

## ENTERPRISE TERMS AND CONDITIONS

### Parties

- (1) [TEMENOS ENTITY] whose registered office is [Temenos entity registered address] ("TEMENOS"); and
- (2) [CLIENT ENTITY] whose registered office is at [Client entity registered address] (the "CLIENT")

These Enterprise Terms are effective between Temenos and the Client as of the date the Client signs these Enterprise Terms.

Capitalized terms used in these Enterprise Terms have the meaning given to them in Appendix 1.

### 1. The Mechanics of the Agreement

#### 1.1 Ordering

The Enterprise Terms apply to Temenos Offerings that the Client or any Permitted Client Affiliates purchase or otherwise acquire the right to access or use. The Client or any Permitted Client Affiliates may order Temenos Offerings from Temenos by entering into an Order Form with Temenos.

#### 1.2 Agreement Structure

Each Order Form, together with these Enterprise Terms, the applicable Offering Schedule, Product Specific Terms, the Uniform Terms and any other documents attached to or incorporated by reference into that Order Form, forms an independent contract between Temenos and the Client (each, an "**Agreement**" or, in reference to one such independent contract, "**the Agreement**").

#### 1.3 Order of Precedence

In the event of any inconsistency between parts of an Agreement, the following order of precedence applies:

- (a) the Order Form;
- (b) the Product Specific Terms;
- (c) the Offering Schedule;
- (d) these Enterprise Terms;
- (e) the Uniform Terms (other than Product Specific Terms); and
- (f) any other document incorporated by reference to any of the above.

### 2. Use of Temenos Offerings

#### 2.1 Use of a Temenos Offering shall be limited to and subject to:

- (a) the restrictions and usage limits set out in an Order Form;
- (b) the Acceptable Use Policy; and
- (c) the operations described in the Documentation.

#### 2.2 The Client shall ensure that Client Users use the Temenos Offering solely for the Client's internal business purposes and to process the Client's own business and that of Permitted Client Affiliates, subject to any other limitations set out in the Agreement. The Client may not use the Temenos Offering to provide any service bureau or time-share services to any third parties without prior written consent by Temenos and payment of any additional Fees.

#### 2.3 User Designation

The Client is responsible for identifying and authenticating Users, approving Users' access to the Temenos Offering and preventing any unauthorized access to the Temenos Offering. The Client shall:

- (a) not authorize any person to use or access the Temenos Offering unless that person has been designated a User;
- (b) maintain the confidentiality of User Credentials and not permit Users to share User Credentials; and

(c) ensure that all Users only use the Temenos Offerings as permitted by, and in accordance with, the Agreement.

**2.4** The Client is responsible and liable for all Users' actions and inactions, including any breach of the Agreement, and for any misuse, and associated harm from misuse, of User Credentials.

### **3. Temenos Obligations**

#### **3.1 Temenos Offering**

Temenos shall provide the Temenos Offering in accordance with the applicable Offering Schedule and Order Form for the relevant Term.

#### **3.2 Third-Party Components**

Where Temenos makes Third-Party Component(s) available to the Client the use of such components will be subject to any terms specified in the applicable Order Form, Offering Schedule or Product Specific Terms or other written agreement between the Parties.

#### **3.3 No responsibility for Client Materials**

Temenos is not responsible for any aspect of any Client Materials and makes no representations and provides no warranties in relation to Client Materials. To the extent permitted by law, Temenos excludes all liability for damages in relation to Client Materials.

#### **3.4 Interoperability with Client Materials**

The Temenos Offering may contain features designed to interoperate with certain Client Materials. If any third party provider of such Client Materials takes any action that alters, impedes or impairs Temenos' ability to interoperate with the Client Materials, Temenos is not responsible or liable for any resulting lack of interoperability.

#### **3.5 Temenos Subcontracting**

Temenos may:

- (a) subcontract any or all of its obligations under the Agreement to its Affiliates; and/or
- (b) engage, remove or replace Third Party Subcontractors to perform some, but not all, of its obligations.

Temenos is responsible for performance of the subcontracted obligations by its Affiliates and Third Party Subcontractors.

#### **3.6 General Supplies**

Temenos may purchase General Supplies. Obtaining General Supplies is not "subcontracting" for the purposes of the Agreement and providers of General Supplies are not Third Party Subcontractors. Temenos shall be responsible for General Supplies.

### **4. Changes to the Temenos Offerings, Documentation and Uniform Terms**

**4.1** Temenos may update the Uniform Terms and Documentation, provided that the updates do not:

- (a) have a material adverse impact on the Client's rights under the Agreement;
- (b) result in a material degradation to the overall security of the Temenos Offering;
- (c) expand the scope of, or remove restrictions on, Temenos' use or handling of Client IP or Personal Data required for performance of the Temenos Offering.

Updated Uniform Terms and Documentation will be available via the Client Portal or the URL provided.

**4.2** Temenos may update a Temenos Offering in a manner that does not materially reduce its functionality, performance, availability or security.

**4.3** Temenos may replace any material part or functionality of a Temenos Offering by providing not less than twelve (12) months' notice to the Client, with a materially similar part or functionality of such Temenos Offering.

**4.4** The rights under Sections 4.1 to 4.3 do not limit the ability of Temenos to make changes:

- (a) required for Temenos to comply with applicable law;
- (b) required to address a material security risk; or
- (c) that are applicable to new Temenos Offerings, new functionality or new features made available to the Client,

otherwise, no modification, amendment, or waiver of any provision of the Agreement shall be effective unless it is agreed in writing by both Parties.

## **5. Client Obligations**

### **5.1 General Requirements and Client Materials**

The Client shall be responsible for procuring and maintaining efficient and up to date hardware, software and internet access as required for the access and use the Temenos Offerings. The Client is responsible for any Client Materials, including all related costs and compliance with any applicable third party terms and conditions.

### **5.2 Dependencies**

The Client shall ensure the performance or provision of any obligations, activities and/or services required to enable, interface with or interact with the Temenos Offering, including any Dependencies, in a professional and timely manner. To the extent any failure, delay, incompleteness, or inaccuracy in a Dependency impacts Temenos' performance of its obligations, Temenos shall: (a) be excused and shall not be considered in breach of such obligations; and (b) be entitled to adjust its Fees and charge the Client additional Fees and other costs to the extent that such circumstances cause Temenos to incur additional effort or cost.

### **5.3 Client Affiliates**

The Agreement may also be for the benefit of each Permitted Client Affiliate. Each Permitted Client Affiliate must comply with the Agreement, and the Client is responsible for compliance by Client Affiliates with the Agreement. The Parties may amend the Agreement without the consent of any Client Affiliate.

### **5.4 Compliance**

The Client is responsible for its own legal and regulatory compliance in connection with the Temenos Offering. The Client shall conduct its own due diligence and risk assessment in relation to the Temenos Offering. No technical requirements that result from the Client's regulatory obligations shall apply to the Agreement, unless expressly agreed in writing under the Agreement.

