



SOFTWARE-AS-A-SERVICE AGREEMENT

THIS SOFTWARE-AS-A-SERVICE AGREEMENT (this “Agreement”), made effective as of the date of the last signature below (the “Effective Date”), is entered into by and between TrebleHook AEC, LLC (“TrebleHook”), and the customer named on the signature page of this Agreement (“Customer”) and is effective as of the last signature hereto below (the “Effective Date”). The Agreement consists of the terms and conditions set forth below, any attachments or exhibits referenced in the Agreement, and any Order Forms (as defined below) that reference this Agreement. This Agreement permits Customer to purchase Services from TrebleHook pursuant to Order Forms and governs Customer’s initial purchase on the Effective Date as well as any future purchases made by Customer that reference this Agreement.

WHEREAS, TrebleHook provides a subscription SaaS Service, Customer desires to subscribe to such SaaS Service and receive associated Consulting Services, and this business relationship and the allocation of responsibilities regarding the SaaS Service and Consulting Services are set forth in this Agreement.

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. DEFINITIONS.

Capitalized terms in the Agreement have the following meanings:

“Affiliate” means an entity that controls, is controlled by, or is under common control with a party to this Agreement. “Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and operating policies of an entity: (a) through ownership of fifty percent (50%) or more of the voting or equity securities of such entity; or (b) pursuant to an agreement with other shareholders or members. Customer’s rights in this Agreement related to an Affiliate will continue only for so long as such affiliation continues to exist.

“Agreement” means this SaaS Master Agreement and any exhibits or attachments hereto.

“Change” means any change, modification or enhancement to a Statement of Work.

“Change Order” means a written document that describes Changes to a Statement of Work and is signed by both parties.

“Competitor” means any entity that may be reasonably construed as offering competitive functionality or services to those offered by TrebleHook. If the parties cannot agree on whether an entity is a Competitor, then the opinion of three (3) industry analysts with adequate knowledge of the portfolio management (chosen by mutual agreement of the parties) commissioned at TrebleHook’s expense, shall make such determination.

“Consulting Services” means the services described in one or more Statements of Work attached to and incorporated into this Agreement.

“Customer Data” means data, records, files, content or other information (a) collected, received or maintained by the SaaS Service or TrebleHook in connection with Customer’s or its Users’ use of the SaaS Service, or TrebleHook’s performance of its obligations under this Agreement; (b) provided by Customer to TrebleHook under this Agreement or (c) derived from (a) or (b).

“Customer Input” means suggestions, ideas, enhancement requests, recommendations or other feedback provided by Customer or its Users relating to the operation or functionality of the SaaS Service, excluding Customer Data and Confidential Information.

“Documentation” means the online user manuals for the SaaS Service, as updated from time to time, that describe the functions, operation, and use of the SaaS Service, and that TrebleHook makes generally available to subscribers of the SaaS Service.

“Error” means any material error or defect in the SaaS Service that causes it not to conform in material respects to the Documentation.

“Error Corrections” means modifications that correct Errors.

“Improvements” means enhancements, extensions, modifications, and new releases to the SaaS Service (other than Error Corrections) that TrebleHook elects to incorporate into and make a part of the SaaS Service, and for which TrebleHook does not charge an additional fee.

“Intellectual Property Rights” means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

“Person-day” means the services of one person full-time for one eight (8) hour workday.

“Person-hour” means the services of one person for one (1) full hour.

“TrebleHook PRISMS” means TrebleHook’s best practices methodology.

“SaaS Service” means the online web-based business application designated in the applicable Exhibit, including associated Software and Documentation, if any, hosted and operated by TrebleHook hereunder. TrebleHook shall host the SaaS Service and subject to the terms of this Agreement may update the content, functionality and user interface thereof with Error Corrections, Improvements and other modifications from time to time at its discretion.

“Software” means computer programs in machine-readable object code form set forth on the applicable Exhibit to which access is provided to as part of the SaaS Service.

“Statement of Work” means any subsequent Statements of Work for purchases of SaaS Service or Consulting Services agreed to between the parties in writing from time to time, that are executed hereunder and deemed incorporated into this Agreement from time



to time and that specify, among other things and as appropriate, the services to be provided, the number of subscriptions ordered, the subscription term, the scope of work, and the applicable fees.

“Support Services” means TrebleHook’s standard support services for the SaaS Service.

“Time and Materials Basis” means the arrangement under which TrebleHook’s charges for the Consulting Services rendered are determined by the amount of TrebleHook personnel time and materials used in providing the Consulting Services, plus reimbursable expenses, rather than by the results achieved. Customer bears the risk of cost overruns and delays on work performed on a Time and Materials Basis. Consulting Services may be billed by the Person-hour, the Person-day, or any other unit agreed on by TrebleHook and Customer.

