

QUANTUM ORIGIN ONBOARD SOFTWARE ACCESS TERMS AND CONDITIONS (DIRECT CUSTOMER)

The following Terms and Conditions including the annex appended hereto (“**Annex**”) form part of the Agreement between Supplier and Customer (each a “**Party**” and together the “**Parties**”) for the provision of the Product and certain related Services by Supplier to Customer.

The latest version of these Quantum Origin Onboard Software Access Terms and Conditions (Direct Customer) (“**Terms and Conditions**”) are published by the Supplier on the Quantum Origin Site and may be updated by Supplier from time to time.

1. DEFINITIONS AND INTERPRETATION

1.1 In addition to any locally defined terms, the following defined terms are used in the Agreement:

“**Affiliate(s)**” means, any legal entity that controls, is controlled by, or is under common control with a Party. An entity is deemed to “control” another entity if it owns directly or indirectly a sufficient voting interest to elect a majority of the directors or managing authority of the other entity or to otherwise direct the affairs or management of the other entity.

“**Agreement**” means the Order Form together with the applicable version of these Terms and Conditions.

“**Authorised User(s)**” means the employees and independent contractors of Customer, who are entitled to access and use the Product in accordance with the Agreement on Customer’s behalf, who are not listed on any country’s sanctions list(s) and who are not a PRC Person or Russian Person.

“**Confidential Information**” means all written or oral information, disclosed, directly or indirectly, by either Party (the “**Disclosing Party**”) to the other Party (the “**Receiving Party**”), related to the business or operations of the Disclosing Party or a third party that has been marked or otherwise identified as confidential or that by the nature of the information or circumstances surrounding its disclosure ought reasonably to be understood as being confidential or proprietary. Confidential Information of Supplier includes the Software, Service Support, Maintenance Updates and Documentation.

“**Consumables**” means the Quantum Enhanced Entropy. The Consumables exclude the Software.

“**Contract Terms**” means an agreement between Customer and Devices End User for an Endpoint, that is sold, licensed or loaned by Customer pursuant to Clause 3.1 under terms consistent with the Agreement.

“**Customer**” means the entity identified as such in the Order Form.

“**Deliverable**” means any deliverable or output to be provided to Customer as part of the Services, as specified in the Order Form, excluding: (a) any Customer materials contained in the Deliverables; and (b) the Products and Documentation provided by Supplier.

“**Devices Model**” means the Devices pricing model as identified in the Pricing Conditions for IoT endpoints for local key consumption.

“**Devices End User**” means an End User of an Endpoint under the Devices Model.

“**Documentation**” means any then-current user manual, handbook or other documentation for the Product made available by Supplier for Customer’s use.

“**Effective Date**” means the effective date specified in the Order Form, and if not specified, the date on which the Order Form is signed by both Parties.

“**Endpoint**” means the computer hardware designated by Customer on which the Software will operate that must comply with the operating requirements set out in the Documentation.

“**End-Product**” means one or more unit(s) of any product that integrates, as inseparable components thereof QNTM Keys, cryptographic keys or certificates generated from a Customer’s entropy source enhanced by the Consumables, in accordance with the terms and conditions of the Agreement.

“**End-Product Report**” means a report submitted by Customer to Supplier setting out the total units of End-Products sold, licensed or loaned to HSM End Users in respect of the relevant Quarter.

“**End-Product Surcharge**” means the per product charge payable by

Customer to Supplier for each unit of End-Product sold, licensed or loaned to an HSM End User.

“**End User**” means an individual or entity who owns or uses an End-Product (under the HSM Model) or an Endpoint (under the Devices Model).

“**Fees**” means the fees payable by Customer to the Supplier for the Product and/or Services and Service Support (if applicable) set out in the Order Form, and any applicable taxes in accordance with Clause 7.

“**HSM Model**” means the HSM pricing model as identified in the Pricing Conditions for devices generating keys for consumption by other systems.

“**HSM End User**” means an End User of an End-Product under the HSM Model.

“**Insolvency Event**” means, in respect of either Party: (a) other than for the purposes of a bona fide reconstruction or amalgamation, such Party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that Party being otherwise dissolved; (b) the appointment of an administrator of, or the making of an administration order in relation to, that Party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of that Party’s undertaking, assets, rights or revenue; (c) that Party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; (d) that Party being unable to pay its debts, or being capable of being deemed unable to pay its debts; (e) that Party entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors; or (f) that Party ceasing or threatening to cease to carry on business.

“**Intellectual Property Rights**” means all intellectual and industrial property rights of any type or nature recognised in any jurisdiction in the world, including copyrights, moral rights and other rights associated with works of authorship; trade secrets and know-how; patents, patent rights, and other rights in inventions; trade marks (whether registered or unregistered), trade names, trade dress, service marks, logos, symbols and other source identifiers; and including applications and registrations for, and extensions, continuations, renewals, and re-issuances of any of the foregoing.

“**Maintenance Updates**” means any release of the Software that includes security fixes, critical patches, general maintenance and new functionality or that otherwise amends or updates the Software, delivered to Customer under the Agreement as part of Service Support.

“**Order Form**” means a non-cancellable order form executed by both Parties setting out: (a) the Product and/or Services the Customer is purchasing from Supplier; (b) Term; (c) Fees; and (d) any other terms relating to the Product and/or Services that the parties have agreed upon.

“**OS Model**” means the Operating System (OS) pricing model as identified in the Pricing Conditions for IT or OT devices running on Windows or Linux OS for local key consumption.

“**Person**” means any individual or entity.

“**PRC Person**” means, wheresoever located, (1) the government of the People’s Republic of China (“the PRC”) or any of its respective departments, agencies, or instrumentalities; (2) any Person organized, domiciled, headquartered, or with a principal place of business in the PRC; or (3) any natural Person with PRC nationality who is not also a U.S. citizen or any natural Person working or residing in the PRC. PRC Person includes any Person who is owned, Controlled by, or acting on behalf of a PRC Person, where “Control”

means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting a Person. For the avoidance of doubt, Hong Kong, Macau, and all other Special Administrative Regions of China shall be included in the definition of the PRC for the purposes of the Agreement.

"Pricing Conditions" means the Pricing Conditions set out in the Order Form, which set out the pricing structure and fees for HSM Model, OS Model and Devices Model.

"Product" means the Consumables and the Software.

"QNTM Keys" has the meaning set out in Clause 10.5(h) of these Terms and Conditions.

"Quantinum Group" means Quantinum (a Cayman Islands limited exempted company) having a place of business at Cricket Square, Hutchins Drive, PO Box 2681, Grand Cayman, KY1-1111, Cayman Islands, and any of Quantinum's direct and indirect subsidiaries from time to time.

"Quantum Enhanced Entropy" means strings of random bits generated by the Software that are used to enhance the quality of Customer's entropy source.

"Quantum Origin Onboard Software Access Terms and Conditions (Direct Customer)" means these Terms and Conditions.

"Quantum Origin Site" means either or both <https://quantinum.com>, including without limitation all sub-domains thereof, and any successor or related site designated by the Supplier.

"Quarter" means each calendar quarter ending the 31st March, 30th June, 30th September and 31st December of each year.

"Restricted Item" has the meaning set out in Clause 5.1 of these Terms and Conditions.

