

SOFTWARE LICENSE AGREEMENT

软件使用许可协议

This Software License Agreement (this "**License Agreement**") is effective as of the Effective Date of the applicable Order Form and is entered into by and between Selerant Srl, with a principal office at via Leonardo da Vinci 19, 20060 Cassina de Pecchi (Milan) Italy ("**Company**" or "**Selerant**") and Customer.

本《软件许可协议》（以下简称“**本许可协议**”）自适用的订购单生效之日起生效，由希乐仑公司，总部办公室所在地为意大利米兰省卡西纳·德·佩基市列奥纳多·达·芬奇路19号（下称“公司”或“希乐仑”）和客户双方签署。

WHEREAS, Customer desires to procure from Company, and Company desires to provide to Customer, certain Software and Maintenance Services on the terms and conditions set forth in the Agreement.

鉴于，客户希望从公司采购，并且公司希望按照协议中规定的条款和条件向客户提供某些软件和维护服务。

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and intending to be legally bound, the parties hereto agree as follows:

因此，基于双方的相互承诺，经协商一致，自愿受相关法律约束，兹达成协议如下：

1. GRANT OF LICENSE TO SOFTWARE.

授予软件许可

- 1.1. Subject to Customer's compliance with the terms and conditions of the Agreement and the Software Documentation, Company shall grant to Customer a non-exclusive, non-transferable and non-assignable license to access and use the Software Materials specified in the applicable Order Form during the term of this License Agreement solely for Customer's internal business purposes (the "**License**"). Unless otherwise agreed by Company in writing, Customer shall not access or use the Software Materials outside of the Location.

在客户遵守协议和软件文档的条款和条件的前提下，在本协议有效期内，公司应授予客户非专有，不可转让和不可让渡的许可，仅用于客户的内部业务目的（“**许可**”）以访问和使用适用的订购单中指定的软件材料。除非公司另行书面同意，否则客户不得在该地点以外访问或使用软件。

- 1.2. Except for the License, Company retains all right, title and interest in and to the Software Materials, including, without limitation, all copies of the Software Materials delivered to Customer or made by or on behalf of Customer in connection with its use of the Software Materials.

除使用许可外，公司保留与软件材料相关的所有权利，包括软件所有权和利益且不限于提供给客户或由客户或代表客户制作的与使用软件材料有关的所有软件材料副本。

- 1.3. Customer acknowledges that use of the Software requires installation and use of the Database Software. Therefore, Customer agrees to obtain all licenses to the Database Software necessary to use the Software from the developer or a licensed distributor of such Database Software. Customer may elect to buy a license to Oracle's Database Software from Selerant. If Customer chooses to do so, such license shall be subject to the terms and conditions set forth in the **Oracle Software Collateral License Agreement** below. Customer shall indemnify, defend and hold harmless the Company Indemnitees from any and all Losses and threatened Losses due to third party claims arising out of or in connection with Customer's use of Oracle's Database Software other than as permitted under the Oracle Software Collateral License Agreement.

客户知悉软件使用需要安装和使用数据库软件。因此，客户同意从该数据库软件的开发商或授权经销商处获得使用该软件所需的数据库软件许可。客户可以选择从希乐仑购买Oracle数据库软件的许可证。如果客户选择这样做，则该许可应遵守**Oracle软件附属许可协议**中规定的条款和条件。对于因客户使用Oracle数据库软件而引起的或与之相关的第三方索赔而造成的任何损失和潜在损失，客户应赔偿、辩护并使公司受偿人免受损害，但Oracle软件担保许可协议所允许的情况除外。

2. LICENSE RESTRICTIONS.

许可证限制

- 2.1. The applicable Order Form shall set forth the maximum number of Named Users that are permitted to access and use the Software (the "**Permitted Named Users**"). Only Permitted Named Users are allowed to access and use the Software.

适用的订购单应列出允许访问和使用本软件的指定用户的最大数量（“**授权用户**”）。仅允许授权用户访问和使用该软件。

- 2.2. By the Delivery Date, Company shall deliver to Customer the number of copies of the Software Materials set forth in the applicable Order Form. The Software Materials shall be delivered to Customer in the format set forth in the applicable Order Form or, if no format is set forth therein, in Company's standard format.

在交付日期之前，公司应向客户交付适用订购单中规定数量的软件副本。软件应以适用订购单中规定的格式交付给客户，如果订单中没有规定格式，则应以公司的标准格式交付给客户。

- 2.3. Customer shall not (a) use the Software for rental, time sharing, subscription services, hosting, or outsourcing; (b) remove

or modify any program markings or any notice of Company's or its licensors' proprietary rights; (c) make the Software available in any manner to any third party for use in the third party's business operations (unless such access is expressly permitted by Company in writing for a specific program license); (d) reverse engineer, disassemble or decompile the Software (including, without limitation, to review data structures or similar materials produced by programs); (e) duplicate the Software (except that Customer may make a sufficient number of copies of each program for the Permitted Named Users' licensed use and one copy of each program media); or (f) disclose any results of benchmark tests run on the Software.

客户不得（a）将本软件用于租赁、分时共享、订阅服务、托管或外包；（b）删除或修改任何程序标记或任何有关公司或其许可方所有权的注释；（c）以任何方式将软件提供给任何第三方用于第三方的业务运营（除非公司为特定的软件许可可以书面形式明确允许该等访问）；（d）对软件进行反向工程、反汇编或反编译（包括但不限于，审查由程序产生的数据结构或类似材料）；（e）复制软件（除客户可以为每个程序制作足够数量的副本供授权用户使用和为每个软件媒体制作一份副本）；或（f）披露在软件上运行的基准测试的任何结果。

- 2.4. Customer shall comply fully with all applicable export and import laws to ensure that neither the Software Materials, nor any direct products thereof, are exported, directly or indirectly, in violation of applicable laws.