## **6. Fees**

### **6.1 Fees and Payment**

Fees are identified in the Order Form. Payment obligations are non-cancellable. Unless otherwise stated in the Agreement, Fees paid are non-refundable and all amounts due from the Client to Temenos shall be paid in full without any set-off, counterclaim, deduction or withholding. Unless otherwise stated in an Order Form, Fees will increase year-over-year by 5% or the percentage rate change in the Consumer Price Index for the twelve month period immediately preceding the anniversary date of the Order Form, whichever is greater.

### **6.2 Due Date**

Fees are payable within thirty (30) days from the invoice date, unless otherwise stated in the Order Form. Charges for any renewal or extension of the Term must be paid before the expiry of the then-current period for the renewal or extension to be valid.

### **6.3 Invoice Disputes**

If the Client reasonably and in good faith disputes all or part of an invoice, it shall provide Temenos written notice of the reasons for such dispute within fourteen (14) days of receipt of such invoice. The Client shall not be entitled to withhold payment of any Fees relating to the undisputed aspects of the invoice.

### **6.4 Overdue Amounts**

If Temenos does not receive an undisputed amount payable by the Client by the due date, such overdue amount shall accrue interest at the lower of: (a) one per cent (1%) per month; or (b) the maximum rate permitted by law, in each case from the due date until the date payment of such amount is received by Temenos.

### **6.5 Taxes**

Fees do not include Taxes, unless otherwise stated in an Order Form. The Client is responsible for paying all Taxes associated with the Client's purchase from Temenos. If the Client is required by law to make any deductions or withholdings from payments to Temenos, the Client shall pay such additional amounts to Temenos as may be necessary to ensure that the actual amount received by Temenos after deduction or withholdings (and after payment of any additional taxes due as a consequence of such additional amount) equal the amount that would have been payable to

Temenos if such deductions or withholdings were not required. The Client shall indemnify and hold Temenos and its Affiliates harmless from and against any claims, liabilities, or expenses (including any interest or penalties) arising out of the Client's failure to withhold or timely remit Taxes to the proper governmental authority.

## **7. Intellectual Property**

### **7.1 Reservation of Rights**

Temenos owns all right, title, and interest in and to the Temenos IP and the Client owns all right, title, and interest in and to the Client IP. Neither Party grants any rights to the other Party except as expressly specified in the Agreement or as provided under non-excludable laws.

### **7.2 License for Temenos Performance**

Where necessary for Temenos' performance of its obligations to the Client under the Agreement, the Client grants Temenos, its Affiliates, agents and any Third Party Subcontractors, a limited, non-exclusive, royalty-free, non-transferable (except as provided in Section 15.3) license to use and reproduce the Client IP during the Term. The license to use and reproduce the Client IP by Temenos under this Section may only be used for performance of the Agreement.

### **7.3 Documentation**

The Client may use the Documentation solely for the Client's internal business purposes in connection with its use of the Temenos Offering during the Term. The Client may make copies of the Documentation only as reasonably necessary in accordance with the foregoing and any such copies must contain the same copyright and other proprietary notices that appear on or in the Documentation.

### **7.4 Analytics**

Temenos, its Affiliates and/or a Third Party Subcontractor may analyze information related to the performance, operation and use of the Temenos Offering in aggregated form for security and operations management, to improve performance and benchmark usage.

### **7.5 Feedback**

The Client and its Affiliates grant to Temenos and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its services, the Temenos Offering or the Documentation any suggestion, enhancement request, recommendation, correction or other feedback provided by the Client, its Affiliates or Users relating to the content and operation of Temenos or its Affiliates' services, including the Temenos Offering.

### **7.6 Marketing, Trademarks**

Temenos may use the Client's trademark and/or logos on Temenos' or its Affiliates' websites to identify the Client as a Temenos customer. Upon execution of the Agreement and/or use of the Temenos Offering, Temenos may prepare a joint press release which the Client will have an opportunity to review and approve prior to it being released.

## **8. Confidentiality**

**8.1 Protection of Confidential Information.** The Recipient may use the Discloser's Confidential Information solely for the purposes of performing its obligations or exercising its rights under the Agreement and must keep the Discloser's Confidential Information confidential using the same degree of care that the Recipient uses to protect its own confidential information, and no less than reasonable care. Except as the Discloser authorizes in writing, the Recipient shall limit access to Confidential Information:

- (a) to those of the Recipient's and the Recipient's Affiliates' employees, contractors, agents, professional advisers and insurers who need the access for purposes consistent with the Agreement and who have signed confidentiality agreements with the Recipient containing protections no less stringent than those in the Agreement;
- (b) to a regulator who has the power to require access to the terms of the Agreement; or
- (c) relating to the terms of the Agreement to an investor, acquiring company, bank, or other financial institution, under an appropriate confidentiality agreement, in connection with a merger, acquisition, financing, loan, or similar transaction, solely for the purpose of evaluating the relevant business.

### **8.2 Compelled Disclosure**

A Recipient may disclose Confidential Information of the Discloser if disclosure is compelled by law, regulation or by the rules of a registered securities exchange which the securities of a Party or its Affiliates are listed, provided that the Recipient gives the Discloser prior notice of such compelled disclosure (to the extent legally permitted) and reasonable

assistance (at the Discloser's cost) if the Discloser wishes to contest the disclosure. If the Recipient is compelled by law to disclose the Discloser's Confidential Information as part of a civil or criminal proceeding, and the Discloser is not contesting the disclosure, the Discloser will reimburse the Recipient for its reasonable cost of compiling and providing secure access to such Confidential Information.

### **8.3 Return of Confidential Materials**

On the Discloser's written request, or on termination or expiry of the Agreement, the Recipient must promptly return or destroy all of the Discloser's Confidential Information in the Recipient's possession, except to the extent such Confidential Information needs to be retained for the purpose of actual or potential litigation or other legally required record-keeping purposes, or is backed-up in a way that makes it impractical to do so. The Recipient will promptly certify that it has taken such action on the Discloser's request.

## **9. Warranties**

### **9.1 Temenos Warranties**

Temenos warrants that:

- (a) it has validly entered into the Agreement and has the legal power to do so;
- (b) it has the necessary rights, authorizations or licenses to perform its obligations under the Agreement; and
- (c) it will perform its obligations under the Agreement with reasonable skill and care.

Additional warranties applicable to Temenos Offerings are set out in the applicable Offerings Schedule.

### **9.2 Client Warranties**

The Client warrants that:

- (a) it has validly entered into the Agreement and has the legal power to do so;
- (b) its purchase of the Temenos Offering is neither contingent on the delivery of any future functionality or features nor dependent on any comments made by Temenos regarding future functionality or features; and
- (c) it shall, and shall ensure that its Affiliates and Users shall, comply with the Acceptable Use Policy.

### **9.3 No Other Warranties**

EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, THE TEMENOS OFFERING IS PROVIDED ON AN 'AS IS' AND 'WITH ALL FAULTS' BASIS. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, TEMENOS AND ITS AFFILIATES, LICENSORS AND SUPPLIERS HEREBY DISCLAIM AND EXCLUDE ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND THOSE ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, AND USAGE OF TRADE. EXCEPT AS EXPRESSLY STATED IN THE AGREEMENT, TEMENOS AND ITS AFFILIATES, LICENSORS AND SUPPLIERS DO NOT WARRANT, REPRESENT OR GUARANTEE THAT THE TEMENOS OFFERING WILL BE FREE OF ERRORS OR OMISSIONS OR THAT THE TEMENOS OFFERING (OR ITS USE BY THE CLIENT, CLIENT AFFILIATES OR ANY USER) WILL BE UNINTERRUPTED OR ACHIEVE ANY PARTICULAR OUTCOME OR RESULT, OR WILL COMPLY WITH ANY PARTICULAR LAWS, STANDARDS, REQUIREMENTS OR REGULATIONS OF ANY GOVERNMENT AGENCY, PROFESSIONAL OR REGULATORY BODY OR ANY OTHER ENTITY.