"Russian Person" means, wheresoever located, (1) the government of the Russian Federation ("Russia") or any of its respective departments, agencies, or instrumentalities; (2) any Person organized, domiciled, headquartered, or with a principal place of business in Russia; or (3) any natural Person with Russian nationality who is not also a U.S. citizen or any natural Person who works or resides in Russia. Russian Person includes any Person who is owned, Controlled by, or acting on behalf of a Russian Person, where "Control" means the power, direct or indirect, whether or not exercised, to determine, direct, or decide important matters affecting a Person. Solely for purposes of the Agreement, Persons of Crimea, eastern Ukraine, Abkhazia, South Ossetia, or any other territory claimed, occupied, or controlled by Russia shall be treated in accordance with the restrictions provided in the Agreement as would otherwise pertain to a Russian Person.

"Services" means the services specified in the Order Form.

"Service Support" means the technical and operational support service to be provided by Supplier to Customer, including Maintenance Updates, in respect of the Software in accordance with the Support and Maintenance Schedule.

"Software" means Supplier's software known as Quantum Origin Onboard identified in the Order Form and delivered to Customer in object code form including any Maintenance Updates. The Software includes the capability to generate the Consumables.

"Supplier" means the Quantinum Group legal entity identified in the Order Form.

"Support and Maintenance Schedule" means the support and maintenance schedule under which Customer receives Service Support as set out in the Annex.

"Systems" means Customer's information technology infrastructure, including servers, computers, software, databases, electronic systems, hardware security devices, and networks, whether operated directly by Customer or through a third party.

"Term" means the term specified in the Order Form, unless or until suspended or terminated in accordance with the Agreement.

"Territory" means the countries specified in the Order Form provided that no such country therein is listed on any U.S., U.K. or EU sanctions lists.

"Third Party Licences File" means a software file or folder typically named 'THIRDPARTYLICENSES' located within the Product and/or Deliverables.

"Third Party Software" means any open-source or other software relating to the Product that are not proprietary to Supplier.

1.2 Unless the context requires otherwise: (a) "including" (and any of its derivative forms) means including but not limited to; (b) "written" or "in writing" includes email; (c) use of the singular imports the plural and vice versa; and (d) use of a specific gender imports the other gender(s).

1.3 A reference to a statute or statutory provision: (a) is a reference to it as amended, extended or re-enacted from time to time; and (b) shall include all subordinate legislation made from time to time under that statute or statutory provision.

1.4 The captions and headings used in these Terms and Conditions are used for convenience only and are not to be given any legal effect.

1.5 Save as explicitly stated elsewhere in the Agreement, in the event of a conflict or inconsistency between the provisions of the documents that make up the Agreement, the documents will control in the following order: the Order Form, these Terms and Conditions.

2. AGREEMENT AND TERM

2.1 The Agreement applies to the provision of the Product and certain related Services as detailed in the Order Form. Upon signature by the parties, the Order Form incorporates the version of the Quantum Origin Onboard Software Access Terms and Conditions (Direct Customer) identified in the Order Form.

2.2 The Agreement is effective from the Effective Date through the period of the Term. The Parties may extend the Agreement on such terms and conditions as mutually agreed by prior written amendment signed by an authorised representative of each Party.

3. RIGHTS GRANTED

3.1 In consideration of the rights and obligations of the Parties herein, for the duration of the Term, in the Territory and solely for Customer's legitimate business purposes in accordance with the terms of the Agreement and subject to the number of Software instances purchased by Customer set out in the Order Form, Supplier grants Customer a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited: (a) licence to install (1) instance of the Software on (1) Endpoint; (b) licence to use the Software to generate and use the Consumables on (1) Endpoint; (c) licence for Authorised Users to access, view and use the Documentation; (d) in respect of the HSM Model only (where applicable as set out in the Pricing Conditions, and not applicable to OS Model or Devices Model), the right to sell, license or loan End-Products to HSM End Users, subject to the payment of the End-Product Surcharge; and (e) in respect of the Devices Model only (where applicable as set out in the Pricing Conditions, and not applicable to the HSM Model or OS Model, and subject to Customer implementing appropriate Contract Terms in accordance with Clause 5.5(h)), right to sell, license or loan Endpoints to Devices End Users, and to sublicense to such Devices End Users the rights granted by Supplier to Customer under Clause 3.1(b).

3.2 Except as agreed in the Order Form in respect of Deliverables to be owned by Customer, the Agreement does not convey to Customer title to or ownership of the Product, Deliverables or Documentation.

3.3 CUSTOMER IS RESPONSIBLE AND LIABLE FOR ALL USES OF THE PRODUCT, DELIVERABLES AND DOCUMENTATION BY THE AUTHORISED USERS AND DEVICES END USERS.

3.4 The total number and type of Endpoints on which Customer is authorised to use the Software under the Agreement will not exceed the numbers set out in the Order Form.

3.5 The Product and Deliverables may contain proprietary and/or Third Party Software components that are subject to additional or different licence and notice terms, and are not covered by the terms of the Agreement. If so, Customer shall (and shall procure that Authorised Users and Devices End Users shall) comply with all applicable licence and notice terms notified by Supplier to Customer. Details relating to such Third Party Software may be presented to Customer at the time of installation or detailed in the Third Party Licences File(s) or set out in the Order Form. Customer's use of such Third Party Software is subject to Customer's compliance with the applicable Third Party Software licence(s).

3.6 Customer acknowledges that Supplier reserves the right, in its sole discretion, to make any changes to the Product that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of the Product; (ii) the competitive strength of, or market for, Supplier's products and/or services; or (iii) the cost efficiency or performance of the Product; or (b) comply with applicable law.

4. ACCESS AND SERVICE SUPPORT

4.1 Unless the Parties agree in the Order Form that Supplier shall be

responsible as part of the Services, Customer shall be responsible for installing and using the Software. Where Customer is responsible for installing the Software: (a) Customer must ensure that the Endpoint complies with any minimum requirements specified by Supplier and provide Supplier with the opportunity to review and/or access the Endpoint to assess its suitability for interfacing with the Software and receiving the Consumables; (b) Supplier reserves the right not to make the Product available to Customer where Supplier, acting reasonably, does not deem the Endpoint to be suitable for interfacing with the Software or receiving the Consumables; and (c) Customer shall be responsible for any security issues arising out of or in connection with the Software and Endpoint.

4.2 Subject to the payment of the Service Support fees set out in the Order Form, Supplier shall provide Service Support during the Term.