客户应完全遵守所有适用的进出口法律，以确保软件材料或其任何直接产品均不违反适用法律直接或间接出口。

- 2.5. Customer shall (a) permit Company to audit Customer's use of the Software Materials (which shall include, without limitation, the right for Company to inspect the Location, upon reasonable prior notice, for the purpose of verifying Customer's compliance with the terms and conditions of the Agreement) and (b) provide Company with reasonable assistance and access to information in the course of such audit.

客户应（a）允许公司审核客户对软件材料的使用（包括但不限于公司有权在合理的事先通知下检查使用地点，以验证客户是否遵守条款和条件）。（b）在审核过程中为公司提供合理的协助和信息访问。

- 2.6. Customer acknowledges that third party technology that may be appropriate or necessary for use with the Software is specified in the applicable Software Documentation or as otherwise notified by Company and that such third party technology is licensed to Customer only for use with the Software under the terms of the license agreement specified in the applicable Software Documentation or as otherwise notified by Company and not under the terms of the Agreement.

客户知情并同意适用于该软件的适当或必要的第三方技术已在相关的软件文档中规定，或由公司另行通知，并且该等第三方技术根据相关的软件文档或由公司另行通知仅授权给客户与软件一同使用，而非根据第三方技术的使用条款规定。

- 2.7. Customer is responsible for its employees', agents', contractors', outsourcers', customers' and suppliers' access to and use of the Software Materials and full compliance with the terms and conditions of the Agreement.

客户应对其“雇员”，“代理人”，“承包商”，“外包商”，“客户”对软件材料的访问和使用负责，并完全遵守本协议的条款和条件。

3. LIMITATION OF LIABILITY.

责任范围

- 3.1. Notwithstanding anything to the contrary in the Agreement, Company's maximum liability for any damages arising out of or related to the Agreement, whether in contract, tort or otherwise, shall be limited to the amount of the License Fee paid by Customer to Company for the Software under the Order Form giving rise to the liability. Notwithstanding anything to the contrary in the Agreement, Company shall not be liable for any special, indirect, consequential, incidental, exemplary or punitive damages, or any loss of profits, revenue, data or data use.

即使本协议有任何相互矛盾的规定，对于因本协议引起的或与本协议相关的任何损害，无论是合同、侵权或其他方式，公司的最大责任范围仅限于客户为软件使用向公司支付的许可费用。即使本协议有任何相互矛盾的规定，公司也不对任何特殊的，间接的，偶然性的，特例性或惩罚性的损失，或任何利润，收入，数据或数据使用的损失承担责任。

- 3.2. Customer acknowledges that **Company does not provide legal or compliance advice**. Customer is responsible for making its own assessment of its legal and regulatory requirements and whether Customer's proposed use of the Software Materials meets those requirements. In the case the Software granted with the License Agreement processes regulatory data or utilizes anyhow legislation as input data or basis of calculations and formulas, Company may provide services for its handling, managing or processing exclusively, no legal advice for the choice and interpretation of the correct applicable or base regulation is granted anyhow by Company. Customer only is therefore directly responsible for interpretation and choice of the legislations and other regulatory data processed by the Software.

客户知悉公司不提供任何法律或合规建议。客户有责任自行评估其法律和法规要求，以及使用软件材料是否符合这些要求。如果许可协议授权的软件处理法规数据或利用任何法律作为输入数据或计算和配方的基础，公司可以提供专门的数据处理、管理服务。公司不承诺对适用法规的选择和解释提供任何合规建议。因此，客户将直接对软件所处理的法规或其他合规数据的选择和诠释负责。

4. WARRANTY.

担保

4.1. Except as set forth in **Section 4.2** below, the Software Materials are provided on an "as is" basis and Company makes no warranty of any kind, whether express, implied or statutory, regarding the Software Materials, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose.
除下文**第4.2节**所述外, 软件材料将按原样提供给客户, 公司不对软件进行任何形式的担保, 无论是明示、暗示还是法定的, 包括但不限于对软件适销性或满足特定目的的担保。

4.2. Company warrants that, for a period of ninety (90) days after installation (the "**Warranty Period**"), when properly installed and used by Customer, the Software will substantially operate as described in the Software Documentation. If Customer notifies Company during the Warranty Period of any breach of said warranty, Company shall use reasonable efforts to remedy any material defect or error in the Software at its own expense and within a reasonable time after receiving such notice from Customer, but only if: (a) Customer is fully compliant with its payment and other obligations under the Agreement; (b) Customer, at Company's request, promptly provides Company with documentation of the alleged defect or error; (c) Customer provides Company with complete information regarding the circumstances surrounding the alleged defect or error and cooperates fully in recreating the environment in which the alleged defect or error in question arose; and (d) the alleged defect or error does not result from or relate to: (i) any failure by Customer to perform its obligations under the Agreement; (ii) the incorrect use of the Software Materials, or database or operator error; (iii) the use of software other than the Current Release of the Software, use of computer equipment other than the Equipment or the use of programs that have not been supplied by Company; (iv) the unauthorized modification or maintenance of the Software; (v) operation of the Software outside Company's recommended operating procedures and environmental specifications; (vi) improper site preparation or maintenance; or (vii) accident, neglect, hazard, misuse, natural calamity, or failure or fluctuation of electrical power or environmental conditions.