“Users” means Customer’s employees, consultants, and contractors (provided they are not direct Competitors of TrebleHook) who are authorized by Customer to use the SaaS Service and have been supplied user identifications and passwords by Customer (or by TrebleHook at Customer’s request).

“Work Product” means works of authorship (other than Software) that TrebleHook delivers to Customer in the course of providing Consulting Services. Work Products may be created during performance of the Consulting Services or otherwise (such as those that pre-exist provision of the Consulting Services). Examples include tangible deliverables, interface and other customized code, specialized or tailored training curriculum and course materials, custom reports, logic, and design.

2. LICENSE GRANTS; PROVISION OF SAAS SERVICE; USERS.

2.1. SAAS SERVICE LICENSE GRANT. Subject to the terms hereof and payment of the applicable fees, TrebleHook grants Customer a worldwide, non-exclusive, royalty-free non-transferable, non-sublicensable, and terminable license to access and use the SaaS Service, together with the Documentation, solely for Customer’s internal business operations and those of its Affiliates during the Term, provided such operations shall not include hosting, service bureau use, outsourcing, lease, sub-license, renting, or time-sharing the SaaS Service. Customer shall not (and shall not allow any third party to) copy, modify, create a derivative work or, reverse engineer, disassemble, decompile, translate, discover any source code, modify the SaaS Service in any manner or form, or use unauthorized modified versions of the SaaS Service, including (without limitation) for the purpose of building a similar or competitive product or service or for the purpose of obtaining unauthorized access to the SaaS Service.

2.2. CONSULTING SERVICES LICENSE GRANT. TrebleHook or its licensors have all right, title and interest and all Intellectual Property Rights, to the Consulting Services and Work Product. TrebleHook grants Customer the non-exclusive, worldwide, paid-up, royalty-free license to use copies of Work Product solely in connection with its use of the SaaS Service and to the same extent and pursuant to the same terms and conditions as provided in this Agreement for such SaaS Service. Any rights not expressly granted herein are reserved by TrebleHook.

2.3. PROVISION OF SAAS SERVICE. TrebleHook shall make the SaaS Service available to Customer pursuant to the terms and conditions set forth in this Agreement and any and all Exhibits which may be executed hereunder from time to time. During the term of this Agreement, (i) the SaaS Service shall perform

materially in accordance with the Documentation, and (ii) the functionality of the SaaS Service will not be materially decreased from that available as of the Effective Date. Customer agrees that its purchase of subscriptions is not contingent upon the delivery of any future functionality or features nor is it dependent upon any oral or written public comments made by TrebleHook with respect to future functionality or features.

2.4. SAAS SERVICE ADDITIONAL USERS. User subscriptions are for named Users and cannot be shared or used by more than one User but may be reassigned from time to time to new Users replacing former Users who have terminated an employment or some other prior relationship with Customer, changed job status or function, or otherwise no longer require ongoing use of the SaaS Service. Unless otherwise specified in the relevant Exhibit (i) additional User subscriptions must be added in minimum increments described in the applicable Exhibit; (ii) the term of the additional User subscriptions shall be coterminous with the expiration of the then current subscription term; and (iii) pricing for the additional User subscriptions shall be the same as that for the pre-existing subscriptions, prorated for the remainder of the then current subscription term or as otherwise set forth in the applicable Exhibit.

3. USE OF THE SAAS SERVICE; CONSULTING SERVICES.

3.1. TREBLEHOOK RESPONSIBILITIES. TrebleHook shall: (i) in addition to its confidentiality obligations under Section 6, not use, edit or disclose to any party other than Customer the Customer Data; (ii) maintain the security and integrity of the SaaS Service and the Customer Data; (iii) provide telephone and online standard Support Services to Customer’s Users at no additional charge; and (iv) use commercially reasonable efforts to make the SaaS Service generally available. TrebleHook will configure the SaaS Service to reflect Customer’s portfolio management process and TrebleHook’s PRISMS, as agreed by the parties in the relevant Statement of Work. TrebleHook will system test the configuration of the SaaS Service to confirm that it appropriately reflects the combined Customer portfolio management process and TrebleHook’s PRISMS, and provides appropriate response times, as determined by mutual agreement of the parties.