5. RESTRICTIONS AND CUSTOMER OBLIGATIONS

Restrictions

5.1 Customer shall not, and shall cause Authorised Users and Devices End Users not to, act outside the scope of the rights that are expressly granted by Supplier in the Agreement. Further, in relation to the Product, Deliverables (licensed to Customer) and Documentation (each a “**Restricted Item**”), Customer shall not, and shall not permit or allow Authorised Users, Devices End Users or any other person, to:

- (a) use the Restricted Item in any manner that is not authorised by, or not consistent with, the Agreement;
- (b) reverse engineer, decompile, disassemble, or otherwise translate or derive any trade secrets embodied in the Restricted Item or the source code for any components of the Restricted Item, or attempt to do so (except as otherwise expressly permitted by applicable law, in which case, prior to exercising its rights it shall permit Supplier a reasonable period of time to rectify any issues giving rise to such rights);
- (c) access or use the Restricted Item: (i) for any military or other non-civilian use; (ii) in any manner that does, or may, cause any person physical or mental harm or death; or (iii) subject to the rights granted to Customer in Clause 3.1 (d), in order to develop or support, or assist another party, including without limitation any End Users, in developing or supporting, any products or services, or directly or indirectly engaging in any business, competitive with the Restricted Item or Supplier’s business.
- (d) disclose or give access to the Restricted Item to any third party without Supplier’s prior written consent;
- (e) alter, obscure, or remove any copyright, trade mark (whether registered or unregistered) or other proprietary rights notice from the Restricted Item;
- (f) knowingly or intentionally re-use, disseminate, copy, or otherwise use the Restricted Item in a way that infringes, misappropriates, or violates any right of Supplier or of any third party;
- (g) take any action that may: (i) interfere with the proper working of the Restricted Item; or (ii) circumvent, disable, or interfere with security-related features of the Restricted Item or features that prevent or restrict use, access to, or copying the Restricted Item, or that enforce limitations on use of the Restricted Item;
- (h) subject to Clause 3.1(d), resell, lend, lease, assign, novate, transfer, pledge, permit a lien upon, mortgage, charge or sublicense any of the rights or obligations under the Agreement with respect to the Restricted Item;
- (i) do anything which may damage the reputation of Supplier, Supplier’s licensors or the Restricted Items;
- (j) access, store, distribute or transmit any material during the course of its use of the Restricted Items that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (ii) is a virus or malicious code in any form; (iii) facilitates illegal activity; (iv) depicts sexually explicit images; (v) promotes unlawful violence; (vi) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; (vii) violates any third party privacy rights; or (viii) is otherwise illegal or causes damage or injury to any person or property; or
- (k) interfere with or disrupt the integrity or performance of the Restricted Items, including by disrupting the ability of any other person to use or enjoy the Restricted Items, or attempt to gain unauthorised access to the Restricted Items.

5.2 Customer and its authorised representatives, including its Affiliates shall not provide any PRC Person or Russian Person with access to

Supplier’s Products, Services and other Confidential Information at any time.

5.3 Customer and its authorised representatives, including its Affiliates, shall not enter into any contract, sale, licence, loan, collaboration, partnership, strategic alliance, or joint venture, whether formal or informal, with a PRC Person or a Russian Person, arising out of or relating to the Agreement or the subject matter hereof. Entry into an arrangement with an entity that does not meet the definition of PRC Person or Russian Person shall not be covered by this paragraph even if such entity has employees that are PRC or Russian nationals.

5.4 Supplier may use software tools to audit, and may request information from Customer, regarding Customer’s use of the Product. Customer shall cooperate with Supplier in respect of such audit. In addition, Customer shall permit Supplier or its agents to inspect and have access to any premises (and to the computer equipment located there including but without limitation all relevant Endpoints) at least once annually, during the Term and for 6 years thereafter, to carry out on-site and/or a remote audit of the Product, the environment where the Product is being kept or used, and hardware on which the Product is being kept or used, and have access to any records kept in connection with the Agreement, for the purposes of ensuring that Customer is complying with the terms of the Agreement, provided that Supplier or its agents provide reasonable advance notice to Customer of such inspections, which shall take place at reasonable times. This clause shall survive termination or expiry of the Agreement.

Customer Obligations

5.5 Without prejudice to any other obligations of Customer under the Agreement, Customer shall:

- (a) provide all assistance reasonably required by Supplier in order for Supplier to comply with its obligations or assert its rights under the Agreement;
- (b) carry out all other Customer responsibilities set out in the Agreement in a timely and efficient manner. In the event of any delays in Customer’s provision of such assistance as agreed by the Parties, Supplier may adjust any agreed timetable or delivery schedule as reasonably necessary;
- (c) obtain and shall maintain all necessary licences, consents, and permissions necessary for Supplier, its sub-contractors and agents to perform their obligations under the Agreement;
- (d) comply with Supplier’s reasonable instructions concerning the use of the Product (including, where appropriate, operational and environmental conditions);
- (e) provide Supplier, its employees, agents, consultants and subcontractors, with timely access to Customer Systems and Customer’s personnel as reasonably required by Supplier to provide the Services;
- (f) provide Supplier with all information reasonably requested by Supplier from time to time relating to Customer’s use of the Product, including information on Customer’s hardware, network and systems;
- (g) during the Term and for at least five (5) years following the Term, keep a complete and accurate record of Authorised Users and Devices End Users (including the number of Endpoints assigned to such Devices End Users) of the Product and Services and all information necessary to substantiate and verify the data in required End-Product Reports; and
- (h) ensure that all Devices End Users enter into Contract Terms consistent with the Agreement.

5.6 If Customer becomes aware of any misuse of the Product, the Documentation, or any security breach in connection with the Agreement that could compromise the security or integrity of the Product or the Documentation or otherwise adversely affect Supplier, Customer shall promptly notify Supplier and fully co-operate with Supplier to remedy the issue as soon as reasonably practicable.

5.7 CUSTOMER ACKNOWLEDGES AND AGREES THAT, TO MITIGATE SECURITY RISKS CUSTOMER IS RESPONSIBLE FOR THE USE AND STORAGE OF THE PRODUCT.

5.8 Customer acknowledges, represents and warrants, at the time of entering the Agreement and at all times during the term of the Agreement, that it will comply with (and shall procure Authorised Users and Devices End Users to comply with) all applicable export and import laws and associated embargo and economic sanction regulations, including those of the United Kingdom and the United States, that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to certain

countries, or for certain end uses or end users, and will not at any time directly or indirectly export or re-export, any technology, software, and/or commodities furnished or developed under the Agreement to any prohibited destination (including release of technology, software, and/or commodities to nationals, wherever they may be located, of any prohibited country) as specified in any applicable export, embargo, and sanctions regulations. Prohibited destinations include Cuba, Iran, North Korea, Syria, Crimea region of Ukraine, and the so-called Donetsk People's Republic and Luhansk People's Republic.

- 5.9 Noncompliance with Clause 5 shall constitute a material breach, which shall entitle Supplier to terminate or suspend the Agreement pursuant to Clause 12, and Supplier shall pursue its rights to the fullest extent permitted by law, including without limitation, rights to any compensation, damages or any other sums for any other loss or liability arising directly or indirectly from such breach. Clause 5 shall survive termination or expiry of the Agreement.

6. SERVICES

- 6.1 Supplier will provide the Services to Customer, subject to Customer's payment of all applicable Fees in accordance with the terms of the Agreement. Unless otherwise specified in the Order Form, Customer is responsible for undertaking all work necessary in order to install and use the Product.

- 6.2 This Clause 6.2 will apply where the Order Form specifies that a Deliverable is to be tested:

- (a) Subject to Clause 11.6 of these Terms and Conditions, Supplier will use reasonable endeavours to complete the Deliverables and submit them for acceptance testing by Customer in accordance with the timetable specified in the Order Form.
- (b) Customer shall undertake testing in accordance with the timetable specified in the Order Form to determine whether the applicable acceptance criteria specified in the Order Form have been met. Acceptance will occur on the earlier of the date: (i) on which Customer indicates in writing to Supplier that the applicable acceptance criteria have been met; (ii) on expiry of any agreed acceptance period specified in the Order Form; (iii) on which Supplier can reasonably demonstrate that applicable acceptance criteria have been met; or (iv) on which the Deliverable is first used by Customer in accordance with the rights granted under the Agreement.
- (c) If Customer, acting reasonably, determines that the applicable acceptance criteria have not been met, Customer shall submit to Supplier a list of all such non-conformities together with evidence of such non-conformities in a format reasonably specified by Supplier from time to time, and Supplier shall use commercially reasonable efforts to correct such non-conformities. Testing will then continue in accordance with the provisions of Clause 6.2(b) and this Clause 6.2(c) until acceptance occurs.
- (d) If no acceptance criteria are specified in the Order Form, then Customer shall be deemed to have accepted the Deliverables upon delivery.