公司保证, 在软件安装后的九十(90)天内(以下简称“**保修期**”), 当客户正确安装和使用软件时, 软件将按照软件文档中的说明运行。如果客户在保修期内通知公司任何违反上述保修的行为, 公司应在收到客户的此类通知后的合理时间内, 自费采取合理措施补救软件中的任何重大缺陷或错误, 但前提是: (a) 客户完全遵守其在本协议项下的付款和其他义务; (b) 客户应公司要求, 立即向公司提供所称缺陷或错误的文件; (c) 客户向公司提供有关所称缺陷或错误周围情况的完整信息, 并全力配合重建所称缺陷或错误产生的环境; 以及 (d) 所称的缺陷或错误并非由以下原因引起或与之相关: (i) 客户未能履行其在本协议项下的义务; (ii) 不正确地使用软件材料、数据库或操作员错误; (iii) 使用软件而非当前版本的软件, 使用非公司提供的设备或程序以外的计算机设备; (iv) 未经授权修改或维护软件; (v) 在公司推荐的操作程序和环境规范之外操作软件; (vi) 不当的现场准备或维护; 或 (vii) 事故、疏忽、危害、误用、自然灾害或电力或环境条件的故障或波动。

4.3. In the event that Company is unable to cure any material defect or error in the Software within a reasonable period of time, Customer's sole and exclusive remedy shall be to terminate its access to and use of the applicable Software and Maintenance Services and receive a pro-rata refund of the pre-paid Maintenance and Support Fee for the then-current term.

如果公司无法在合理期限内解决软件中的任何重大缺陷或错误, 客户的唯一补救措施是终止其对适用软件和维护服务的访问和使用, 并接受公司按比例退还当时的预付维护和支持费。

5. **PAYMENT AND INVOICING TERMS.** **付款和发票条款**

5.1. **License Fee.** Customer shall pay the License Fee in consideration of the License granted hereunder. Unless otherwise specified in the applicable Order Form, Company shall invoice Customer for the License Fee upon the Effective Date of the applicable Order Form.

许可证费用。客户应根据本协议授予的许可支付许可费。除非适用的订购单中另有规定, 否则公司应在适用订购单的生效日期向客户开具许可证费用发票。

5.2. **Maintenance and Support Fee.** **维护和支持费用**

5.2.1. Customer shall pay the Maintenance and Support Fee in consideration of the Maintenance Services performed hereunder.

客户应支付维护和支持费用, 作为本协议项下维护服务的报酬。

5.2.2. Company shall invoice Customer for the Maintenance and Support Fee on an annual basis, the first time (unless otherwise specified in the applicable Order Form) upon the Effective Date of the applicable Order Form.

公司应每年向客户开具维护和支持费用发票, 第一次开具发票应在适用订购单生效日开具(除非适用订购单另有规定)

5.2.3. Beginning at the end of the initial term of the Maintenance Services, Company may increase the Maintenance and Support Fee by giving Customer not less than thirty (30) days' prior written notice; provided, however, that Company shall not increase the Maintenance and Support Fee more than once in any twelve (12) month period. Within thirty (30) days after Customer's receipt of such notice, Customer may elect to terminate the Maintenance Services upon written notice to Company.

从维护服务初始期限结束时开始，公司可通过提前不少于三十（30）天向客户发出书面通知来增加维护和支持费用；但是，公司在任何十二（12）个月内不得增加维护和支持费用超过一次。在客户收到此类通知后三十（30）天内，客户可选择在书面通知公司后终止维护服务。

- 5.2.4.** Company shall have the right to suspend performance of the Maintenance Services if Customer has not complied with its payment or other obligations under the Agreement.

如果客户未履行其在本协议项下的付款或其他义务，公司有权暂停履行维护服务。

- 5.2.5.** In the event Customer purchases additional Software licenses under this License Agreement, Company may immediately invoice Customer for the additional Maintenance and Support Fees on a pro-rata basis based on the number of days remaining in the then-current term.

如果客户根据本协议购买了其他软件许可，公司可以立即根据当前期限内剩余的天数按比例向客户开具额外维护和支持费用的发票。

- 5.3. Reimbursable Costs.** Customer shall reimburse Company for all travel and living expenses incurred by Company personnel in connection with the Maintenance Services and any other services rendered in connection with the Agreement. All extraordinary travel and living expenses must receive Customer's approval. Upon Customer's reasonable request, Company shall provide Customer with substantiation of travel and living expenses incurred by Company personnel.

可报销费用。客户应报销公司人员因维护服务和与本协议相关的任何其他服务而产生的所有差旅费和生活费。所有额外的差旅和生活费用必须得到客户的批准。根据客户的合理要求，公司应向客户提供公司人员发生的差旅费和生活费的证明。

- 5.4. Payment Terms.** Unless otherwise agreed in the applicable Order Form, Customer shall pay the License Fee, the Maintenance and Support Fee and all other fees and expenses incurred in connection with the Agreement within thirty (30) days of the date of the applicable invoice.

付款条件。除非适用订单中另有约定，否则客户应在适用发票日期后三十（30）天内支付许可费、维护和支持费以及与本协议相关的所有其他费用。

- 5.5.** A finance charge equal to the lesser of (a) one and one-half percent (1.5%) per month or (b) the maximum amount allowed by law shall be charged on any past due amounts. Payments by Customer shall be applied first to accrued interest and then to the principal unpaid balance. Any attorney fees, court costs, or other costs incurred by Company in the collection of past due amounts shall be paid by Customer. If payment of invoices is not current, Company may suspend performing further work.

对于任何逾期款项，公司应收取等于（A）每月百分之一点五（1.5%）或（b）法律允许的最大金额中的较小者的财务费用。客户的付款应首先用于应计利息，然后用于未付本金余额。任何律师费、诉讼费或公司在收取逾期款项时产生的其他费用应由客户支付。如果发票付款不及时，公司可以暂停进一步的工作。

- 5.6.** All amounts payable by Customer pursuant to the Agreement are exclusive of taxes. Accordingly, there will be added to any such amounts a monetary sum equal to any and all current and future applicable taxes, however designated, incurred as a result of or otherwise in connection with the Agreement or the Software Materials, including, without limitation, federal, state and local privilege, excise, sales, services, withholding, and use taxes and any taxes or other amounts in lieu thereof paid or payable by Customer (other than taxes based on Company's net income). If Customer does not pay such taxes, Company may make such payments and Customer shall reimburse Company for those payments. Customer shall indemnify, defend and hold harmless the Company Indemnitees from any and all Losses and threatened Losses due to third party claims arising out of or in connection with Customer's failure to pay applicable taxes and related costs, interests and penalties.