3.2. TREBLEHOOK BUSINESS CONTINUITY RESPONSIBILITIES. TrebleHook shall maintain reasonably prudent business resumption and disaster recovery plans and procedures and has given Customer the opportunity to review TrebleHook’s disaster recovery/business continuity plan (the “Plan”). TrebleHook shall maintain the Plan in effect, shall test the Plan no less often than once during each calendar year, and shall implement the Plan in accordance with its terms. TrebleHook may amend the Plan at any time; provided that TrebleHook shall not reduce its disaster recovery/business continuity capabilities to less than the disaster recovery/business continuity capabilities in the version of the Plan reviewed by Customer. TrebleHook shall promptly inform Customer in the event of any disaster.

3.3. CUSTOMER RESPONSIBILITIES. Customer is responsible for all activities that occur under Customer’s User accounts. Customer acknowledges that the ability of TrebleHook to provide the SaaS Service requires the co-operation of Customer in providing TrebleHook with timely responses to reasonable requests for information, and the prompt and timely performance by Customer of its obligations. TrebleHook shall be excused from performing the SaaS Service to the extent that Customer delays or refuses to perform its obligations or provide TrebleHook with such requested assistance or information. Customer agrees with respect to SaaS

Service: (i) to provide the technology and facilities, including access to the Internet, as required to use them; (ii) to complete the implementation and set-up process as required by TrebleHook and agreed by the parties to access them; (iii) that it is responsible for maintaining the confidentiality of passwords and account information required for access to them, and for all acts that occur in connection with Customer's account; (iv) to notify TrebleHook as soon as reasonably practicable after learning of any unauthorized use of Customer's account, breach of security, or loss or theft of user names or passwords; (v) that use of the SaaS Service is limited to use by Users for which applicable fees have been paid and that such use does not include the right to resell or sublicense such; (vi) to abide by all applicable local, state, national and international law and regulations, and not to use the SaaS Service for any purpose that is unlawful, not contemplated or prohibited under this Agreement; and (vii) that while the security of Customer's account will be maintained through the use of passwords, it is possible for Customer's account to be accessed by unauthorized third parties via communication between Customer and TrebleHook using the Internet, other network communications, facilities, telephone, or any other electronic means. Customer may purchase additional seats to the SaaS Service; however, adding additional seats may result in added fees hereunder.

Customer shall assist TrebleHook, as reasonably requested by TrebleHook, in connection with the configuration and implementation of the SaaS Service. This assistance includes providing TrebleHook with the information and Customer systems reasonably required by TrebleHook to enable it to provide the SaaS Service. Customer shall also: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the SaaS Service, and notify TrebleHook promptly of any such unauthorized use and cooperate to remedy the situation; and (iii) comply with all applicable local, state, federal, and foreign laws in using the SaaS Service.

Customer agrees to notify TrebleHook of any material failure, malfunction, or error in the SaaS Service that the Customer detects and to reasonably assist TrebleHook in its attempts to test and verify the suspected error.

3.4. USE GUIDELINES & RESTRICTIONS. Customer shall use the SaaS Service solely for its internal business purposes as permitted by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the SaaS Service available to any third party, other than as contemplated by this Agreement; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) use the SaaS Service to knowingly send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iv) knowingly send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (v) interfere with or disrupt the integrity or performance of the SaaS Service or the data contained therein; or (vi) attempt to gain unauthorized access to the SaaS Service or its related systems or networks. Customer shall not (i) modify, copy or create derivative works based on the SaaS Service or TrebleHook technology; (ii) create Internet "links" to or from the SaaS Service, or "frame" or "mirror" any content forming part of the Service, other than on Customer's own intranets or otherwise for its own internal business

purposes; or (iii) disassemble, reverse engineer, or decompile the SaaS Service or TrebleHook technology, or access it in order to (a) build a competitive product or service, (b) build a product or service using similar ideas, features, functions or graphics of the SaaS Service, or (c) copy any ideas, features, functions or graphics of the SaaS Service.

3.5. CONSULTING SERVICES; OTHER RESPONSIBILITIES OF THE PARTIES. TrebleHook is responsible for the supervision, direction, and control of its personnel engaged in providing SaaS Service and Consulting Services under this Agreement. TrebleHook will try to honor requests by Customer regarding the assignment of TrebleHook's personnel in performing Consulting Services. However, TrebleHook reserves the right to determine the assignment of its personnel. TrebleHook may subcontract a service, or any part of it, to subcontractors selected by TrebleHook. Customer agrees to provide TrebleHook, at no charge, with safe and sufficient access to and use of its facilities including a suitable technical environment and royalty-free license and rights to use, copy, and modify necessary materials and software and use communications resources; system and user documentation; office space; personnel; and services as reasonably required by TrebleHook to enable it to fulfill its obligations under this Agreement. TrebleHook's performance of services is contingent upon Customer's timely and effective performance of its responsibilities, decisions, and approvals, and TrebleHook may rely on Customer decisions and approvals. Customer is responsible for the results obtained from the use of the services.