- 6.3 From time to time Supplier may recommend its authorised resellers, partners and other third parties to Customer, or Customer may, with Supplier's prior written approval, have other third parties, provide Customer certain professional services, such as installation, configuration, consulting, and training, in connection with the Product ("**Third Party Services**"). IF CUSTOMER IS PERMITTED TO AND CHOOSES TO PROCURE THIRD PARTY SERVICES, CUSTOMER ACKNOWLEDGES AND AGREES THAT SUPPLIER AND ITS AFFILIATES SHALL HAVE NO RESPONSIBILITY OR LIABILITY FOR THE PERFORMANCE OF THE THIRD PARTY SERVICES BY THE THIRD PARTY SERVICES PROVIDER, OR FOR ANY DEFECT OR FAILURE OF THE PRODUCT CAUSED BY THE THIRD PARTY SERVICES OR THIRD PARTY SERVICES PROVIDER AND CUSTOMER SHALL NOT BE ENTITLED TO ANY REDUCTION IN FEES FOR THE PRODUCT AS A RESULT THEREOF. Supplier may deny rights of access to, or use of, all or any part of the Product to any Third Party Services provider which Supplier reasonably determines poses a security or confidentiality risk to Supplier's, or its other customers', systems, data or Intellectual Property Rights.

7. FEES, PAYMENT AND AUDIT

- 7.1 The Fees for the Product and Services are set out in the Pricing Conditions of the Order Form. The Fees exclude sales taxes and other applicable taxes and shall be payable by electronic transfer to Supplier no later than the date agreed by the Parties in writing. All applicable taxes shall be payable by Customer in accordance with relevant legislation in force at the relevant tax point, including value added taxes, sales and use taxes or other similar taxes. Customer shall pay all amounts due under the Agreement in full without any

deduction or withholding. Without limiting the foregoing, in the event that payment of any sums due to Supplier under the Agreement becomes subject to any deduction or withholding in respect of or on account of tax, Customer shall pay to Supplier such additional sum as may be required in order that the net amount actually received and retained by Supplier under the Agreement (after such deduction or withholding has been made) shall be equal to the full amount that would have been received and retained by Supplier had no such deduction or withholding been required to be made.

- 7.2 Supplier's invoices are due and payable in full within thirty (30) days from the date of the invoice. If Customer does not pay an undisputed Supplier invoice in full within the applicable time period, in addition to any other rights or remedies of Supplier, whether at law, in equity or under the Agreement (including, without limitation, Supplier's rights to terminate the Agreement), Supplier may add an interest charge of six per cent (6%); this interest will begin to accrue on the day after the payment due date and will accumulate on the outstanding balance on a daily basis until paid in full.

- 7.3 Customer shall submit an End-Product Report within ten (10) days after the end of each Quarter.

- 7.4 Supplier shall have the right for representatives of a firm of independent accountants ("**Auditors**"), to make an examination and audit, by prior appointment during normal business hours, of all records and accounts as may contain information bearing upon (i) the number of units of End-Products or Endpoints which have been purchased by, licensed, loaned or distributed to End Users under the Agreement; (ii) the amount of End-Product Surcharge payable to Supplier under the Agreement; (iii) any fees payable to Supplier under the Agreement, and (iv) any information necessary to substantiate and verify the data in any End-Product Report.

- 7.5 The Auditors shall be permitted to provide, to Supplier, information relating to Clause 7.4(i)-(iv), including but not limited to, information relating to the systems operated by Customer to capture and record such information. The Auditors' conclusions shall (in the absence of clerical or manifest error) be final and binding on the parties. Such audit shall be at Supplier's expense unless: (a) it reveals a net underpayment of fees of five per cent (5%) or more; or (b) Customer has failed to provide the Auditors with all requested records and accounts containing information bearing upon the subject matter set out in Clause 7.4(i)-(iv) within ten (10) working days of such request, in which event Customer shall promptly reimburse Supplier for the costs of such audit. Customer shall make good any underpayment of fees forthwith.

- 7.6 Clause 7 shall survive termination or expiry of the Agreement.

8. CONFIDENTIALITY

- 8.1 Each Receiving Party recognises and agrees that the Confidential Information of the Disclosing Party is critical to the Disclosing Party's business and that neither Party would enter into the Agreement without assurance that such information and its value will be protected as provided in this Clause 8 and elsewhere in the Agreement. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- (a) not access or use, or permit the access or use of, Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement;
- (b) not use or permit the use of any of the Disclosing Party's Confidential Information, directly or indirectly, in any manner to the detriment of the Disclosing Party or to obtain any competitive advantage over the Disclosing Party;
- (c) except as may be permitted by and subject to its compliance with Clause 8.1(f) below, not disclose or permit access to Confidential Information other than to its own or its Affiliates' personnel and professional and legal advisers ("**Representatives**") who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Clause 8; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Clause 8;
- (d) safeguard the Confidential Information from unauthorised use, access, or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care;
- (e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this Clause 8; and

- (f) notify the Disclosing Party in writing promptly of any unauthorised disclosure or use of the Disclosing Party's Confidential Information and cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights, and other rights therein.
- 8.2 Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records:
- (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with the Agreement;
 - (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement;
 - (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or
 - (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.
- 8.3 If the Receiving Party or any of its Representatives are required to disclose the Disclosing Party's Confidential Information in response to a valid order of a court or other valid governmental or regulatory authority of competent jurisdiction, the Receiving Party agrees to give the Disclosing Party reasonable advance notice of the required disclosure (if legally permitted to do so) in order to afford the Disclosing Party a reasonable opportunity to contest the disclosure or seek a protective order, and the Receiving Party agrees to reasonably cooperate with the Disclosing Party's efforts.
- 8.4 The Receiving Party's obligations of confidentiality shall apply with respect to any particular Confidential Information of the Disclosing Party. The period of confidentiality shall be indefinite with respect to each Party's Confidential Information.
- 8.5 Upon expiry or termination of the Agreement, the Receiving Party will cease all use of the Disclosing Party's Confidential Information (including without limitation the Software and Documentation) and destroy it or, at the Disclosing Party's direction and expense, return it to the Disclosing Party. Within 30 days of expiry or termination of the Agreement, the Customer shall certify to the Supplier in writing that all of Supplier's Confidential Information (including without limitation the Software and Documentation) has been successfully returned or destroyed. This Clause shall not apply where Customer enters into a full licence for the Product with Supplier (separate from the Agreement) in which case the Parties may retain the Confidential Information which shall then be subject to the confidentially provisions set out in that licence agreement.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 Customer acknowledges and agrees that all Intellectual Property Rights in and to the Software, Product, Documentation and Supplier's name, logos and branding are (and will be) owned solely and exclusively by Supplier and its licensors (as applicable). Except as expressly stated herein, the Agreement does not grant Customer or any third party any rights to, under or in, any patents, copyright, database rights, trade secrets, trade names, trade mark (whether registered or unregistered), or any other rights or licences in respect of any part of the Software, Product, Documentation or to any of Supplier's Intellectual Property Rights.
- 9.2 Notwithstanding any term to the contrary contained in the Agreement, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer, Authorised Users or End Users relating to the operation or use of Supplier's services and products ("**Feedback**") will not be considered Customer's Confidential Information and will be received and treated by Supplier on a non-confidential and unrestricted basis. Supplier shall own all rights (including Intellectual Property Rights) in any Feedback and nothing in the Agreement will restrict the right of Supplier to use, profit from, disclose, publish, or otherwise exploit any Feedback.
- 9.3 Subject to Clause 9.5, if, for any reason, Customer acquires (whether by operation of law, contract, assignment or otherwise) any rights (including Intellectual Property Rights) in: (a) the Software, Product, Deliverables (that are licensed to Customer), Documentation or in any changes, developments, improvements or configurations made to the Product, Deliverables (that are licensed to Customer) or Documentation that has been made by Customer, Supplier or a third party on behalf of Customer, or a third party on behalf of the Supplier; or (b) any Feedback, Customer hereby unconditionally and irrevocably assigns (by way of a present and, where appropriate, future assignment), with full title guarantee, its entire rights, title and