客户根据本协议支付的所有款项均不含税。因此，将在任何此类金额中增加一笔金额，等于因本协议或软件材料而产生的或与本协议或软件材料有关的任何及所有当前和未来适用的税款，无论其如何指定，包括但不限于联邦、州和地方特权、特许权、消费、销售、服务、预扣等税，以及使用税收或其他金额代替了客户已付或应付的任何税款或其他金额（基于公司净收入的税款除外）。如果客户不支付此类税款，公司可支付此类款项，客户应向公司偿还此类款项。客户应赔偿、保护并使公司受偿人免受因客户未能支付适用税款和相关成本、利息和罚款而引起的或与之相关的第三方索赔造成的任何损失和潜在损失。

- 5.7.** All amounts payable hereunder by Customer shall be payable in EUR.

客户根据本协议应支付的所有款项应以欧元支付。

6. PROPRIETARY RIGHTS.
所有权

- 6.1.** The Software Materials and all copyright, patent, trade secret, trade mark and other proprietary and intellectual property rights of any kind arising in the Software Materials, and in all other written or oral information provided by Company to Customer in connection with the Agreement, are and shall remain the exclusive property of Company.

软件材料和所产生的所有版权、专利、商业秘密、商标和其他任何形式的专有和知识产权，以及公司向客户提供的与本协议有关的所有其他书面或口头信息，均为公司的专有财产，并应继续为公司的专有财产。

- 6.2. Customer shall notify Company immediately if Customer becomes aware of any unauthorized use or infringement of the whole or any part of the Software Materials by any person or entity.

如果客户发现任何个人或实体未经授权使用或侵犯全部或部分软件资料，应立即通知公司。

- 6.3. Customer grants to Company a worldwide, perpetual, irrevocable, royalty-free right and license to use and incorporate into Company's products and services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer relating to the operation of Company's products and services.

客户授予公司一项全球性、永久性、不可撤销、免版税的权利和许可，允许公司使用并将客户提供的与公司产品和服务运营有关的任何建议、改进请求、更正或其他反馈纳入公司产品和服务。

7. INDEMNIFICATION. 赔偿

- 7.1. Company shall defend Customer against claims brought against Customer by any third party alleging that Customer's use of the Software Materials, in accordance with the terms of the Agreement, constitutes an infringement or misappropriation of such third party's patent, copyright or trade secret rights ("IP Claims"). Company shall pay damages finally awarded against Customer (or the amount of any settlement Company enters into) with respect to IP Claims. This obligation of Company shall not apply if the alleged infringement or misappropriation results from (a) Company's compliance with any designs, specifications or instructions provided by or on behalf of Customer; (b) modification of the Software Materials by or on behalf of Customer; (c) combination, operation or use of the Software Materials with non- Company products, software or business processes; or (d) Customer's violation of, or access to or use of the Software Materials other than as permitted by, the Agreement or the Software Documentation. Customer shall indemnify, defend and hold harmless the Company Indemnitees from any and all Losses and threatened Losses due to third party claims arising out of or in connection with (i) Customer's breach of its obligations under the Agreement or (ii) the activities described in items (a), (b), (c) and (d) above.

公司应对任何第三方声称客户根据本协议条款使用软件材料构成对该第三方的专利、版权或商业秘密权利的侵犯或盗用(“知识产权索赔”), 为客户进行辩护, 公司应就知识产权索赔向客户支付最终裁定的损害赔偿金(或公司达成的任何和解金额)。如果被指控的侵权或盗用是由于(a)公司遵守了客户或其代表提供的任何设计、规范或指示;(b)客户或其代表修改软件材料;(c)将软件材料与非公司产品、软件或业务流程相结合、操作或使用(d)客户违反、访问或使用本协议或软件文件允许以外的软件资料, 则客户应赔偿、保护并使公司受偿人免受因(i)客户违反其在本协议项下的义务或(ii)因上述(a), (b), (c)和(d)项所述活动而引起的或与之相关的第三方索赔造成的任何及所有损失和潜在损失。

- 7.2. If Company believes that the Software Materials may have violated a third party's intellectual property rights, Company may elect to either modify the Software Materials or obtain a license to allow Customer to continue to use the Software Materials. If neither of these alternatives is commercially reasonable, in Company's sole discretion, Company may terminate Customer's ability to further access to and use of the applicable Software Materials.

如果公司认为软件资料可能侵犯了第三方的知识产权, 公司可以选择修改软件资料或获得许可证, 允许客户继续使用软件资料。如果上述两种替代方案在商业上都不合理, 公司可自行决定终止客户进一步访问和使用适用软件材料的权限。

- 7.3. The indemnification obligations under this **Section 7** are conditioned on: (a) the party against whom a third party claim is brought (the "Indemnified Party") timely notifying the other party (the "Indemnifying Party") in writing of any such claim, provided however that the Indemnified Party's failure to provide or delay in providing such notice shall not relieve the Indemnifying Party of its obligations under this **Section 7** except to the extent such failure or delay prejudices the defense; (b) the Indemnifying Party having the right to fully control the defense of such claim; and (c) the Indemnified Party reasonably cooperating in the defense of such claim. Any settlement of any claim shall not include a financial or specific performance obligation on or admission of liability by the Indemnified Party, provided however that Company may settle any claim on a basis requiring Company to substitute for the Software Materials any alternative substantially equivalent non-infringing software materials. The Indemnified Party may appear, at its own expense, through counsel reasonably acceptable to the Indemnifying Party.

本第7条规定的赔偿义务的条件是:(a)第三方索赔所针对的一方(“受偿方”)及时以书面形式通知另一方(“赔偿方”), 但受偿方未能提供或延迟提供此类通知不得免除赔偿方在本第7条下的义务, 除非该等不履行或延迟损害了抗辩;(b)赔偿方有权完全控制此类索赔的抗辩;以及(c)被赔偿方合理配合此类索赔的抗辩。任何索赔的解决不应包括受偿方的财务或具体履行义务或承认责任, 但公司可在要求公司替换任何实质上等效的非侵权软件材料的基础上解决任何索赔。受偿方可自费通过受偿方合理接受的律师出庭。

- 7.4. The provisions of this **Section 7** state the sole, exclusive and entire liability of Company, its Affiliates and their respective licensors to Customer, and is Customer's sole remedy, with respect to third party claims covered hereunder and to the infringement or misappropriation of third-party intellectual property rights.