### **9.4 Reliance**

Each Party confirms that: (a) in entering into the Agreement it has not relied upon, and the other Party has not made, any representation, warranty, assurance, covenant, indemnity, undertaking or commitment which is not expressly set out in the Agreement; and (b) in any event, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, the only rights or remedies in relation to any representation, warranty, assurance, covenant, indemnity, undertaking or commitment given or action taken in connection with the Agreement are pursuant to the Agreement, and neither Party has any other right or remedy, whether by way of a claim for contribution or otherwise, in tort (including negligence) or for misrepresentation, whether negligent or otherwise, or whether made prior to and/or in the Agreement.

## **10. Indemnities**

### **10.1 Indemnification by Temenos**

Temenos shall defend the Client against any Third Party Claim and shall indemnify the Client for any Losses arising from a Third Party Claim.

### **10.2** Temenos shall have no liability or obligation in relation to a Third Party Claim to the extent such Third Party Claim is based on or only arises as a result of:

- (a) necessary implementation of an industry standard or protocol;
- (b) any use of the Temenos Offering outside the scope of the Agreement;
- (c) any Client Materials or any software, program, product, service, component, method, or other element, not supplied by Temenos as part of the Temenos Offering;
- (d) any modification or addition to the Temenos Offering not performed by Temenos;
- (e) Temenos' compliance with particular specifications, instructions, or requirements furnished by, or behalf of, the Client;
- (f) the Client's continued use of the Temenos Offering or part thereof, after being notified (in accordance with the terms of the Agreement) to discontinue such use; or
- (g) the Client's failure to accept or apply (as applicable) in a timely manner any patch, update or bug fix provided by Temenos.

### **10.3 Prevention and Mitigation**

In the event of an actual or threatened Third Party Claim under Section 10.1 or identification of a vulnerability that could reasonably lead to a claim, Temenos may, at no cost to the Client:

- (a) modify the item to avoid or mitigate the Third Party Claim, without being deemed to have breached any obligation; or
- (b) obtain a license for its continued provision and use in accordance with the Agreement.

Where Temenos is unable to achieve either (a) or (b) having used commercially reasonable endeavors, Temenos may:

- (c) notify the Client of the relevant facts and circumstances, thirty (30) days after which time the Client shall assume all risk of a Third Party Claim with respect to the disclosed facts and circumstances to the extent the Client continues to use the Temenos Offering; or
- (d) terminate the Client's access or license only to the infringing component(s) of the Temenos Offering upon thirty (30) days' notice, and provide the Client a pro rata refund for any prepaid unused Fees in relation to that infringing component.

### **10.4 Conduct of Claims**

The rights of the Client under this Section 10 are conditional on it:

- (a) promptly notifying Temenos in writing of any claim and assisting Temenos in its defense and resolution; and
- (b) giving Temenos sole control over the defense or settlement of any claim. Any settlement will be subject to written approval by the Client, not to be unreasonably withheld or delayed.

### **10.5 Exclusive Remedy**

This Section 10 states Temenos' sole liability to the Client, and the Client's exclusive remedy against Temenos, for any Third Party Claim.

## **11. Limitation of Liability**

### **11.1** The aggregate liability of a Party for all causes of action (whether in contract, or tort (including negligence) or otherwise) under or in connection with the Agreement shall be limited to the Fees paid by the Client for the particular Temenos Offering under the Agreement in the twelve (12) months prior to the date the first such cause of action arose.

### **11.2** Notwithstanding Sections 11.1 and 11.3, nothing in the Agreement shall exclude or limit the liability of either Party for:

- (a) death or personal injury caused by its negligence;

- (b) its fraud or fraudulent misrepresentation;
- (c) the indemnities set out in Sections 6.5 and 10.1;
- (d) infringement by the Client of any Temenos IP;
- (e) its payment obligations under the Agreement; or
- (f) any other liability which cannot be excluded or limited by law.

### **11.3 Exclusion of Damages**

Subject to Section 11.2, neither Party shall have any liability under the Agreement for:

- (a) special, indirect, consequential, or incidental damages;
- (b) loss of profits;
- (c) loss of revenue (excluding Fees);
- (d) loss of reputation;
- (e) loss of opportunity;
- (f) loss of anticipated savings;
- (g) regulatory penalties and fines;
- (h) loss of data, or data use; or
- (i) business interruption,

whether in contract, or tort (including negligence) or otherwise, even if it has been advised of the possibility of such damages.

### **11.4 Mitigation of Losses**

A Party's liability will be reduced to the extent caused or exacerbated by acts or omissions of the other Party. Each Party must take all reasonable action to mitigate any loss it suffers for which the other Party is liable, including in relation to any indemnity.

### **11.5 Basis of the Bargain**

The Fees under an Agreement reflect the overall allocation of risk between the Parties, including through such Agreement's limitations of liabilities and exclusive remedies. Such provisions form an essential basis of the bargain between the Parties and a modification of such provisions would substantially affect the Fees.

### **11.6 Limitation on Actions**

No action arising out of an Agreement, howsoever arising, shall be brought by the Client more than one (1) year from the date it receives knowledge of the alleged damage(s) and in any event no later than one (1) year after termination or expiry of the Agreement. Client shall not participate in, and hereby waives all rights in connection with, any class or group action against Temenos (or any of its Affiliates).

## **12. Duration and Termination**

### **12.1 Duration**

The Enterprise Terms shall become effective on the date the Client and Temenos signs these Enterprise Terms, and continue in effect unless terminated (as set out below). The duration of an Agreement shall be as set out in the corresponding Order Form.

### **12.2 Termination for expiry of Temenos Offerings**

Either Party to these Enterprise Terms may terminate these Enterprise Terms at any time by notice to the other Party if all the Agreements entered into by the Parties or their Affiliates under these Enterprise Terms have expired or been terminated.



### **12.3 Termination for Cause**

Either Party may terminate an Agreement by giving written notice to the other Party:

- (a) if the other Party commits a material breach of the Agreement which is not capable of remedy, or if capable of remedy which is not cured by the other Party within thirty (30) days after receipt of written notice notifying it to do so; or
- (b) 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 which, if filed by a third party, is not dismissed within sixty (60) days.

### **12.4 Suspension and restoration**

Temenos may suspend the provision of the Temenos Offering on thirty (30) days' written notice to the Client if the Client commits a material breach of the Agreement or breaches a payment obligation of the Agreement. If the Agreement remains in force, Temenos shall promptly restore the provision of the Temenos Offering upon its reasonable satisfaction that the circumstances giving rise to the suspension have been resolved.