interest in and to all such rights to Supplier and shall undertake all activities required by Supplier in order to formalise and perfect such assignment.

- 9.4 Customer grants (or shall procure the grant of) a licence to Supplier to utilise such information, services, materials or assets of Customer to the extent required for Supplier to timely discharge its obligations under the Agreement.
- 9.5 The Parties agree that any Intellectual Property Rights created by Customer or Authorised Users resulting from the use of the Consumables or Deliverables in accordance with the Agreement and on the Systems shall be owned by Customer. For clarity, nothing in this Clause grants Customer, Authorised Users, End Users or any third party any rights of ownership of the Restricted Items.
- 9.6 Unless a Deliverable is specified as "Owned by Customer and Licensed to Supplier" in the Order Form, Customer agrees that the Deliverables (and all Intellectual Property Rights therein) and any other Intellectual Property Rights created or developed by or on behalf of Supplier as part of the provision of the Services are, and will remain, the exclusive property of Supplier or its licensors and Supplier grants Customer a limited, personal, non-exclusive and non-transferable right to use the Deliverables in the Territory for Customer's internal business purposes to the extent required to receive the Services in accordance with the Agreement. Where the Deliverable includes configuration of or modifications to Supplier's standard Product, permission to use the Deliverable is granted on the same basis as that which applies to the relevant Product.
- 9.7 If a Deliverable is specified as "Owned by Customer and Licensed to Supplier" in the Order Form, such Deliverable and the Intellectual Property Rights therein (excluding any Intellectual Property Rights of Supplier incorporated into the Deliverable that were not created specifically for Customer) shall, following Supplier's receipt of full payment for the Deliverable, be owned by Customer and Customer grants Supplier a worldwide, perpetual, irrevocable, sub-licensable and royalty-free licence to use the Deliverable and the Intellectual Property Rights for and in relation to the operation or use of Supplier's services and products. In respect of any of Supplier's Intellectual Property Rights incorporated into the Deliverable, unless otherwise specified in the Order Form, Supplier grants a non-exclusive, in-Territory, non-transferable, non-sublicensable licence to use such Intellectual Property Rights for the sole purpose of using the Deliverable in accordance with the purpose for which it was developed.

10. REPRESENTATIONS AND WARRANTIES

- 10.1 Each Party represents to the other Party that: (a) it validly exists under its jurisdiction of legal formation (b) has all necessary power and authority to enter into the Agreement; and (c) the Agreement, when executed and delivered, will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.
- 10.2 SUPPLIER DOES NOT REPRESENT, WARRANT OR UNDERTAKE THAT: (A) THE PRODUCT, DOCUMENTATION OR DELIVERABLES WILL MEET THE REQUIREMENTS OR BUSINESS NEEDS OF CUSTOMER; (B) THE PRODUCT'S, DOCUMENTATION'S OR DELIVERABLES' OPERATION WILL BE UNINTERRUPTED OR ERROR-FREE; NOR (C) ANY DEFECTS IN THE PRODUCT, DOCUMENTATION OR DELIVERABLES WILL BE CORRECTED.
- 10.3 THE PRODUCT IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES, REPRESENTATIONS, CONDITIONS OR OTHER TERMS WHICH MIGHT HAVE EFFECT BETWEEN THE PARTIES OR BE IMPLIED OR INCORPORATED INTO THE AGREEMENT, WHETHER BY STATUTE, COMMON LAW OR OTHERWISE, ARE HEREBY EXCLUDED, INCLUDING THE IMPLIED CONDITIONS, WARRANTIES OR OTHER TERMS AS TO SATISFACTORY QUALITY, FITNESS FOR PARTICULAR PURPOSE OR THE USE OF REASONABLE CARE AND SKILL.
- 10.4 SUPPLIER EXCLUDES ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGE CAUSED BY ANY PROVIDERS OF THIRD PARTY SERVICES.
- 10.5 Customer represents and warrants to Supplier, at the time of signing the Agreement and at all times during the term of the Agreement, that:
- (a) it has all rights and licenses necessary for it to grant the licences set forth in the Agreement;

- (b) the receipt and use of anything licensed by Customer to Supplier (or any third party on behalf of Supplier) shall not infringe the Intellectual Property Rights or any other rights of a third party;
- (c) it is not on any sanctions list or other list, or owned 50% or more (directly or indirectly) or controlled by one or more parties that are on any sanctions list, that would prohibit: (i) Supplier providing the Product, Deliverables or Documentation to Customer; or (ii) Customer from paying the Fees;
- (d) no Authorised Users or End Users are on any sanctions list, nor are they owned 50% or more (directly or indirectly) or controlled by one or more parties that are on any sanctions list;
- (e) neither it nor any Authorised Users or End Users are located in any destination subject to comprehensive sanctions or embargoes imposed by the United States, United Kingdom or European Union, including currently, Cuba, Iran, North Korea, Syria, the Crimea region of Ukraine, and the so-called Luhansk People's Republic and Donetsk People's Republic;
- (f) neither it nor any Authorised Users or End Users will use the Product, Deliverables or Documentation for any end use or to provide any of them (or access to any of them) to any end user or other party prohibited under applicable export controls, including but not limited to those of the United Kingdom and the United States and the end use and end user restrictions in Part 744 of the US Export Administration Regulations;
- (g) it will not transfer any personal data to Supplier (other than Shared Personal Data in accordance with Clause 15) and that it shall be fully liable in respect of any such personal data and shall indemnify Supplier against any damage or loss (including legal costs) it suffers arising out of or in connection with any claims arising in respect of such personal data.
- (h) to the extent Customer generates derivative keys from Consumables ("QNTM Keys") and transfers the same to HSM End Users under the HSM Model pursuant to Customer's right to sell, license or loan End-Products in accordance with Clause 3.1 above, Customer will ensure the Consumables themselves are not transferred and shall remain on the Endpoint within the Territory at all times;
- (i) QNTM Keys do not form any part of the Product and Customer shall be liable for noncompliance with any applicable laws with respect to such QNTM Keys.
- (j) it shall promptly notify Supplier if any of Customer's representations and warranties cease to be true at any given time.