本第7条规定了公司、其关联公司及其各自的许可方对客户的最唯一、排他的和全部责任, 并且是客户对本协议所涵盖的第三方索赔以及对第三方知识产权的侵权或盗用的唯一补救措施。

8. NON-DISCLOSURE.

保密

- 8.1. For the purposes of this **Section 8**, the term "**Disclosing Party**" refers to a party in the case of such party's disclosure of Confidential Information to the other party, and the term "**Recipient**" refers to a party in the case of such party's receipt of Confidential Information from the other party.

就第8条而言，“披露方”是指一方向另一方披露机密信息，而“接收方”是指一方从另一方收到机密信息。

8.2. Definition of Confidential Information.

机密信息的定义

- 8.2.1. "**Confidential Information**" means (subject to **Sections 8.2.2** and **8.2.3**) information that Disclosing Party provides to Recipient, including, without limitation, information regarding Disclosing Party's technology, software, code, plans, pricing, specifications, marketing or promotion, customers, and practices.

“机密信息”是指（根据第8.2.2节和第8.2.3节的规定）披露方向接受方提供的信息，包括但不限于披露方的技术、软件、代码、计划、定价、规范、营销或推广、客户和实践的信息。

- 8.2.2. Information as described in **Section 8.2.1** shall be deemed Confidential Information only under the following circumstances: (a) if in written or tangible form, is stamped or marked as "proprietary" or "confidential" (or bears a similar legend), (b) if in oral form, is identified as confidential at the time of disclosure or in a written memorandum provided to Recipient's primary representative within thirty (30) days of disclosure that summarizes the information disclosed, or (c) is treated as confidential by Disclosing Party and is the type of information that Recipient should reasonably have understood to be confidential. Notwithstanding the foregoing, any information contained or embodied in the Software Materials or the Specifications, or otherwise disclosed or made available to Customer by or on behalf of Company pursuant to or in connection with the Agreement (whether orally or in writing) shall be deemed to be Confidential Information of Company whether or not such information is expressly stated to be confidential or marked as such.

只有在下列情况下，第8.2.1节所述信息才应视为机密信息：（a）以书面或有形形式，加盖或标记为“专有”或“机密”（或带有类似的图例），（b）以口头形式，在披露时或在披露后三十（30）天内提供给接受方主要代表的书面备忘录中确定为机密，该备忘录总结了披露的信息，或（c）被披露方视为机密，并且是接收方本应合理理解为机密的信息类型。尽管有上述规定，软件材料或规范中包含或体现的任何信息，或由公司或代表公司根据本协议或与本协议相关的其他方式（口头或书面）向客户披露或提供的任何信息，应视为公司的机密信息，无论是否此类信息明确声明为机密信息或标记为机密信息。

- 8.2.3. Confidential Information does not, however, include any information that: (a) is or becomes publicly available without Recipient's breach of any obligation owed Disclosing Party; (b) became known to Recipient prior to Disclosing Party's disclosure of such information to Recipient; (c) became known to Recipient from a source other than Disclosing Party other than by the breach of an obligation of confidentiality owed to Disclosing Party; or (d) is independently developed by Recipient.

保密信息不包括以下任何信息：（a）在接收方未违反其对披露方的任何义务的情况下公开提供的信息；（b）在披露方向接收方披露此类信息之前为接收方所知的信息；（c）从披露方以外的其他来源而非因违反对披露方的保密义务而为接收方所知；或（d）由接收方独立开发。

8.3. Non-Disclosure and Non-Use of Confidential Information.

保密信息的不披露和不使用

- 8.3.1. Confidential Information is provided to Recipient for review and evaluation only and may only be used by Recipient to the extent necessary to perform its obligations under the Agreement. No other use is permitted.

保密信息仅提供给接受方审查和评估，且仅可由接收方在履行其在本协议项下义务的必要范围内使用。不允许作其他用途。

- 8.3.2. Recipient shall not disclose Confidential Information to anyone other than its employees and contractors who legitimately need access to it for permitted use. Recipient shall notify its employees and contractors who are given access to Confidential Information that they have an obligation not to disclose Confidential Information in violation of this **Section 8** and shall take such steps as are reasonably necessary to ensure compliance with this obligation.

接受方不得将机密信息披露给其雇员和承包商以外的任何人，且其雇员和承包商需有正当理由需要获得机密信息，方可许可其使用。接受方应通知其获得保密信息的雇员和承包商，其有义务不违反第8节的保密信息，并应采取合理必要的措施确保遵守该义务。

- 8.3.3. Recipient shall safeguard Confidential Information with reasonable security means at least equivalent to measures that it uses to safeguard its own confidential information (but not less than commercially reasonable measures). Recipient shall store Confidential Information in a safe and secure location.

接受方应以合理的安全手段保护机密信息，至少等同于其用于保护自身机密信息的措施（不少于商业上合理的措施）。接受方应将保密信息储存在安全的地方。

- 8.3.4. Recipient may make copies of Confidential Information only as is necessary for it to perform its obligations under

the Agreement. Recipient shall reproduce on any copy of Confidential Information all copyright, trademark, trade secret, confidentiality, and patent notices found on the original of such Confidential Information. Recipient shall not reverse engineer any Confidential Information in hardware or software form. Recipient shall not use the Confidential Information for any product design or development unless otherwise expressly agreed in writing by Disclosing Party.