4. FEES & PAYMENT.

4.1. SETUP & SAAS SERVICE FEES. Customer shall pay all fees specified in Exhibits and all executed Statements of Work hereunder. All fees are payable in United States dollars. Fees are based on the number of User subscriptions purchased in the relevant Exhibit, not the extent of actual usage. Except as otherwise expressly provided under Section 8.1 (Indemnification) and Section 10.4 (Termination for Cause), fees are non-refundable, and the number of User subscriptions purchased cannot be decreased during the term stated on the relevant Exhibit.

4.2. CONSULTING SERVICES FEES; EXPENSES. Unless otherwise set forth in the applicable Statement of Work, Customer will pay TrebleHook for Consulting Services on a Time and Materials Basis by the Person-hour. Any detail regarding fees charged for the Consulting Services rendered in, an estimate of effort associated with, or a schedule for completion of the work to be performed under a Statement of Work, is a good-faith estimate only, based on information known to TrebleHook at the time the estimate is made. Such estimates are not fixed fees or time or rate guarantees. Customer agrees to reimburse TrebleHook for all miscellaneous out-of-pocket expenses incurred by TrebleHook in performing the Consulting Services as well as for reasonable travel expenses provided such expenses have been pre-approved by Customer. Reimbursement of travel expenses will be in accordance with TrebleHook's travel expense policy, a copy of which will be provided to Customer upon request.

4.3. INVOICING & PAYMENT. Fees will be invoiced as described in the applicable Exhibit and Statement of Work. Charges are due immediately upon receipt of the invoice by Customer. TrebleHook shall not issue any license nor any subscription renewal without payment in full of all amounts due and payable under the applicable Exhibit and Statement of Work.

4.4. **OVERDUE PAYMENTS.** Any payment not received from Customer by the due date may accrue, at TrebleHook's discretion, late charges at the rate of one and one-half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. However, such interest will not apply to the extent a payment is the subject of a good faith dispute between the parties provided that Customer has notified TrebleHook of such dispute in writing and is working with TrebleHook to expeditiously resolve the dispute.

4.5. **SUSPENSION OF SAAS SERVICE.** If Customer's account is overdue (except with respect to charges under reasonable and good faith dispute), in addition to any of its other rights or remedies, TrebleHook reserves the right to suspend the SaaS Service and related Consulting Services provided to Customer, without liability to Customer, until such amounts are paid in full.

4.6. **TAXES.** Unless otherwise stated, TrebleHook's fees do not include any local, state, federal or foreign taxes, levies or duties of any nature. Customer is responsible for such amounts, excluding taxes based on TrebleHook's net income.

5. PROPRIETARY RIGHTS.

5.1. **RESERVATION OF RIGHTS.** Customer acknowledges that in providing the SaaS Service, TrebleHook utilizes (i) the TrebleHook.com name, the TrebleHook logo, the TrebleHook.com domain name, the product and service names associated with the SaaS Service, and other trademarks and service marks; (ii) certain audio and visual information, documents, software and other works of authorship; and (iii) other technology, Software, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information and that such is covered by Intellectual Property Rights owned or licensed by TrebleHook. Customer acknowledges and agrees that TrebleHook owns all right, title and interest in and to the Software and SaaS Service and all Intellectual Property Rights therein. Any rights not expressly granted herein are reserved by TrebleHook. Other than as expressly set forth in this Agreement, no license or other rights in or to the foregoing are granted to Customer, and all such licenses and rights are hereby expressly reserved.

5.2. **WORK PRODUCT.** TrebleHook (or its licensors) has all right, title, and interest (including all Intellectual Property Rights) to all Work Product. TrebleHook will deliver one (1) copy of each Work Product deliverable to Customer, and hereby grants Customer the non-exclusive, worldwide, fully paid-up, royalty-free license to use copies of each such Work Product solely in connection with its use of the SaaS Service to the same extent and pursuant to the same terms and conditions as provided in this Agreement for such Software.

5.3. **CUSTOMER DATA.** As between TrebleHook and Customer, all Customer Data input into the SaaS Service is owned exclusively by Customer. Customer Data shall be considered Confidential Information subject to the terms of this Agreement. TrebleHook may access Customer's User accounts, including Customer Data, solely to respond to service or technical problems or at Customer's request.