11. LIABILITIES

- 11.1 CUSTOMER HAS, AND WILL RETAIN, SOLE RESPONSIBILITY AND LIABILITY FOR: (A) ANY INFORMATION, INSTRUCTIONS, AND MATERIALS PROVIDED BY OR ON BEHALF OF CUSTOMER OR ANY AUTHORISED USER OR ANY DEVICES END USER IN CONNECTION WITH THE PRODUCT OR DELIVERABLES; (B) ANY CUSTOMER SYSTEMS OR DEVICES END USER SYSTEMS; (C) ANY SECURITY OF CUSTOMER'S, AUTHORISED USERS' AND DEVICES END USERS' USE AND ACCESS TO THE PRODUCT; AND (D) ANY ACCESS TO AND USE OF THE PRODUCT OR DELIVERABLES DIRECTLY OR INDIRECTLY BY OR THROUGH ANY CUSTOMER SYSTEMS, WITH OR WITHOUT CUSTOMER'S KNOWLEDGE OR CONSENT, INCLUDING ANY RESULTS OBTAINED FROM, AND ANY CONCLUSIONS, DECISIONS, AND ACTIONS BASED ON, SUCH ACCESS OR USE.
- 11.2 SUPPLIER SHALL NOT BE RESPONSIBLE FOR ANY LOSS, DESTRUCTION, ALTERATION OR DISCLOSURE OF THE PRODUCT.
- 11.3 EXCEPT AS EXPRESSLY AND SPECIFICALLY PROVIDED IN THE AGREEMENT, SUPPLIER SHALL HAVE NO LIABILITY FOR ANY DAMAGE CAUSED BY ERRORS OR OMISSIONS IN ANY INFORMATION, INSTRUCTIONS OR SCRIPTS PROVIDED TO SUPPLIER BY CUSTOMER IN CONNECTION WITH THE PRODUCT OR DELIVERABLES, OR ANY ACTIONS TAKEN BY SUPPLIER AT CUSTOMER'S DIRECTION.
- 11.4 NOTHING IN THE AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY ARISING OUT OF OR CONNECTED TO: (A) A BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THE AGREEMENT; (B) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (C) FRAUD OR FRAUDULENT MISREPRESENTATION; (D) A BREACH OF CLAUSE 5 (RESTRICTIONS AND CUSTOMER OBLIGATIONS); (E) A BREACH OF THE OBLIGATIONS IMPLIED BY SECTION 12 OF THE SALE OF GOODS ACT 1979 OR SECTION 2 OF THE SUPPLY OF GOODS AND SERVICES ACT 1982; (F) IN RESPECT OF

CUSTOMER, THE PAYMENT OF ANY FEES DUE IN ACCORDANCE WITH THE AGREEMENT; OR (G) ANY OTHER LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

11.5 SUBJECT TO CLAUSE 11.4 ABOVE:

- (a) NEITHER PARTY SHALL BE LIABLE TO THE OTHER WHETHER IN CONTRACT, TORT (INCLUDING FOR NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE FOR: (I) ANY LOSS OF PROFITS, LOSS OF ANTICIPATED SAVINGS, LOSS OF BUSINESS OR OPPORTUNITY, LOSS OF CONTRACTS, DEPLETION OF GOODWILL AND/OR SIMILAR LOSSES, OR LOSS OR CORRUPTION OF DATA OR INFORMATION, IN EACH CASE WHETHER DIRECT OR INDIRECT; OR (II) ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS, COSTS, DAMAGES, CHARGES OR EXPENSES HOWEVER ARISING UNDER THE AGREEMENT; AND
- (b) SUPPLIER'S AND ITS AFFILIATES' TOTAL AGGREGATE LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION, RESTITUTION OR OTHERWISE, ARISING UNDER OR IN CONNECTION WITH THE AGREEMENT, OR ITS SUBJECT MATTER, INCLUDING ANY INDEMNIFICATION OBLIGATION FOR ALL CLAIMS (NOT EACH CLAIM) SHALL BE LIMITED TO THE AMOUNT OF THE TOTAL FEES PAID BY CUSTOMER (IN THE 12 MONTHS PERIOD IMMEDIATELY PRECEDING) AT THE TIME THAT THE FIRST CAUSE OF ACTION GIVING RISE TO THE LIABILITY AROSE TO THE SUPPLIER.
- 11.6 ALL DATES SUPPLIED BY SUPPLIER FOR THE DELIVERY OF THE PRODUCT OR SERVICES SHALL BE TREATED AS APPROXIMATE ONLY. SUPPLIER SHALL NOT IN ANY CIRCUMSTANCES BE LIABLE FOR ANY LOSS OR DAMAGE ARISING FROM ANY DELAY IN DELIVERY BEYOND SUCH APPROXIMATE DATES.
- 11.7 SUPPLIER SHALL NOT BE LIABLE FOR ANY FAILURE TO PERFORM ITS OBLIGATIONS UNDER THE AGREEMENT TO THE EXTENT THAT SUCH FAILURE ARISES DUE TO CUSTOMER'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER THE AGREEMENT.
- 11.8 The provisions of this Clause 11 shall survive the expiration or termination of the Agreement and shall apply to the maximum extent permissible under applicable law, even if a remedy provided herein should fail of its essential purpose.

12. TERMINATION AND SUSPENSION

Termination

- 12.1 Unless terminated earlier, the Agreement and the rights granted under it shall end at the end of the Term.
- 12.2 Supplier may terminate the Agreement (in whole or in part):
 - (a) if Customer commits a material breach of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so;
 - (b) if Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment;
 - (c) if an Insolvency Event affecting Customer occurs;
 - (d) where Supplier is required to do so by, or is prevented from complying with its obligations under the Agreement due to, an order from a government or regulator, or due to the requirements of applicable law; or
 - (e) where it is strictly necessary for Supplier to terminate the Agreement (or part thereof) due to a legitimate business interest of Supplier or its Affiliates.
- 12.3 Customer may terminate the Agreement for cause:
 - (a) upon thirty (30) days' written notice to Supplier of a material breach of the Agreement relating to the Product or Services which breach is irremediable or (if such breach is remediable) where Supplier fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or
 - (b) if an Insolvency Event affecting Supplier occurs.
- 12.4 Expiry or termination of the Agreement does not free either Party from its obligations to comply with all terms of the Agreement that contemplate performance prior or subsequent to the expiry or

termination date and shall not prejudice any rights of either Party which have arisen on or before the date of expiry or termination.

- 12.5 On expiry or termination of the Agreement: (a) all rights and licences granted under the Agreement (excluding any perpetual licences) shall terminate, save that Customer's right to use any QNTM Keys in its possession at the time of expiry or termination shall not be affected and shall remain subject to the terms of the Agreement; (b) all applicable Services shall cease; and (c) Customer shall immediately pay to Supplier any applicable sums due.