接受方仅可在履行其在本协议项下义务所必需的情况下复制保密信息。接收方应在保密信息的任何副本上复制在该保密信息原件上的所有版权、商标、商业秘密、保密和专利通知。接受方不得对任何硬件或软件形式的机密信息进行反向工程。接受方不得将保密信息用于任何产品设计或开发，除非披露方另有明确书面约定。

- 8.3.5.** The obligations regarding Confidential Information in this License Agreement shall apply for five (5) years after expiration or termination of this License Agreement.

本许可协议中有关保密信息的义务应在本许可协议期满或终止后五（5）年内适用。

- 8.4. Reservation of Rights.** No rights to Confidential Information are granted by implication and nothing in this Section 8 shall be construed as obligating a party to disclose its Confidential Information to the other party, or as granting to or conferring on a party, expressly or impliedly, any rights, title or interest (including license) in or to any Confidential Information of the other party. In addition to the restrictions of this License Agreement, Disclosing Party reserves its rights under any of its patents, copyrights, trademarks, or trade secrets except as otherwise expressly provided in the Agreement.

保留权利。 保密信息的任何权利均不得通过暗示授予，本第8条的任何规定不得解释为一方有义务向另一方披露其保密信息，或明示或默示地授予或授予一方任何权利，另一方机密信息的所有权或权益（包括许可证）。除本许可协议的限制外，披露方保留其在任何专利、版权、商标或商业秘密下的权利，除非本协议另有明确规定。

- 8.5. No Warranty.** ALL CONFIDENTIAL INFORMATION IS PROVIDED "AS IS," WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND.

无担保。 所有机密信息均按“原样”提供，无任何形式的明示或默示保证。

- 8.6. Return of Confidential Information.** Within ten (10) business days of receipt of Disclosing Party's written request or when negotiations or business relations between Disclosing Party and Recipient cease (whichever is earlier), Recipient shall, at Disclosing Party's option, return to Disclosing Party, or destroy, all documents containing Disclosing Party's Confidential Information, including all copies of such Confidential Information made by Recipient. For purposes of this **Section 8.6**, the term "documents" includes any medium, including paper, disks, optical media, magnetic memory, and any other means of recording information. Recipient shall, upon request, certify in writing that it has complied with this **Section 8.6**.

保密信息的归还。在收到披露方的书面请求后十（10）个工作日内，或在披露方与接受方之间的谈判或业务关系终止（以较早者为准）时，接受方应根据披露方的选择，将包含披露方机密信息的所有文件退还或销毁，包括接收方提供的所有保密信息副本。就**第8.6节**而言，“文件”一词包括任何媒介，包括纸张、磁盘、光学媒介、磁存储器和任何其他记录信息的手段。应要求，接收方应以书面形式证明其已遵守**第8.6节**的规定。

9. TERM AND TERMINATION. **期限和终止**

- 9.1. Term.** This License Agreement shall remain in effect from the Effective Date of the applicable Order Form until terminated by each party, without cause, by giving a ninety (90) days written notice of such termination to the other party, or as set forth in **Section 9.2** or elsewhere in the Agreement.

期限。本许可协议应自适用订单的生效日期起持续有效，直至双方在无理由的情况下，向另一方发出九十（90）天的书面终止通知，或按照**第9.2节**或本协议其他部分的规定终止本许可协议。

9.2. Termination. **终止**

- 9.2.1. Material Breach.** If a party (the "Breaching Party") commits a material breach of this License Agreement or an Order Form, which breach is not cured within thirty (30) days after notice of the breach from the other party (the "Non-Breaching Party"), then Non-Breaching Party may, by giving notice to Breaching Party, terminate this License Agreement and/or the applicable Order Form, with respect to all or any part of the Software Materials and Maintenance Services, as of a date specified in the notice of termination.

重大违约。 如果一方（“违约方”）严重违反本许可协议或订单，且在另一方（“非违约方”）发出违约通知后三十（30）天内未能纠正违约行为，则非违约方可向违约方发出通知，自终止通知中规定的日期起，终止本许可协议和/或适用于软件材料和维护服务的全部或任何部分的订单。

- 9.2.2. Non-Payment.** If Customer fails to pay undisputed charges then due and owing under the Agreement by the specified due date, then, if Customer fails to cure such default within thirty (30) days of notice from Company of its intention to terminate, Company may, by notice to Customer, terminate this License Agreement and/or the applicable Order Form, with respect to all or any part of the Software Materials and Maintenance Services, as of a date specified in the notice of termination.

未付款。如果客户未能在规定的到期日前支付本协议项下当时到期应付的无争议费用，那么，如果客户未能在公司发出终止意向通知后三十（30）天内纠正此类违约行为，公司可以向客户发出通知，终止本许可协议和/或适用的订单截至终止通知中规定的日期，终止提供所有或任何部分的软件资料和维护服务。

- 9.2.3. Insolvency.** If a party (a) files for bankruptcy, (b) becomes or is declared insolvent, or is the subject of any proceedings (not dismissed within sixty (60) days) related to its liquidation, insolvency or the appointment of a receiver or similar officer for such party, (c) makes an assignment for the benefit of all or substantially all of its creditors, (d) takes any corporate action for its winding-up, dissolution or administration, or (e) enters into an agreement for the extension or readjustment of substantially all of its obligations, then the other party may terminate this License Agreement and/or one or more Order Forms, with respect to all or any part of the Software Materials and Maintenance Services, as of a date specified in the notice of termination.

破产。如果一方（a）申请破产，（b）破产或被宣布破产，或是有与清算、破产或为该方指定接管人或类似管理人员等相关的任何程序（在六十（60）天内未被驳回），（c）为其所有或实质上所有债权人的利益进行转让，（d）清盘、解散或管理采取任何公司行动，或（e）就其基本所有义务的延期或调整达成协议，则另一方可能终止本许可协议和/或一份或多份订单，关于软件材料和维护服务的全部或任何部分，截至终止通知中规定的日期。

- 9.2.4. Effect of Termination.** Customer shall be liable for all payments to Company, including all fees and expenses for all Software Materials and Maintenance Services incurred up to the date on which any termination takes place.