### **12.5 Termination for Non-Payment of Fees**

If the Client fails to pay any sum due and payable under the Agreement within thirty (30) days of receipt of written notice of non-payment, Temenos may terminate the Agreement.

### **12.6 Termination for Third Party Claims**

Temenos may terminate the Client's access or license in accordance with Section 10.3(d).

### **12.7 Termination for breach of bribery and corruption laws**

If the Client takes any action that could constitute a violation of applicable laws relating to bribery and corrupt practices, Temenos may immediately terminate all Agreements in existence with Client without any further obligation or liability.

### **12.8 Termination for breach of Export Controls or Sanctions**

Temenos shall have the right to reject any Order Form, immediately terminate any Agreement, and/or require the Client to terminate any related end user terms, without incurring any liability if Temenos, in its sole discretion, determines that Temenos' continued performance under any Agreement would be prohibited under any applicable Sanctions, or could give rise to "secondary sanctions" exposure, including pursuant to any statutes, regulations, executive orders, or other legal instruments that may from time to time be enacted or enter into force.

### **12.9 Termination for Force Majeure Event**

If a Force Majeure Event continues in relation to an Agreement for more than thirty (30) days, either Party may terminate such Agreement upon written notice to the other Party.

### **12.10 Other Remedies**

Exercising a right to terminate shall not prejudice any other rights or remedies.

### **12.11 Surviving Provisions**

Sections 6, 7, 8, 9.3, 9.4, 10, 11, 14, 15 and any other provision which is intended to survive termination, or expressly stated elsewhere in the Agreement as surviving termination, shall survive any termination or expiry of an Agreement.

## **13. Compliance**

### **13.1 Anti-Corruption.** Each Party represents that it:

- (a) shall at all times comply with any applicable laws relating to bribery and corrupt practices; and
- (b) has not received or been offered any bribe, kickback, payment, gift, or thing of value from the other Party's employees or agents in connection with the Agreement, other than reasonable gifts and entertainment provided in the ordinary course of business.

### **13.2 Export Controls and Sanctions**

- (a) The Client confirms that it is not a Sanctioned Entity. The Client shall immediately notify Temenos in writing if at any time during the term of the Agreement, the Client, a Client Affiliate, a User or any party or individual connected with any such entity becomes a Sanctioned Entity.



- (b) The Client acknowledges that Temenos Offerings (which may contain encryption technology) are subject to Sanctions and the Client shall comply with all applicable Sanctions related to the Temenos Offerings.
- (c) Notwithstanding anything to the contrary, nothing in any Agreement is intended, and nothing should be interpreted as requiring Temenos to act (or refrain from acting) in any manner which is contrary to or risks being inconsistent with any Sanctions.

## **14. Governing Law and Dispute Resolution**

### **14.1 Governing Law**

The Agreement shall be governed by, and construed in accordance with, the laws of [Governing Law] without regard to its choice of law principles and excluding any application of the United Nations Convention on Contracts for the International Sale of Goods.

### **14.2 Informal Dispute Resolution**

Designated representatives of each Party shall consider any Dispute in person or by telephone by within ten (10) days of receipt of a written notice of the Dispute. Such representatives shall meet as reasonably necessary to discuss and attempt to resolve the Dispute.

### **14.3 Mediation**

If the Dispute is unresolved within thirty (30) days of the first meeting of the Parties' representatives, the Parties will act promptly in good faith to jointly appoint a mutually acceptable mediator or, absent agreement, will submit the mediation to the [Mediation Centre and Location] in accordance with its rules and procedures. The Parties will participate in good faith in the mediation for thirty (30) days from the selection of the mediator and any further mutually agreed period. Each Party shall bear its own mediation costs and shall equally share the mediator's fees. The mediation will be without prejudice to the rights of the Parties if the mediation does not achieve an agreed resolution of the Dispute. Mediation is not required for a Dispute related to the collection of unpaid debt where the validity or amount of the debt is not being disputed in good faith and the creditor Party may proceed directly to arbitration.

### **14.4 Arbitration**

If a Dispute is not resolved within thirty (30) days after the selection of the mediator and any mutually agreed extension, the Dispute shall be submitted to, and finally determined by, binding arbitration administered by the [Arbitration Centre] in accordance with its Rules of Arbitration, as such rules are in effect on the date of delivery of a demand for arbitration. The arbitration shall be heard and determined by three (3) arbitrators appointed in accordance with such rules. The arbitration proceeding shall be held in [Arbitration Location] and shall be conducted in English (with the use of translators as necessary). The arbitration and all related proceedings and discovery shall take place pursuant to a protective order that adequately protects Confidential Information. Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. This arbitration agreement shall be governed by and construed and interpreted in accordance with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards. In no event shall any arbitration award provide a remedy in excess of the limitations set forth in the Agreement and any award purporting to exceed such limitations shall be vacated to the extent of such excess. Both Parties shall continue to perform their respective obligations under the Agreement and the Agreement shall remain in effect while the Dispute is being resolved until it terminates or expires in accordance with its terms. The arbitration award will include an award of costs which will reflect the relative success of the Parties on the substantive issues.

## **15. General Provisions**

### **15.1 Notices**

- (a) All notices under the Agreement provided by the Client shall be in writing in English and sent by mail or courier to the Temenos address in the Order Form marked for the attention of the Legal Department, with a copy to the General Counsel, Temenos, Esplanade de Pont-Rouge 9C, 1212 Grand-Lancy, Switzerland.
- (b) All notices, advisories, information and updates provided by Temenos shall posted on the Client Portal or sent to an administrator address and email address provided by the Client or specified in an Order Form. Notice received by the Client shall be deemed to have been received by all relevant Client Affiliates.

### **15.2 Relationship of the Parties**

The Parties are independent contractors. The Agreement does not create any partnership, franchise, joint venture, agency, fiduciary, or employment relationship, and neither Party shall hold itself out as having the power or authority to bind, act in the name of, or otherwise on behalf of, the other Party.

### **15.3 Assignment**

Neither Party may assign any right or obligation under the Agreement without the prior written consent of the other Party (not to be unreasonably withheld). However, Temenos may assign the Agreement to any Temenos Affiliate without requiring such consent, by notifying the Client in writing of such assignment. A Party's sole remedy for any purported assignment by the other Party in breach of this Section 15.3 shall be to terminate the Agreement upon written notice to the other Party. Subject to the foregoing, the Agreement shall bind and inure to the benefit of the Parties and their respective successors and permitted assigns.

### **15.4 No Third-Party Beneficiaries**

There are no third-party beneficiaries to the Agreement and no third party shall have any right to enforce any term of the Agreement.

### **15.5 Force Majeure Event**

Neither Party shall be liable for any unavailability, failure or delayed performance of its obligations under the Agreement if caused by a Force Majeure Event. The non-performing Party shall be excused from performance of affected obligations, other than payment obligations for the duration of the Force Majeure Event, but will use reasonable efforts to recommence performance to the extent possible without delay. The non-performing Party shall immediately notify the other Party and describe in reasonable detail the Force Majeure Event.

### **15.6 Waiver**

No failure or delay by either Party in exercising any right under the Agreement shall constitute a waiver of that right.