Suspension

- 12.6 Supplier may directly or indirectly, suspend or otherwise deny rights of access to, or use of, all or any part of the Product, Services or Service Support (including without limitation any rights granted to Customer in Clause 3.1 of these Terms and Conditions) without incurring any resulting obligation or liability, if:
- (a) Supplier has a right to terminate the Agreement but elects to suspend rights of access to the Product, Services or Service Support in lieu of termination until the cause of the right for Supplier to terminate has been resolved;
- (b) Supplier reasonably determines that: (i) Customer is, or is reasonably likely to be, subject to an Insolvency Event; or (ii) Supplier's provision of the Product, Services or Service Support to Customer, any Authorised User or any Devices End User is prohibited by applicable law;
- (c) any vendor of Supplier has suspended or terminated Supplier's access to or use of any third party services or products required to enable Supplier to provide, or Customer to access, the Product, Services or Service Support;
- (d) Customer is in breach of any terms and restrictions specified under the Agreement;
- (e) Customer's, any Authorised User's or any Devices End User's use of the Product, Services or Service Support disrupts or poses a security risk to Supplier, the Product, Services or Service Support or to any vendor or other customer of Supplier;
- (f) Customer, any Authorised User or any Devices End User, is using the Product, Services or Service Support for fraudulent or illegal activities; or
- (g) Customer is in breach of any reporting or audit obligations specified under the Agreement.
- 12.7 If Supplier suspends Customer's rights of access to, or use of, all or any part of the Product, Services or Service Support pursuant to Clause 12.6, Customer will remain responsible for all Fees Customer incurs during the period of suspension.

13. EXPORT

- 13.1 Customer shall not export, reexport or transfer (directly or indirectly) the Restricted Items or any technical information acquired from Supplier under the Agreement in breach of any applicable laws or regulations relating to the export, reexport or transfer of software, technology or other goods or services (including United Kingdom and United States export laws and regulations) ("**Export Control Laws**") to any country for which such Export Control Laws, at the time of export, reexport or transfer, require a licence or other governmental approval without first obtaining such licence or approval. Customer undertakes to comply with any Export Control Laws that are applicable to it and to any of the Restricted Items, and, if requested by Supplier, to provide Supplier with any reasonable assistance to enable Supplier to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.
- 13.2 The Restricted Items are provided for access and use within the Territory only and Customer shall not use or permit the use of the Restricted Items outside of the Territory or on any systems (including Customer Systems) outside of the Territory.

14. LAW AND JURISDICTION

- 14.1 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed and construed in accordance with the laws of England and Wales without regard to conflict of laws principles; and any legal suit, action or proceeding arising out of or relating to the Agreement will be commenced in the courts of England.
- 14.2 Notwithstanding Clause 14.1, if Customer's jurisdiction of incorporation is in the United States or Canada, the validity, construction and performance of the Agreement shall be governed by

the laws of the State of New York without regard to conflict of laws principles; and any legal suit, action or proceeding arising out of or relating to the Agreement will be commenced in the courts of New York, New York State.

- 14.3 The Parties irrevocably agree that the courts of the jurisdiction applicable in accordance with Clauses 14.1 and 14.2 shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims). Both Parties hereby submit to the jurisdiction of such courts for the purposes of any such suit or proceeding and irrevocably waive any claim that such forum is inconvenient or inappropriate. The Parties agree that this Clause 3 shall not prevent either Party from bringing proceedings in a court in another jurisdiction solely for the limited purpose of applying for any equitable remedies or injunctions in relation to the Agreement.
- 14.4 The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the Agreement.
- 14.5 If New York Law is applicable pursuant to Clause 14.2, following shall apply:

Clauses 11.4 and 11.5 shall be deleted and replaced with the following:

11.4 NOTHING IN THE AGREEMENT SHALL LIMIT OR EXCLUDE THE LIABILITY OF EITHER PARTY FOR: (A) BREACH OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THE AGREEMENT; (B) IN RESPECT OF CUSTOMER, THE PAYMENT OF ANY FEES DUE IN ACCORDANCE WITH THE AGREEMENT; OR (D) ANY OTHER LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

11.5 SUBJECT TO CLAUSE 11.4 ABOVE, NEITHER PARTY SHALL HAVE ANY LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES, NOR ANY LIABILITY FOR LOST PROFITS, LOSS OF ANTICIPATED SAVINGS, LOSS OR CORRUPTION OF DATA OR INFORMATION, LOSS OF BUSINESS OR OPPORTUNITY, LOSS OF CONTRACTS, DEPLETION OF GOODWILL AND/OR SIMILAR LOSSES, OR BUSINESS INTERRUPTION, REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING THEORIES OF CONTRACTUAL LIABILITY, TORT LIABILITY (INCLUDING NEGLIGENCE), OR STRICT LIABILITY), EVEN IF THE LIABLE PARTY KNEW OR SHOULD HAVE KNOWN THAT THOSE KINDS OF DAMAGES WERE POSSIBLE. SUPPLIER'S MAXIMUM CUMULATIVE LIABILITY UNDER OR IN CONNECTION WITH THE AGREEMENT SHALL NEVER EXCEED CUSTOMER'S ACTUAL DIRECT DAMAGES, CAPPED AT AN AMOUNT EQUAL IN THE AGGREGATE TO THE TOTAL AMOUNT PAID BY CUSTOMER TO SUPPLIER AS AT THE TIME THAT THE FIRST CAUSE OF ACTION GIVING RISE TO THE LIABILITY AROSE.

Clause 16.10 shall be deleted and replaced with the following:

16.10 The Agreement is entered into solely by and between Supplier and Customer and will not be deemed to create any rights in any third parties. No third party shall be a third party beneficiary of the Agreement (or any of its terms) or otherwise have any rights under the Agreement.

15. DATA PROTECTION

- 15.1 The following definitions apply in this Clause 15:

"**Agreed Purposes**" the performance by each Party of its obligations under the Agreement (including the evaluation of the Product by Customer).

"**controller**", "**data controller**", "**processor**", "**data processor**", "**data subject**", "**personal data**", "**processing**", "**third country**" and "**appropriate technical and organisational measures**" have the meaning given to them in the Data Protection Legislation in force at the time.

"**Data Protection Legislation**" means all European Union (EU) or United Kingdom (UK) legislation and regulatory requirements in force from time to time relating to the use of personal data and the privacy of electronic communications, including, without limitation: (a) the Data Protection Act 2018 and UK GDPR, or any successor legislation; (b) the EU GDPR or any successor legislation; and (c) any agreements between the European Commission or the United Kingdom (UK) and a third country in respect of the legal transfer personal data from the European Economic Area (EEA) to that third country.

"**GDPR**" means EU GDPR and UK GDPR.