5.4. **CUSTOMER SUGGESTIONS.** TrebleHook shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the SaaS Service any Customer Suggestions. TrebleHook shall have no obligation to

make Customer Suggestions an Improvement. Customer shall have no obligation to provide Customer Suggestions.

6. CONFIDENTIALITY.

6.1. **CUSTOMER CONFIDENTIAL INFORMATION.** The terms of this Agreement are confidential. TrebleHook acknowledges that in providing services to Customer, it may have access to certain non-public business information of Customer, including, but not limited to Customer Data. Such information will be treated as Confidential Information of Customer ("Customer Confidential Information") by TrebleHook. TrebleHook agrees that it will: (a) treat all Customer Confidential Information with the same degree of care as it accords its own confidential information, but not less than reasonable care; (b) use the Customer Confidential Information only in connection with providing SaaS Service and Consulting Services under this Agreement; and (c) not disclose or disseminate the Customer Confidential Information to any third party. TrebleHook agrees that the only employees and contractors who will have access to Customer Confidential Information will be those with a need to know who have agreed to abide by the obligations set forth in this Section pursuant to a written confidentiality agreement.

6.2. **TREBLEHOOK CONFIDENTIAL INFORMATION.** The terms of this Agreement are confidential. In addition, the Documentation, SaaS Service, Software, and Consulting Services (including Work Product) constitute confidential information of TrebleHook ("TrebleHook Confidential Information"). Customer agrees that it will: (a) treat all TrebleHook Confidential Information with the same degree of care as it accords to its own confidential information, but not less than reasonable care; (b) use the TrebleHook Confidential Information only in connection with its use of the SaaS Service and Consulting Services provided under this Agreement; and (c) not disclose or disseminate the TrebleHook Confidential Information to any third party. Customer agrees that the only employees and contractors who will have access to TrebleHook Confidential Information will be those with a need to know who have agreed to abide by the obligations set forth in this Section pursuant to a written confidentiality agreement.

6.3. **EXCEPTIONS TO CONFIDENTIALITY.** Information will not be deemed Confidential Information of either Customer or TrebleHook under this Agreement if such information: (a) is or becomes rightfully known to recipient without any obligation of confidentiality or breach of this Agreement; (b) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the recipient of such Confidential Information; or (c) is independently developed by the recipient of such Confidential Information without use of the other party's Confidential Information. The recipient of such Confidential Information may disclose such Information pursuant to the requirements of a governmental agency or by operation of law, provided that the recipient gives the disclosing party reasonable prior written notice sufficient to permit the disclosing party to contest such disclosure.

6.4. **UNAUTHORIZED DISCLOSURE; REMEDIES.** If a party believes that there has been an unauthorized disclosure of Confidential Information, it shall promptly notify the other party. The parties will reasonably assist each other in remediating or mitigating any potential damage. The cost of remediation or mitigation shall be borne by each party to the extent the breach or incident was caused by it. If a party discloses or uses (or threatens to disclose or use) any of the other party's Confidential Information in breach of this Section 6, the disclosing party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to

enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

7. WARRANTIES; REMEDY & DISCLAIMERS.

7.1. **WARRANTIES.** Each party warrants that it has the status, authority and capacity to enter into this Agreement. TrebleHook warrants that (i) it will provide the SaaS Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) that the SaaS Service will perform materially in accordance with the Documentation and (iii) it owns or otherwise has sufficient rights to the SaaS Service to grant the rights and licenses granted herein. TrebleHook warrants that it will perform the Consulting Services in a workmanlike manner.

7.2. **EXCLUSIONS.** TrebleHook has no obligations or responsibilities of any kind related to the SaaS Service with respect to: (i) problems in the use or functioning of the SaaS Service or Software caused by any hardware or software product, but not including problems which are the result of incompatibility of the Software with such hardware or software if the Software was designed to work with such hardware or software as specified in the Documentation; (ii) use of the SaaS Service inconsistent with the Documentation. If TrebleHook provides warranty or Consulting Services for any problem caused by any of the foregoing or for troubleshooting with respect to any of the foregoing, or if TrebleHook's services efforts are increased as a result, TrebleHook may impose charges at its then standard commercial time and materials rates for all such services, including travel and per diem expenses. The TrebleHook customer service engineer will notify a caller as soon as the billable status of the call is determined. The caller may terminate the call at that time without charge.