### **15.7 Severability**

If any provision of the Agreement is invalid, illegal or unenforceable, the provision shall be modified and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of the Agreement shall remain in effect.

### **15.8 Entire Agreement**

The Agreement is the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations concerning its subject matter. No terms or conditions stated in the Client's purchase order or similar documentation (excluding an Order Form) shall form any part of the Agreement. The Agreement does not include any provision that applicable law would otherwise imply or incorporate, to the extent the law allows the Parties to exclude, waive, or disclaim the provision.

## APPENDIX 1 TO ENTERPRISE TERMS: DEFINITIONS

The following terms apply unless the context requires otherwise:

**"Acceptable Use Policy"** means the acceptable use policy for the Temenos Offering set out at <https://www.temenos.com/legalcenter/> (or any other website notified by Temenos to the Client from time to time) which may be updated periodically in accordance with Section 4.

**"Affiliate"** means with respect to Temenos: any entity controlled by Temenos, controlling Temenos, or under common control with Temenos; and with respect to the Client means: any entity controlled by the Client or controlling the Client; and for the purposes of this definition: "control" shall exist through direct ownership of more than fifty per cent (50%) of the nominal value of the issued equity share capital or of more than fifty per cent (50%) of the shares entitling the holders to vote for the election of directors or persons performing similar functions or to rights by any other means to elect or appoint directors or persons who collectively may exercise such control or through indirect ownership of all of the issued equity share capital.

**"Agreement"** has the meaning set out in Section 1.2.

**"Client IP"** means: (a) all rights, including Intellectual Property Rights: (i) owned by the Client or its Affiliates as of the date an Agreement commences; or (ii) acquired, developed or created by the Client or its Affiliates independently of the Temenos Offering; and (b) all modifications, extensions, customizations, upgrades, enhancements, and derivative works of any of the foregoing.

**"Client Portal"** means the web-based portal or URL(s) provided to the Client from time to time in order to access the applicable Uniform Terms and other information and notices provided by Temenos.

**"Client"** means the company or other legal entity that is entering into these Enterprise Terms, and if none is identified in these Enterprise Terms, then the company or other legal entity that is entering into an Order Form that references these Enterprise Terms.

**"Client Materials"** means software (including plug-ins), applications, integrations, implementations, customizations, services, personnel, resources and content provided by or on behalf of the Client.

**"Client User"** means an employee, contractor or agent of the Client or of a Permitted Client Affiliate, in each case authorized by the Client to use the Temenos Offering.

**"Cloud Services"** means the web-based software system services provided by Temenos set out in an Order Form.

**"Confidential Information"** means all non-public information disclosed by, or on behalf of, a Party (a **"Discloser"**) to the other Party (a **"Recipient"**), whether orally or in writing (including prior to the date of the Agreement), that the Discloser has designated as confidential or that the Recipient should reasonably understand to be confidential. Confidential Information includes the Discloser's business processes and plans, marketing plans, technology, technical information, product plans and designs, clients or prospective clients, suppliers or prospective suppliers, the terms and subject matter of the Agreement and, in respect of Temenos, the Temenos Offering and its pricing, the Documentation and the results of any security audit. Confidential Information does not include information that:

- (a) is or becomes generally known to the public without breach of any obligation the Recipient owed to the Discloser;
- (b) was known to the Recipient without breach of any obligation owed to the Discloser before the Discloser disclosed the information to the Recipient;
- (c) is received from a third party without breach of any obligation the third party owed to the Discloser; or
- (d) the Recipient independently developed without the use of any of Discloser's Confidential Information, which fact can be shown by satisfactory evidence upon request of the Discloser.

**"Consumer Price Index"** means the United States Department of Labor - Consumer Price Index for All Urban Consumers (CPI-U), unless otherwise set forth in the Order Form.

**"Dependencies"** means the responsibilities, roles and obligations of the Client or information or assistance to be provided by the Client required for the purpose of enabling or facilitating the provision of the Temenos Offering.

**"Dispute"** means a dispute, controversy, claim or disagreement between the Parties in connection with the Agreement.

**"Documentation"** means the explanatory electronic and/or paper documents Temenos supplies to the Client in connection with the Temenos Offering, describing the use of such Temenos Offering including user guides, manuals and/or technical and operational descriptions.

**"Effective Date"** has the meaning set out in the Order Form.

**"End User"** means a potential or actual customer of the Client or of a Permitted Client Affiliate, in each case allowed by the Client to access or use the Temenos Offering in the course of the Client supplying or offering to supply products, goods or services to such potential or actual customer.

**"Enterprise Terms"** means the Enterprise Terms and Conditions as set forth in this document.

**"Fees"** means any fees or charges payable by the Client to Temenos for the Temenos Offering under the Agreement.

**"Force Majeure Event"** means any event outside the reasonable control of the obligated Party including: (a) a failure or deficiency in equipment or software of a third party which is caused by an event outside the reasonable control of this third party; or (b) failure or delay of performance if caused by an act of war, hostility, cyberattack, or sabotage, an act of God, pandemic, electrical, internet, satellite, data transmission, networking infrastructure or telecommunication failure or outage; or (c) government restrictions or regulations including sanctions and trade embargos, or any change in law, regulation, industry standard or government order or direction.

**"General Supplies"** means: (a) third party providers of goods and services; and (b) contracted persons to provide services, in each case purchased by Temenos from third parties during the ordinary course of business.

**"include"** or **"including"** mean include or including without limitation and without prejudice to the generality of the foregoing.

**"Intellectual Property Right"** means any copyright, design, patent, trademark, domain name, model, algorithm, trade secret, know-how, process or invention and any other proprietary or personal rights arising from intellectual activity in the business, industrial, scientific or artistic fields, whether registered, unregistered or applied for, anywhere in the world.

**"Losses"** means damages, reasonable attorneys' fees, and costs finally awarded against a party by a court or arbitration or amounts paid by a party under an approved final settlement.

**"Offering Schedule"** means the schedule setting out additional terms and conditions applicable to the Temenos Offering as set out in the Order Form.

**"Order Form"** means the order form executed by the Parties for the provision of a Temenos Offering described in that order form and expressly stating it is governed by these Enterprise Terms. An Order Form for Professional Services may be referred to as a Services Order.

**"Party"** means each of Temenos and the Client individually, collectively, the **"Parties"**.

**"Permitted Client Affiliate"** means the Client Affiliates expressly listed as 'Permitted Client Affiliates' in an Order Form to the Agreement, and for as long as the company or legal entity remains Client Affiliates as defined in the Agreement.

**"Product Specific Terms"** means the specific additional terms applicable to particular Temenos Offerings as referred to in the Order Form.

**"Professional Services"** means training, installation, consulting, customization, configuration, parametrization, engineering or other services, as specified in a Services Order (as defined in the Professional Services Schedule). Professional Services do not include Support Services or Cloud Services.

**"Restricted Territory"** means a country, region or territory which is, or whose government is, at any time, the subject of or target of any Sanctions broadly restricting or prohibiting trade or dealings with, or export to, such country, territory, or government.

**"Sanction"** means all applicable international and national laws, regulations and designations, including those of the European Union, Hong Kong, the Republic of Singapore, Switzerland, the United Kingdom, the United Nations, and the United States, in each case restricting, limiting or prohibiting trade, dealing or export.