- “EU GDPR”** means the General Data Protection Regulation ((EU) 2016/679).
- “Permitted Recipients”** the Parties, the employees of each Party, any third parties engaged to perform obligations in connection with the Agreement and who have entered into appropriate confidentiality obligations.
- “Shared Personal Data”** the personal data to be shared between the Parties. Shared Personal Data shall be confined to the names and contact details of personnel of the Parties.
- “UK GDPR”** means EU GDPR as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or a part of the United Kingdom from time to time).
- 15.2 Each Party acknowledges that during the course of the Agreement one Party (the **“Data Discloser”**) may disclose to the other Party (the **“Data Recipient”**) Shared Personal Data for the Agreed Purposes. Each Party shall act as an independent data controller in relation to Shared Personal Data.
- 15.3 Each Party shall comply with all the obligations imposed on it as a controller under the Data Protection Legislation, where applicable, and any material breach of the Data Protection Legislation by one Party shall constitute a material breach of the Agreement.
- 15.4 Each Party shall: (a) ensure that it has all necessary consents and notices in place to enable the lawful transfer of the Shared Personal Data to the Data Recipient for the Agreed Purposes; (b) give full information of the nature such processing to any data subject whose personal data may be processed under the Agreement; (c) process the Shared Personal Data only for the Agreed Purposes; and (d) not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients.
- 16. GENERAL**
- 16.1 Each Party covenants that it will perform all activities under or pursuant to the Agreement in accordance with all applicable legal requirements.
- 16.2 The relationship of the Parties under the Agreement is that of independent contractors. Nothing in the Agreement is intended to, or shall be deemed to, make Supplier and Customer partners, joint venturers or otherwise associated in or with the business of the other. Neither Party is authorised to incur debts or other obligations of any kind on the part of or as agent for the other, or to make or enter into any commitments for or on behalf of the other Party.
- 16.3 Customer may not assign, delegate, or transfer the Agreement, in whole or in part, or any of its rights or duties hereunder without the written consent of Supplier.
- 16.4 Supplier may at any time without prior notice assign, delegate, transfer, charge, sub-contract to any Affiliate, or deal in any other manner with all or any of its rights or obligations under the Agreement.
- 16.5 All notices and other communications required or permitted hereunder must be in writing and sent to the email or postal addresses set out in the Order Form and will be deemed to have been duly given: (a) when delivered by hand with a copy provided by another means specified in this Clause 16.5; (b) one (1) day after delivery by receipted overnight delivery; (c) three (3) days after being posted by certified or registered post, proof of postage requested, with postage prepaid; or (d) where delivered by email at the time of receipt of the email by the recipient. The Parties agree that email shall not be used for notices relating to formal legal proceedings.
- 16.6 No failure or delay by a Party to exercise any right of remedy provided under the Agreement or by law shall constitute a waiver of that or any other rights or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.7 Neither Party shall be in breach of the Agreement nor liable for failure or delay in the performance of its obligations hereunder as a result of a force majeure event, such as fire, explosion, act of nature, strikes, war, riot, government regulation or act or any other cause beyond the reasonable control of such Party, provided that the Party uses reasonable efforts to mitigate the effect of the force majeure event.
- 16.8 Each Party will do and execute, or arrange for the doing or executing of, each necessary act, document and thing that is reasonably necessary to give effect to any of the Parties’ rights under the Agreement.
- 16.9 Except as expressly provided in the Agreement, all rights, remedies and powers of the Parties hereunder are not exclusive and shall be in addition to all other rights, remedies and powers to which it may be entitled by law.
- 16.10 A person who is not a Party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.
- 16.11 The Product, Deliverables and Documentation provided under the Agreement consist solely of commercial items. Customer shall be responsible for ensuring that any Product, Deliverables and Documentation provided to the US Government in accordance with the terms of the Agreement is provided with the rights and restrictions described herein.
- 16.12 The Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements (including any confidentiality or non-disclosure agreements), promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Agreement. Customer further agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Supplier regarding future functionality or features.
- 16.13 The Agreement may be executed in separate counterparts, including by electronic or digital signature, and by the different Parties on the same or separate counterparts. Any signed copy of the Agreement made by reliable means will be considered an original, and all signed counterparts will constitute one and the same instrument.
- 16.14 If any provision or part provision of the Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but shall not affect the validity and enforceability of the other provisions of the Agreement. If any provision or part provision of the Agreement is deemed deleted under this Clause 16.14 the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 16.15 Any term or condition of the Agreement which expressly or by implication is required for the interpretation of the Agreement or necessary for the full observation and performance by each Party of all rights and obligations arising prior to the date of expiration or termination shall survive the expiration or termination of the Agreement for any reason.
- 16.16 The Parties will work diligently together to mutually agree the contents of a joint press release in regards to the Agreement as soon as reasonably practicable after the Effective Date. No publicity or press releases shall be permitted without the prior written consent of both Parties.
- 16.17 Each Party may reference that the Customer is a customer of the Supplier (or that Supplier is a supplier of Customer) in respect of Product.
- 16.18 The Customer hereby grants Supplier the right to use the Customer’s name, trademarks, logos or brands on Supplier’s websites and marketing collateral, and, if applicable, warrants that no third party clearances are required in respect of such grant.
- 16.19 Subject to Customer’s execution of Supplier’s or its Affiliate’s standard trademark licensing agreement, Customer will be granted the right to use certain Supplier and/or Affiliate names, trademarks, logos or brands on Customer’s websites and marketing collateral.

Annex
SUPPORT AND MAINTENANCE SCHEDULE

This Support and Maintenance Schedule (“Schedule”) applies to Customer’s use of the Software under the Agreement, and is subject to the terms of the Agreement. Any support and maintenance available pursuant to this Schedule shall terminate upon termination or expiration of the Agreement.

Service Support means and includes:

(a) technical support by e-mail (during regular UK business hours) via origin-support@quantinum.com (the “Support Request”),

and

(b) Maintenance Updates

Supplier will use reasonable efforts to respond to Support Requests in accordance with the Target Response Time set out below, provided that Customer’s appropriate contacts are readily available to assist Supplier.

Severity Level	Definition	Target Response Time
Critical	Applicable to production environment only: The situation halts Customer’s business operations and no reasonable workaround exists.	4 Hours
Major	Applicable to production environment only: Major functionality is impacted or significant performance degradation is experienced; the situation is causing a high impact to portions of Customer’s business operations and no reasonable workaround exists.	8 Hours
Minor	There is a partial, non-critical loss of use of the Software with a medium-to-low impact on Customer’s business, which continues to function; short-term workaround is available, but not scalable.	2 UK business days
Low	An enquiry regarding a routine technical issue; information requested on Software capabilities, navigation, installation or configuration; bug affecting a small number of users; and a reasonable workaround is available.	5 UK business days

Customer is required to establish and maintain processes as necessary to manage first line support for Authorised Users of the Software. If after reasonable efforts Customer is unable to diagnose or resolve the error(s), Customer’s authorized technical contact(s) may create a Support Request.

Customer’s authorized technical contacts must be knowledgeable about the Software running on the Endpoint to work with Supplier to analyse and resolve a Support Request. They are responsible for engaging Supplier’s technical support and monitoring the resolution of all Support Requests and escalated support issues.

Each Support Request should include (i) the Customer’s contact details, (ii) a detailed description of the issue, (iii) the severity level in accordance with the table above; (iv) the impact on Customer’s business operations, and (v) any relevant supplementary information. The Supplier reserves the right to upgrade or downgrade the severity level in alignment with the impact on Customer’s business operations as assessed by the Supplier having regard to each issue described in a Support Request.

Service Support is only available for hardware and software configured as specified in the Documentation and for the latest version of Software. Where it is reasonably able to do so, Supplier, at its absolute discretion, may provide support for prior Software versions that have not been retired.

Supplier reserves the right to change or discontinue Service Support at any time for any reason or no reason.

Supplier does not represent or warrant that Service Support will remedy any problem. Services provided by Supplier beyond Service Support will

be subject to additional fees.

Additional Limitations on Service Support

Supplier shall be under no obligation to provide support in respect of:

- (i) problems resulting from the modifications or customisation of the Software not made by Supplier;
- (ii) incorrect or unauthorised use of the Software or operator error where such use or operation is not in accordance with the Documentation;
- (iii) any fault in the Customer hardware or software environments; and
- (iv) use of the Software with computer hardware, operating systems or other supporting software other than those specified in the Documentation.