7.3. **REMEDIES.** If the SaaS Service fails to perform in accordance with the Documentation as warranted, and Customer timely reports such failure to TrebleHook, TrebleHook shall correct the non-conforming SaaS Service at no additional charge. If TrebleHook fails to provide the Consulting Services as warranted, and Customer reports such failure to TrebleHook within ten (10) days after the performance of such, TrebleHook will re-perform such Consulting Services at no additional charge. The provisions of this Section constitute Customer's sole and exclusive remedy, and TrebleHook's sole and exclusive liability, for breach of the warranty set forth above.

7.4. **DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED HEREIN, TREBLEHOOK MAKES NO REPRESENTATIONS, WARRANTIES OR CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TREBLEHOOK HEREBY SPECIFICALLY DISCLAIMS ALL IMPLIED REPRESENTATIONS WARRANTIES, OR CONDITIONS INCLUDING ANY REPRESENTATION, WARRANTY OR CONDITION OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. TREBLEHOOK DOES NOT WARRANT THAT THE OPERATION OF THE SAAS SERVICE OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THEY WILL BE SUITABLE FOR OR MEET THE REQUIREMENTS OF CUSTOMER.**

8. MUTUAL INDEMNIFICATION.

8.1. **INDEMNIFICATION BY TREBLEHOOK.** Subject to this Agreement, TrebleHook shall defend, indemnify and hold Customer harmless against any loss or damage (including

reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the base SaaS Service as contemplated hereunder infringes a United States patent or copyright of a third party and pay all damages finally awarded by a court of competent jurisdiction attributable to such claim, or agreed to in a settlement by TrebleHook; provided, that Customer (a) promptly gives written notice of the Claim to TrebleHook; (b) gives TrebleHook sole control of the defense and settlement of the Claim; and (c) provides to TrebleHook all available information, assistance and authority to defend; and (d) not have compromised or settled such proceeding without TrebleHook's prior written consent. Should the SaaS Service become, or in TrebleHook's opinion be likely to become, the subject of a claim for which indemnity is provided hereunder, TrebleHook will either: (a) obtain for Customer the right to use the SaaS Service; or (b) replace or modify the SaaS Service so that it becomes non-infringing. If TrebleHook, in its sole discretion, concludes that neither of these alternatives is reasonably available, Customer agrees to immediately cease its use of the SaaS Service on TrebleHook's written request and TrebleHook will reimburse Customer for any prepaid, unused SaaS Service fees for the period after Customer's cessation of use of the SaaS Service.

8.2. **INDEMNIFICATION BY CUSTOMER.** Subject to this Agreement, Customer shall defend, indemnify and hold TrebleHook harmless against any loss or damage (including reasonable attorneys' fees) incurred in connection with Claims made or brought against TrebleHook by a third party alleging that the Customer Data or Customer's use of the SaaS Service (as opposed to the SaaS Service itself) infringes the intellectual property rights of, or has otherwise harmed, a third party; provided, that TrebleHook (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle or defend any Claim unless it unconditionally releases TrebleHook of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance.

8.3. **EXCEPTIONS FROM INDEMNIFICATION.** TrebleHook will have no liability for any infringement or claim which results from: (a) use of the SaaS Service in combination with any non-TrebleHook-provided hardware, software, or data if such infringement or claim would not have occurred but for such combination; (b) TrebleHook's development of any changes or modifications to the SaaS Service or Consulting Services at Customer's request or instruction; or (c) use of the SaaS Service in a manner prohibited under this Agreement, in a manner for which the Software was not designed, or in a manner not in accordance with the Documentation if such infringement or claim would not have occurred but for such use. This Section states TrebleHook's entire liability, and Customer's sole remedy, with respect to any claim of infringement.

9. LIMITATION OF LIABILITY.

9.1. **LIMITATION OF LIABILITY. EXCEPT AS SET FORTH IN 9.2 OR 10.5 BELOW, IN NO EVENT SHALL TREBLEHOOK'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE LESSER OF \$2,000 OR THE AMOUNTS ACTUALLY PAID BY AND DUE FROM CUSTOMER HEREUNDER FOR THE SERVICE WHICH WAS THE SUBJECT OF THE CLAIM DURING THE PRECEDING TWELVE (12) MONTH PERIOD.**



9.2. Exclusion of Consequential and Related Damages. EXCEPT FOR CUSTOMER'S BREACH OF SECTIONS 2, 3.3, 6, or 11.5 OR AS OTHERWISE EXPRESSLY SET FORTH HEREIN, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR THIRD PARTY CLAIMS, LOSS OF OR DAMAGE TO RECORDS OR DATA, ANY LOST PROFITS, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so such exclusions may not apply.

9.3. LIMITATION OF ACTION. Except for actions for non-payment or breach of either party's intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than one (1) year after the cause of action has accrued.