终止效力。客户应负责向公司支付的所有款项，包括截至任何终止日期发生的所有软件材料和维护服务的所有费用和开支。

- 9.2.5. No Refund.** In the event of any termination hereunder, Customer shall not be entitled to any refund of any payments made by Customer, except as expressly stated otherwise in this Agreement.

不退款。在本协议终止的情况下，除非本协议另有明确规定，否则客户无权要求退还其支付的任何款项。

10. MISCELLANEOUS.

杂项

- 10.1. Insecurity and Adequate Assurances.** If reasonable grounds for insecurity arise with respect to Customer's ability make payments under the Agreement in a timely fashion, Company may demand in writing adequate assurances of Customer's ability to meet its payment obligations under the Agreement. Unless Customer provides the assurances in a reasonable time and manner acceptable to Company, in addition to any other rights and remedies available, Company may partially or totally suspend Company's performance while awaiting assurances, without any liability.

不安全和充分保证。如果客户根据本协议及时付款的能力出现不安全的合理理由，公司可以书面要求客户充分保证其履行本协议项下付款义务的能力。除非客户以公司可接受的合理时间和方式提供保证，否则除了任何其他可获得的权利和救济外，公司可在等待保证期间部分或全部暂停公司的义务，而不承担任何责任。

- 10.2. Severability.** Should any part of the Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect as if the Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. Any provision shall nevertheless remain in full force and effect in all other circumstances.

可分割性。如果本协议的任何部分因任何原因被宣布无效，该决定不得影响任何剩余条款的有效性，剩余条款应保持完全效力，如同本协议的无效部分已被取消一样。双方在此声明，将执行本协议的剩余部分，但不包括因任何原因被宣布无效的任何部分。任何规定在所有其他情况下仍然完全有效。

- 10.3. Waiver of Remedies.** No waiver of any rights arising under the Agreement shall be effective unless in writing and signed by a duly authorized signatory of the party against whom the waiver is to be enforced. No failure or delay by either party in exercising any right, power or remedy under the Agreement (except as expressly provided herein) shall operate as a waiver of any such right, power or remedy.

放弃补救措施。对本协议项下产生的任何权利的弃权，除非以书面形式作出并由被弃权方的正式授权签字人签署，否则无效。任何一方未能或延迟行使本协议项下的任何权利、权力或补救措施（除非本协议另有明确规定）不得视为放弃任何此类权利、权力或补救措施。

- 10.4. Independent Contractor.** Company is an independent contractor of Customer, and no employment agency, trust, partnership or fiduciary relationship is created by the Agreement.

独立合同方。公司是客户的独立合同方，本协议不建立任何职业介绍所、信托、合伙或受托关系。

- 10.5. Notices.** Customer shall give Company written notice within one hundred eighty (180) days of obtaining knowledge of the occurrence of any claim or cause of action which Customer believes that it has, or may seek to assert or allege, against Company, whether such claim is based in law or equity, arising under or related to the Agreement or to the transactions

contemplated hereby, or any act or omission to act by Company with respect to the Agreement. If Customer fails to give such notice to Company with regard to any such claim or cause of action and shall not have brought legal action for such claim or cause of action within said time period, Customer shall be deemed to have waived, and shall be forever barred from bringing or asserting such claim or cause of action in any suit, action or proceeding in any court or before any governmental agency or authority or any arbitrator. Except as otherwise specified in the Agreement, all notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within forty-eight (48) hours, and shall be deemed given when delivered to the address specified in the applicable Order Form or such other address as may be specified in a written notice in accordance with this Section. Any party may, by notice given in accordance with this Section to the other party, designate another address or person or entity for receipt of notices hereunder.

通知。若发生任何导致或可能导致客户向公司索赔或者起诉的事件，客户应当在获悉此等事件发生之日起180日内书面通知公司（并写明客户可能提出的权利主张或者诉称事由），而不论此等事件因为何种原因在何种情况下发生。如果客户未按照前述规定行事，将视为客户已就前述权利主张或诉称事由弃权，并永远不得基于该等事由而采取任何法律措施（包括但不限于向法院起诉、申请强制执行、提交行政裁决或调解、提交仲裁）。所有关于前述事项的通知或其他沟通均须以书面方式进行，以挂号信或者最可能快捷的方式送达，该些书面文件应在（48）小时内送抵并以手写体签署，根据本条规定送到下述明确的地址或类似其他在书面通知中指定的地址均视为已经送达。任何一方均可依据本条规定另行指定其它的地址、个人或实体接收该书面通知。

- 10.6. Assignment.** Customer shall not assign the Agreement, in whole or in part, without Company's prior written consent. Company may assign the Agreement, in whole or in part, without the prior written consent of Customer to (1) an Affiliate that agrees in writing to be bound by the terms and conditions of the Agreement or (2) an entity acquiring, directly or indirectly, Control of Company, an entity into which Company is merged or an entity acquiring all or substantially all of Company's assets, provided that the acquirer or surviving entity agrees in writing to be bound by the terms and conditions of the Agreement.

转让。未经公司事先书面同意，客户不得将其在本协议项下的任何权利或义务进行整体或部分进行转让或转包。未经客户事先书面同意，客户可以将协议整体或部分转让给：（1）同意受本协议条款和条件约束的关联公司；或（2）直接或间接获得公司控制权的实体，公司合并后的实体，全部或基本全部收购公司资产的实体，但前提是收购方或尚存实体书面同意受本协议条款和条件约束。

- 10.7. Representations; Counterparts.** Each person executing this License Agreement or the applicable Order Form on behalf of a party represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this License Agreement or the applicable Order Form and to bind such party with respect to all of its obligations hereunder and thereunder. This License Agreement and any Order Form may be executed (by original or telecopied signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

代表；对方代表。任何一方签署本协议或适用订购单的人都代表并保证其系经其一方合法授权，并代表其一方签署本协议，具有完全的权利和权限签署本协议并接受本协议就该方的义务条款的约束。本协议及任何订购单（通过原始或电传签名）都可以在对方处执行，每件均应被视为原件，但所有文件合在一起应构成同一份文件。

- 10.8. Residuals.** Nothing in the Agreement or elsewhere will prohibit or limit Company's ownership and use of ideas, concepts, know-how, methods, models, data, techniques, skill knowledge and experience that were used, developed or gained in connection with the Agreement.

