 "Agreement" means the combination of the Online Order, these Online Terms, and any Documentation and online policies incorporated by reference in accordance with Section 1.4.

15.4 "Confidential Information" means has the meaning set out in Section 9.1.

15.5 "Customer" means the entity placing an Online Order or otherwise Using the Services.

15.6 "Customer Data" means data provided by Customer (or by others on Customer's behalf) to Descartes or to the Services in connection with Customer's Use of the Services, excluding Application Data. Customer Data shall not include any data that Customer has provided which Descartes has not requested or otherwise noted in the Documentation as being required or necessary to Use the Descartes services as they were designed.

15.7 "Data Provider" means has the meaning set out in Section 3.3.

15.8 "DPA" means Descartes' Data Processing Agreement referenced in Section 1.6.

15.9 “Documentation” means Descartes’ user guides, specifications, and other technical documentation made available by Descartes for the Services, as updated from time to time.

15.10 “External Data” means has the meaning set out in Section 3.3.

15.11 “Fees” means the fees payable for the Services and any related items, as set out in the Online Order.

15.12 “Force Majeure” means has the meaning set out in Section 14.5.

15.13 “GLN Services” means the GLN Services as set out in the Online Order.

15.14 “Insolvency Event” means (i) the Customer transfers the whole or a substantial part of its assets for the benefit of its creditors, is unable to pay its debts as they fall due, has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, convenes a meeting of creditors, enters into liquidation except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, has a receiver and/or manager or an administrator or administrative receiver appointed of its undertaking or any part of it, has a resolution passed or a petition presented to any court for its winding up or for the granting of an administration order in respect of it, suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it; or (ii) any other analogous step, process or procedure is taken in relation to the Customer in any jurisdiction, or the other Customer becomes subject to the laws relating to insolvency, bankruptcy or liquidation in any jurisdiction.

15.15 “Mobile Application” means any mobile application made available by Descartes for accessing or Using the Services.

15.16 “Online Order” means has the meaning set out in Section 1.1.

15.17 “Permitted Users” means Customer’s employees, contractors, and agents (and any other persons expressly authorized under the Agreement) who are authorized to Use the Services for Customer’s internal business purposes.

15.18 “Personal Data” means personal information or personally identifiable information processed by Descartes as described in the DPA or applicable Descartes privacy policy.

15.19 “Process/Processing” means any operation or set of operations, whether or not by automated means, which is performed upon Personal Data that is stored on computers, servers, or mobile devices owned or maintained by Descartes, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination of otherwise making available, alignment or combination, blocking, erasure or destruction.

15.20 “Services” means the Descartes SaaS service(s) identified in the Online Order and Documentation.

15.21 “Term” means has the meaning set out in Section 5.1.

15.22 “Third-Party Technology” means has the meaning set out in Section 3.6.

15.23 “Use” means to load, employ, utilize, access, store, execute, display, or otherwise interact, and “Using” has a corresponding meaning.

15.24 “User Account” means has the meaning set out in Section 2.1.