10. TERM & TERMINATION.

10.1. TERM OF AGREEMENT. This Agreement commences on the Effective Date and continues until the stated term in all Exhibits have expired or been terminated and all Consulting Services Statements of Work are completed or terminated.

10.2. TERM OF USER SUBSCRIPTIONS. User subscriptions commence on the start date specified in the applicable Exhibit and continue for the subscription term specified therein. Provided that TrebleHook has not discontinued the availability of such, user subscriptions shall automatically renew for additional periods of one (1) year at the list price in effect at the time of renewal unless Customer gives TrebleHook notice of termination at least sixty (60) days prior to the end of the relevant subscription term. Customer may reinstate cancelled or terminated subscriptions at a later date by paying the subscription charge then in effect.

10.3. TERMINATION OF A CONSULTING SERVICES STATEMENT OF WORK. Customer may terminate a Consulting Services Statement of Work, with no obligation to TrebleHook, if written termination is received by TrebleHook at least ten (10) business days before the scheduled date for commencement of Consulting Services under such Statement of Work. If Customer fails to terminate a Statement of Work within this time frame, TrebleHook may invoice Customer (or deduct from the prepaid service balance, if any), and Customer agrees to pay TrebleHook, for actual and reasonable costs and expenses incurred by TrebleHook for canceled Consulting Services under the affected Statement of Work, including any non-recoverable travel or travel-related expenses. Such costs and expenses may include lost revenue from resources which TrebleHook was not able to redeploy (which in no event will exceed ten (10) business days per resource). TrebleHook will use commercially reasonable efforts to mitigate such costs and expenses.

10.4. TERMINATION FOR CAUSE. A party may terminate this Agreement for cause: (i) upon sixty (60) days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Notwithstanding the foregoing or anything

contained herein to the contrary, in the event that the provision of services under this Agreement and any applicable Exhibit or Statement of Work becomes impossible or impractical due to changes outside of the control of TrebleHook, including, without limitation, actions undertaken by Salesforce, Inc., TrebleHook may terminate this Agreement immediately, and shall have no further obligation to Customer or any Users.

10.5. OUTSTANDING FEES. Expiration or termination shall not relieve Customer of the obligation to pay any fees accrued or payable to TrebleHook prior to the effective date of expiration or termination. The monetary cap in Section 9.1 above shall not apply to any outstanding fees owed by Customer to TrebleHook upon expiration or termination. Upon termination for cause by TrebleHook, all future amounts due under all Exhibits and Statements of Work shall be accelerated and become immediately due and payable.

10.6. RETURN OF CUSTOMER DATA. Upon request by Customer made within thirty (30) days of the effective date of termination or expiration, TrebleHook will make available to Customer for download a file of Customer Data in a Microsoft SQL database format at no additional charge. TrebleHook shall not unreasonably refuse Customer's request to extend the retrieval period for up to ninety (90) days, provided such request is made within thirty (30) days of expiration or termination. After such thirty (30) day period, TrebleHook shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

10.7. SURVIVING PROVISIONS. The following provisions shall survive any termination or expiration of this Agreement: Sections 1, 4, 5, 6, 8, 9, 10 and 11.

11. GENERAL PROVISIONS.

11.1. RELATIONSHIP OF THE PARTIES. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Neither party has the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as expressly provided in this Agreement. There are no third-party beneficiaries to this Agreement.

11.2. NOTICES. All notices under this Agreement shall be in writing and shall be deemed to have been given and received upon: (i) personal delivery; (ii) three (3) business days after sending by registered or certified mail, return receipt requested, postage prepaid; (iii) two (2) business days after sending by confirmed facsimile; or (iv) one (1) business day after deposit with a commercial overnight carrier, with written verification of such receipt. All communications shall be sent to each party's address specified in this Agreement (or such other address as such party may later specify in writing for such purpose). Notices to TrebleHook shall be addressed to the attention of its Manager at 1003 Laurens Road, Greenville, SC 29607. Notices to Customer are to be addressed to Customer at the address shown on the signature page of this Agreement.

11.3. WAIVER AND CUMULATIVE REMEDIES. No failure or delay by either party in exercising or enforcing any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.



11.4. SEVERABILITY; SECTION HEADINGS. If any provision of this Agreement is determined in any proceeding binding upon the parties to be invalid or unenforceable, that provision shall be deemed severed from the Agreement, and the remaining provisions of this Agreement shall remain in effect. The section headings in this Agreement are solely for the convenience of the parties and have no legal or contractual effect.