**"Sanctioned Entity"** means any entity, being an individual, corporation, company, association, or government, who or which: (a) is subject to any Sanction; (b) is 50% or more in the aggregate owned or controlled, directly or indirectly, by any entity or person or acting at the direction or on behalf of an individual or entity which is subject to Sanctions; or (c) is located or operates in a Restricted Territory.

**"Support Policy"** means the policy setting out the terms on which Temenos will provide Support Services in respect of a Temenos Offering, set out at <https://www.temenos.com/legalcenter/> or any other website notified by Temenos to the Client from time to time.

**"Support Services"** means the activities and services undertaken by Temenos under the Support Policy, which relate to the support provided by Temenos to the Client to remedy a problem with the operation or performance of the Temenos Offering.

**"Tax"** or **"Taxes"** means any tax or charge levied by a governmental body including any value-added, goods and services, sales, use, or withholding tax assessable by any local, state, provincial, federal, or foreign jurisdiction.

**“Temenos”** means the Affiliate entity of Temenos AG that is entering into these Enterprise Terms, and if none is identified in these Enterprise Terms, then the Affiliate entity of Temenos AG that is entering into an Order Form that references these Enterprise Terms.

**“Temenos IP”** means: (a) all rights, including Intellectual Property Rights: (i) owned by Temenos or its Affiliates as of the date an Agreement commences; (ii) acquired, developed or created by Temenos or its Affiliates independently or as part of the Temenos Offering provided to the Client; or (iii) in or relating to the Temenos Offering, including any models, algorithms, software code and other outputs created by or using the Temenos Offering, and all integrations between the Temenos Offering and third-party applications; and (b) all modifications, extensions, customizations, upgrades, enhancements, and derivative works of any of the foregoing.

**“Temenos Offering”** means as applicable, Cloud Services, Temenos Software license, Support Services and/or Professional Services, or any other offering made available by Temenos including training services, as listed in the Order Form. A Temenos Offering does not include Client Materials.

**“Temenos Software”** means software that is licensed and made available by Temenos in executable code, or the functionality of which is made available through the Cloud Services, in each case, as defined in the applicable Order Form, and the Developments listed in the Order Form. Temenos Software does not include: (a) stand-alone modules or subsystems or any modifications developed by a party other than Temenos; (b) Client Materials; or (c) Third-Party Components.

**“Term”** means the duration of the Agreement commencing on the Effective Date of the Order Form and continuing for the period(s) of time indicated in the Order Form, unless terminated earlier in accordance with the Agreement.

**“Third-Party Component”** means software (including plug-ins), applications, integrations, implementations, customizations, services and content owned by a third party which is: (a) provided by Temenos either as an embedded part of, or in addition to, a Temenos Offering; and (b) subject to additional terms as specified in the Product Specific Terms or Order Form or separate terms and conditions.

**“Third Party Claim”** means a claim made against the Client by a third party alleging that the authorized use of the Temenos Software or the Cloud Services infringes the Intellectual Property Rights of that third party.

**“Third Party Subcontractors”** means external third parties engaged by Temenos or Temenos Affiliates.

**“Uniform Terms”** means the Acceptable Use Policy, Support Policy, Product Specific Terms and other documentation specified as Uniform Terms in an Offering Schedule, as are made available via the Client Portal or at <https://www.temenos.com/legalcenter/> or any other website notified by Temenos to the Client from time to time.

**“User”** means a Client User or an End User.

**“User Credentials”** means the Users’ usernames, passwords and account information.

## PROFESSIONAL SERVICES SCHEDULE

This Offering Schedule ("**Professional Services Schedule**") applies to any Professional Services provided by Temenos to the Client under a Services Order, and supplements and is incorporated by reference into the Enterprise Terms referenced above. Terms defined in the Enterprise Terms apply to this Professional Services Schedule.

### 1. Additional Definitions

**1.1** The following apply to this Schedule unless the context requires otherwise:

**"Acceptance"** means the process by which Deliverables submitted by Temenos to the Client are assessed and confirmed as being accepted by the Client in the form in which they were submitted (and **"Accepted"** shall be interpreted accordingly).

**"Acceptance Criteria"** means that a Deliverable materially conforms to: (a) the descriptions in the Services Order; or (b) any other specific assessment criteria agreed to be used for Acceptance as such are specified against the relevant Deliverable in the Services Order.

**"Change Order"** has the meaning set out in Section 7.3.

**"Change Request Proposal"** means a change to Professional Services proposed by Temenos or the Client in accordance with Section 7.27.2.

**"Change Request"** has the meaning set out in Section 7.1.

**"Deliverables"** means software, documents, work products and other materials developed or created by Temenos or its Affiliates in the course of providing Professional Services and identified as **"Deliverables"** in the relevant Services Order.

**"Early Termination"** has the meaning set out in Section 10.1.

**"Expenses"** means accommodation, travel and other associated costs incurred by Temenos in relation to performing the Professional Services.

**"Fixed Price"** means a basis for charging Professional Services Fees whereby the amount is fixed based on the scope of Professional Service, and on any agreed assumptions and Dependencies as at the Effective Date of the relevant Services Order.

**"Person Day"** means eight (8) hours of work performed by a resource in any twenty-four (24) hour period.

**"Per Diem"** means a daily allowance payable by the Client to Temenos at a specified rate.

**"Professional Services Warranty"** has meaning set out in Section 9.1.

**"Request for Services"** means a document for the ordering of Professional Services, which is typically used in relation to Professional Services that are capable of specification without detailed contractual scoping and/or project plan requirements.

**"Services Order"** means a Request for Services, Statement of Work, addendum or any other contractual document agreed between Temenos and the Client for the Professional Services, which shall be subject to and governed by the Enterprise Terms and this Professional Services Schedule.

**"Statement of Work"** or **"SOW"** means a document for the ordering of Professional Services, which typically requires detailed contractual scoping and/or project plan requirements.

**"Time and Materials"** or **"T&M"** means a basis for charging Professional Services Fees whereby the amount payable is calculated by multiplying the relevant Person Day rate by the number of Person Days actually incurred plus an amount for any non-labor materials.

**"Working Day"** means days, excluding weekends and public holidays, that the Client regularly conducts business at the location where the Professional Services are to be performed.

### 2. Provision of Professional Services

**2.1** Subject to the Client's compliance with the Agreement and payment of applicable Fees, Temenos shall provide the Client with the Professional Services set out in a Services Order.

#### 2.2 Services Orders

Services Orders shall set out:

- (a) a description of the Professional Services, together with Deliverables (as applicable), estimated timelines and estimated completion date;
- (b) the location(s) at which the Professional Services are to be performed;
- (c) whether the Professional Services are provided on a Time and Materials or Fixed Price basis, the Fees, or the rates on which the Fees are based; and



- (d) whether the Expenses and Per Diems incurred for the provision of the Professional Services are chargeable.