11.5. FORCE MAJEURE. Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of amounts due and payable hereunder and the maintenance of confidentiality) for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving TrebleHook or Customer employees, respectively), computer attacks or malicious acts, such as attacks through the Internet, any Internet service TrebleHook, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

11.6. ASSIGNMENT. Neither party may sell, assign, transfer, or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of the other party; provided, however, that either party may without the prior consent of the other party assign all of its rights under this Agreement to: (a) its Affiliate; (b) a purchaser of all or substantially all of its stock or assets; or (c) a third party participating in a merger or other corporate reorganization in which the assigning party is a constituent corporation, provided that the scope of use of the Service is not increased thereby and except that Customer shall have no right to assign this Agreement to a direct Competitor of TrebleHook. This Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Any other purported attempt to do so is void. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.7. GOVERNING LAW. This Agreement shall be construed and governed exclusively by the laws of the State of South Carolina, without regard to its conflicts of laws. The United Nations Convention on the International Sale of Goods will have no application to this Agreement. If either party employs attorneys to enforce any rights arising out of or related to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees and costs from the other party.

11.8. VENUE. The state and federal courts located in Greenville, South Carolina shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts.

11.9. EXPORT. Each party shall comply with all United States and foreign export control laws executive orders or regulations applicable to its performance under this Agreement.

11.10. CUSTOMER AS REFERENCE. At TrebleHook's request, Customer agrees to act as a reference for TrebleHook by speaking with a reasonable number of press contacts, industry analysts, and customer prospects about Customer's implementation and use of the Service.

11.11. NON-SOLICITATION. During the term of this Agreement and for one (1) year after its termination, neither party will solicit for employment or engagement any personnel, or hire or enter into a

contract with any employee, consultant, or former employee of the other, without first obtaining such other party's written consent, except for former employees or consultants whose employment or engagement has been terminated for over six (6) months.

11.12. ENTIRE AGREEMENT. This Agreement, including all exhibits and addenda hereto and all Statements of Work executed hereunder, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. For avoidance of doubt, emails with a typed name and/or signature block do not constitute signed writings. In the event of any conflict between the provisions in this Agreement and any Exhibit or addendum hereto, or Statement of Work executed hereunder, the terms of such Exhibit, addendum or Statement of Work shall prevail to the extent of any inconsistency. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Statements of Work) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.

11.13. COUNTERPARTS. This Agreement may be executed electronically, by facsimile and in counterparts, which taken together shall form one binding legal instrument.

[SIGNATURES FOLLOW NEXT PAGE.]



EXHIBIT A
SAAS SERVICE
TERM; SOFTWARE; USERS; PRICING & PAYMENT; ADDITIONAL USERS; REMEDY

1. INITIAL SAAS SERVICE TERM:

One (1) year

2. SOFTWARE; USERS; PRICING; CONSULTING SERVICES; PAYMENT

See attached.

3. ADDITIONAL USERS:

May be added in minimum increments of [1]



EXHIBIT B
SUPPORT SERVICES – PRIORITIES; SEVERITY LEVELS

1. PRIORITIZATION & SEVERITY OF SUPPORT SERVICE REQUESTS

Customer must set a priority and severity for each ticket submitted. The priority and severity should be set when creating a ticket via the TrebleHook customer care portal. Customer may change the priority and/or severity of any open ticket by adding a comment to the ticket and requesting the change or by contacting TrebleHook customer care via email or phone. Requests to raise the priority to Urgent will be reviewed by a TrebleHook customer care manager to ensure that the reported issue meets the defined criteria. To make the best use of resources, TrebleHook relies on the priority and severity assigned to each ticket as a means of determining the order in which to act upon requests. Priority and severity classifications are described in the following table:

Priority Assigned	Definition
Urgent	Down (unavailable) production system or training environment during scheduled training efforts. Issues encountered in a test or development environment and enhancement requests should not be listed as Urgent.
High	Impaired TrebleHook Software. Critical components or application areas are not functioning correctly and business/decision-making is affected.
Medium	Non-critical components or application areas are not functioning correctly and business/decision-making is not directly affected.
Low	Little or no impact. Cosmetic problem or minor enhancement.

Severity Assigned	Definition
Critical	The issue affects critical functionality or critical data. It does not have a workaround
Major	The issue affects major functionality or major data. It may have a workaround but is not obvious and is difficult.
Moderate	The issue affects minor functionality or non-critical data. It has an easy workaround.
Minor	The issue does not affect functionality or data. It does not even need a workaround. It does not impact productivity or efficiency. It is merely an inconvenience.