### **3. Client Obligations and Dependencies**

#### **3.1** The Client shall, in a timely manner:

- (a) provide Temenos' staff working at the Client's premises with a suitable and adequate working environment including reasonable office space, technology, telephony, connectivity, materials, equipment and other facilities;
- (b) enable Temenos' staff to enter the Client's premises when Professional Services are provided onsite;
- (c) where relevant, enable Temenos' staff to access the Temenos Offering, the Client's hardware and operating environment at all reasonable times;
- (d) provide Temenos with all information, assistance, participation, engagement and decision making; and
- (e) perform any tasks, activities or obligations in the agreed Services Order or project plan as applicable,  
in each case as Temenos considers reasonably necessary to provide the Professional Services.

#### **3.2** If the Client requires that Temenos' personnel or sub-contractors comply with any site or information security policies, the Client shall share these policies with Temenos in advance for approval and provide appropriate training on such policies.

#### **3.3** The Client shall assign personnel of appropriate qualification and experience to perform and fulfill its obligations under the Services Order and that have all of the necessary experience and knowledge in relation to Client Materials.

#### **3.4** The Client shall ensure it has all consents and license rights in relation to:

- (a) all hardware, software, content or information within its IT environment or otherwise provided to Temenos; and
- (b) all documents, information, data and other materials it provides to Temenos,  
for Temenos to provide the Professional Services (and where relevant, the Client sublicenses such rights to Temenos for that purpose) and for the Client to receive the Professional Services.

### **4. Fees**

#### **4.1** Professional Services can be provided by Temenos on a Fixed Price or on a Time and Material basis.

#### **4.2** Fees for Professional Services agreed under a Services Order shall be paid by the Client in accordance with Section 6 (Fees) of the Enterprise Terms. Any Fees expressed on a Time and Materials basis will be invoiced monthly in arrears unless otherwise specified in a Services Order.

#### **4.3** Applicable Person Day rates are set out in Appendix 1 or the Services Order (as applicable), and are subject to increase in accordance with Section 6.1 (Fees and Payment) of the Enterprise Terms.

#### **4.4** Unless otherwise specified in a Services Order, the Person Day rates shall be used for calculating any Fees charged on a Time and Materials basis as well as additional Fees in respect of any Change Order (and, in respect of Change Orders impacting Fees otherwise agreed on a Fixed Price basis, without prejudice to Temenos' right to also consider any additional contingency). Person Days shall include any time spent travelling to enable performance of the Professional Services.

#### **4.5** Temenos' staff working hours may be counted on a weekly basis, regardless of how the forty (40) hours have been spread across days (e.g., a work week equals forty (40) hours even if staff has been working six (6) hours on Monday and Friday and nine (9) or ten (10) hours on Tuesday, Wednesday and Thursday). This flexibility is particularly required for resources based elsewhere than in the Client's location and to avoid significant additional Expenses.

#### **4.6** The rate for any hours above forty (40) hours per week will be calculated by dividing the Person Day rate by eight (8) and multiplying by one point five (1.5) during Working Days and by two (2) on non-Working Days.

#### **4.7** In relation to any Fees that are expressed to be charged on a Time and Materials basis, quotes or estimates of any total Fees or Person Days for Professional Services are non-binding good faith estimates based on the information available to Temenos at the time of quotation. Unless otherwise specified in a Services Order, Temenos shall, except in Fixed Price projects, communicate revisions to such estimates when the actual amount exceeds by more than ten percent (10%) the initial estimation in the Services Order and the Fees that will be chargeable will be based on the actual number of Person Days expended on the relevant Professional Services.

### **5. Per Diems and Expenses**

#### **5.1** Unless agreed otherwise in a Services Order, the Client shall pay a Per Diem amount to Temenos in respect of each resource working away from his/her base location and regardless of the basis on which Professional Services Fees are charged. The applicable Per Diem will be set out in the Services Order for the first year of the Term. Thereafter, the Per Diem amount shall be subject to adjustment to Temenos' then current Per Diem rate for the relevant country.



- 5.2** The Per Diem is paid instead of reimbursement of specific Expenses, including meals, local travel within a city (other than to/from airport) and all other incidental costs the resource incurs. Per Diems are also applicable on non-Working Days where the resource does not return to his/her base location.
- 5.3** The following Expenses are not covered by the Per Diem and are reimbursable by the Client in accordance with Section 5.5 based on the actual costs:
- (a) all flights and international travel;
  - (b) accommodation;
  - (c) transport to and from the airport;
  - (d) local travel between accommodation and the work location unless: (i) the distance is less than twenty (20) km; and (ii) local transportation is available that typically takes less than thirty (30) minutes;
  - (e) parking at the airport, which will be reimbursed if this is less than the return taxi fare; and
  - (f) reasonable laundry costs for stays of five (5) nights or longer.
- 5.4** The Client is responsible for all reasonable out-of-pocket Expenses associated with the Professional Services, including the Expenses excluded from the Per Diem set out in Section 5.3 above. Unless agreed otherwise, the Client is responsible for reservation and payment of all accommodation and travel required for Temenos resources engaged in the provision of Professional Services. For Expenses that have not been paid directly by the Client, Temenos shall provide a summary of incurred reimbursable Expenses, together with documentary evidence reasonably requested by the Client.
- 5.5** Reimbursement of Per Diems and Expenses will be invoiced monthly in arrears and shall be payable by the Client within thirty (30) days from the invoice date unless otherwise stated in the Services Order.

## **6. Deliverables**

### **6.1 Acceptance of Deliverables**

The following provisions shall apply in relation to Acceptance of each Deliverable, unless otherwise specified or supplemented in a Services Order:

- (a) Temenos shall provide the Deliverable to the Client for Acceptance;
- (b) within five (5) Working Days (or such other period specified in the Services Order) of its provision to the Client by Temenos, the Client shall: (i) assess the Deliverable against the Acceptance Criteria to determine whether to accept or reject it; and (ii) notify Temenos in writing of such determination;
- (c) the Client shall not reject the Deliverable unless the Deliverable fails to meet the Acceptance Criteria;
- (d) in the event of rejection, the Client must include with the notice of rejection an explanation as to the reasons for rejection, including details of which Acceptance Criteria have not been met. Temenos shall rectify any agreed defects, which causes the Acceptance Criteria not to be met. Such rectification of the Deliverable shall be targeted to be completed within thirty (30) days of the notice of rejection (or such longer period as may be agreed between the Parties). Following rectification, the Deliverable shall be resubmitted for Acceptance in accordance with this Section 6;
- (e) immediately upon Acceptance the Client shall provide Temenos with a signed certificate confirming acceptance of the Deliverable. Such sign off, shall only be required for Deliverables that have been identified in the Services Order, as being subject to sign off;
- (f) the Client shall not make use of any rejected Deliverable and, where and to the extent possible, shall return to Temenos any copies of the rejected Deliverable; and
- (g) Deliverables will be considered Accepted on the happening of the earliest of:
  - (i) when the Client provides Temenos written notice of Acceptance in accordance with Section 6.1(b);
  - (ii) when the Client commences any use of the Deliverable, including if a Deliverable is used by or on behalf of the Client (or by Temenos at the direction of the Client) for activities in a stage subsequent to the stage when that Deliverable was to be assessed for Acceptance; or
  - (iii) if the Client fails to notify Temenos of either Acceptance or rejection within the period of time specified in Section 6.1(b).

### **6.2 Intellectual Property Rights in Deliverables**

Deliverables shall constitute Temenos IP. To the extent Intellectual Property Rights are created in any Deliverable by the Client or any third party acting on the Client's behalf, the Client hereby assigns (for itself and any third party acting on its behalf) to Temenos any such Intellectual Property Rights, and commits to execute documents reasonably required by Temenos in order to perfect such rights.

### 6.3 License to Deliverables

Subject to Section 7.1 (Reservation of Rights) of the Enterprise Terms, Temenos grants to the Client a limited, non-exclusive, non-transferable (except as provided in Section 15.3 (Assignment) of the Enterprise Terms), license to use and reproduce Deliverables solely for the Client's internal business purposes in connection with its use of the Temenos Offering during the applicable Term.

## 7. Change Orders and Additional Services

- 7.1 A request to change the Professional Services can be initiated by either Party, provided it is done writing ("**Change Request**").
- 7.2 In case of a Change Request, Temenos shall assess whether such change can be implemented. If such change is feasible, Temenos shall provide the Client a proposal within a reasonable timescale. The proposal shall include a high level analysis of the impact of the implementation of such Change Request on the project set out in the Services Order, such as but not limited to: changes to the Fees, deadlines, Documentation, milestones, Dependencies ("**Change Request Proposal**"). If Temenos determines that such Change Request cannot be implemented, it shall inform the Client of the outcome of its assessment.
- 7.3 After receipt of the Change Request Proposal, the Client shall notify Temenos whether or not it wishes to proceed with the Change Request Proposal. If the Client elects to proceed, Temenos shall prepare a change request document reflecting the amendments to the applicable Services Order (such amendment shall be a "**Change Order**") by setting out a description of the change in the Professional Services, Dependencies and/or the activities of the Parties and any pricing or project schedule change. Until a Change Order is executed by both Parties, the Client and Temenos shall continue to fulfill their obligations pursuant to the terms and conditions of the existing Services Order. Once both Parties have executed the Change Order, the Parties shall also execute an Addendum to the Services Order or a new Services Order in order to reflect the changes agreed in the Change Order.

## 8. Employees and Sub-Contractors

8.1 **Responsibility.** Temenos shall be responsible for its personnel and contractors. Temenos shall:

- (a) withhold and pay (or, in the case of Third Party Subcontractors, cause the applicable Third Party Subcontractor to withhold and pay) all applicable taxes, benefits and insurance with respect to such personnel; and
- (b) verify and secure the work eligibility of each Temenos personnel.

8.2 **No Solicitation.** During the Term and for a period of twelve (12) months thereafter, the Client shall not (and shall ensure that Client Affiliates shall not) without Temenos express prior written consent, recruit directly or through any third party or otherwise solicit for employment any Temenos (or Temenos Affiliate(s)) employees or subcontractors who have participated in any Professional Services. Should an offer be made and an employee of Temenos (or a Temenos Affiliate) be successfully employed by the Client (or Client Affiliate), Temenos shall be compensated for loss of services revenue equivalent to twelve (12) months of salary of the enticed employee. For the purposes of this Section 8.2 only, employee shall include any Third Party Subcontractor engaged by Temenos who has worked for Temenos (or a Temenos Affiliate) on assignment to the Client or a Client Affiliate.

8.3 The Client shall use its best efforts to assist Temenos upon request in timely and expeditiously obtaining all permits, approvals and/or licenses necessary for the performance of the Professional Services from all local, state or national government authorities or public service undertakings.

## 9. Warranty

- 9.1 Temenos warrants that the Professional Services will be performed in a professional manner (the "**Professional Services Warranty**").
- 9.2 The Client shall notify Temenos of any claim under the warranty in Section 9.1 within ten (10) days of completion of the Professional Services upon which the claim is based. If, following investigation, the claim is founded, Temenos shall take all necessary steps to cure the deficiencies within a reasonable period. The foregoing shall be Client's exclusive remedy and Temenos' entire liability for a breach of the Professional Services Warranty.
- 9.3 Temenos will not be deemed to breach any warranty, and the foregoing remedies shall not apply, if the alleged breach has been caused by: (a) failure or non-performance of any Dependencies; (b) the Client's breach of the Agreement; and/or (c) the actions or omissions of the Client, any Client Affiliate or User, or any contractor, supplier or third party engaged by or on behalf of the Client.

## 10. Early Termination of Professional Services

- 10.1 The Client may terminate a Services Order for Professional Services for convenience by giving Temenos not less than ninety (90) days' written notice ("**Early Termination**"), provided that:
- (a) the Client shall not be entitled to a refund of any part of the Fees or Expenses already paid;

- (b) the Client shall pay the Fees and Expenses or any part thereof that accrue prior to and during the ninety (90) days' notice period and any Fees that would have accrued in respect of the assigned resources during such period;
- (c) in the context of a Services Order covering the implementation of Temenos Software and/or Cloud Services, the Client's obligation to pay all Fees for Temenos Software, Support Services and/or Cloud Services due until the end of the Term shall be accelerated to the date of the notification of the Early Termination. Early Termination of Professional Services shall not otherwise prejudice any other Agreement executed under the Enterprise Terms;
- (d) the Client shall compensate Temenos for any costs incurred in winding down the Professional Services as a result of Early Termination which Temenos would not have incurred had Early Termination not occurred, provided that Temenos has taken reasonable steps to avoid and mitigate such costs; and
- (e) in the event of Early Termination where the Fees that would have become due after the Early Termination are specified on any basis other than solely Time and Materials, then the Client shall pay Temenos:
  - (i) an additional amount equivalent to the Fees that would have fallen due during the ninety (90) days following the effective date of the Early Termination or, if there are no such Fees, then the next Fee payment that would have become due; and
  - (ii) a further amount to compensate Temenos for any investments or Person Days or other costs incurred by Temenos in relation to the Services Order that were to have been recovered through subsequent Fees absent the Early Termination.

## APPENDIX 1: PERSON DAY RATES

The following Person Day rates shall be applicable for a period of one (1) year from the effective date of the Enterprise Terms. Thereafter, Temenos' then current standard Professional Services rates shall be applicable. If the table is left blank the current standard Professional Services rates available from Temenos shall apply:

Abbreviation	Role	Fee Rate / [currency] per Person Day
MC	Management Consultant	
SBC	Senior Business Consultant	
BC	Business Consultant	
ICA	Interface Consultant - Analysis	
STC	Senior Technical Consultant	
TC	Technical Consultant	
ICD	Interface Consultant - Dev	
RP	Reporting Expert	
WS	Web Specialist	
OBC	Offshore Business Consultant	
OTC	Offshore Technical Consultant	
PSS Onsite	On Site Project Support Consultant	
PSS Offsite	Offsite Project Support Consultant	
PD	Project Director	
PM	Project Management	
PMO	Project Management Office	
LBA	Lead Business Architect	
LTA	Lead Technical Architect	
TR	Trainer	

[TEMENOS ENTITY]

Authorized Signatory

Name:

Title:

Date

Authorized Signatory

Name:

Title:

Date

[CLIENT ENTITY]

Authorized Signatory

Name:

Title:

Date

Authorized Signatory

Name:

Title:

Date