存留。本协议的任何条款均不得禁止或限制公司对与本协议相关的所使用、开发或取得的思想、概念、专有技术、方法、模式、数据、技术、技巧和经验所拥有的所有权和使用权。

- 10.9. Non solicitation of Employees.** During and for one (1) year after the term of this License Agreement, Customer shall not solicit the employment of, or employ Company's personnel, without Company's prior written consent.

员工的竞业禁止。在本协议期限内及其届满后的（1）年内，客户不得在未经公司事先书面同意的情况下招揽或雇佣公司的人员。

- 10.10. Governing Law and Construction; Consent to Exclusive Jurisdiction.** The Agreement shall be governed by and construed in accordance with the **LAWS OF ITALY**, without regard to the principles of conflicts of law. Customer hereby irrevocably agrees that any suit, action, proceeding or claim against it arising out of or in any way relating to the Agreement, or under or in connection with any amendment, instrument, document or agreement delivered or which may in the future be delivered in connection herewith or arising from any relationship existing in connection with the Agreement, or any judgment entered by any court in respect thereof, **may be exclusively brought or enforced in the court located in Milan, ITALY.**

管辖法律和解释；同意专属管辖权。本协议应受意大利法律管辖并按照意大利法律解释，不考虑法律冲突原则。客户在此不可撤销地同意，或针对本协议，或因本协议而起，或与任何已交付的或将来可能交付的本协议的任何修订、文书、文件或协议有关，或与本协议现存关系有关的任何诉讼或索赔，或任何法庭做出的有关本协议的判决，都可以在位于意大利米兰的法院独家提起或执行。

- 10.11. Entire Agreement; Survival.** The Agreement states the entire agreement between the parties and supersedes all previous agreements, understandings, representations, warranties, contracts, proposals and all other communications between the parties respecting the subject matter hereof (oral or written). Company may modify this License Agreement at any time by

posting a revised version on Company's website (currently http://www.selerant.com/agreement/License_Agreement_EU.pdf) (the "Website") or by otherwise notifying Customer by email. The modified terms shall become effective upon posting or, if Company notifies Customer by email, as stated in the email message. By continuing to use the Software and/or Maintenance Services after the effective date of any modifications to this License Agreement, Customer agrees to be bound by the modified terms. It is Customer's responsibility to check the Website regularly for modifications to this License Agreement. Company last modified this License Agreement on the date listed at the end of this License Agreement.

完整协议；存续。本协议陈述了双方之间的完整协议，并取代双方之前就本协议标的（口头或书面）达成的所有协议、理解、陈述、担保合同、建议书和所有其他通信。公司可随时通过在公司网站（目前为 http://www.selerant.com/Agreement/License_Agreement_EU.pdf）（以下简称“网站”）发布修改版本的本协议来修改本协议，或通过电子邮件的方式通知客户，在电子邮件消息中说明协议更改。若在本协议修改的生效日期后继续使用软件和/或维护服务，则表示客户同意受修改后的条款的约束。客户有责任定期检查网站以查看对此协议的修改。公司最近一次修改本协议日期为协议末尾列出的日期。

- 10.12. Hierarchy.** In the event of any inconsistencies between this License Agreement and an Order Form, this License Agreement shall take precedence over the Order Form except to the extent the Order Form expressly states that it takes precedence over this License Agreement.

优先级。如果本许可协议与订购单不一致，则本许可协议应优先于订购单，除非订购单明确声明其优先于本许可协议。

- 11. DEFINITIONS.** The words "day", "month", "quarter" and "year" mean, respectively, calendar day, calendar month, calendar quarter and calendar year. Capitalized terms used herein but not defined herein shall have the meanings set forth in the applicable Order Form. The following terms, when used in the Agreement shall have the meanings specified below:

定义。“日”、“月”、“季”和“年”分别指日历日、日历月、日历季和日历年。本协议中使用到但未定义的首字母大写字母采用适用订购单中的定义。下列术语在本协议中使用时，指定含义为：

- 11.1. "Agreement"** means, collectively, this License Agreement and the Order Forms.

“协议”统指本许可协议和订购单。

- 11.2. "Affiliate"** means, generally, with respect to any entity, any other entity Controlling, Controlled by or under common Control with such entity.

“关联方”表示受该实体控制，或与该等实体共同控制的任何其他实体。

- 11.3. "Commencement Date"** means the day immediately following the day that the Software is installed at the Location.

“开始日期”是指软件在安装地点安装后的第二天

- 11.4. "Company Indemnitees"** means Company, its Affiliates and their respective officers, directors, employees, agents, representatives, successors and assigns.

“公司受偿人”是指公司、其关联公司及其各自的高级职员、董事、雇员、代理人、代表、继承人和受让人。

- 11.5. "Configuration"** means a change in one or more of the components of the Software listed in the Configurable Component Specification document (which is part of the Specifications) as such document may be updated from time to time by Company.

“配置”是指可配置组件规范文件（规范的一部分）中列出的一个或多个软件组件的变更，公司可不时更新该文件。

- 11.6. "Control"** and its derivatives means: (a) the legal, beneficial, or equitable ownership, directly or indirectly, of (i) at least fifty percent (50%) of the aggregate of all voting equity interests in an entity or (ii) equity interests having the right to at least fifty percent (50%) of the profits of an entity or, in the event of dissolution, to at least fifty percent (50%) of the assets of an entity; (b) the right to appoint, directly or indirectly, a majority of the board of directors; (c) the right to control, directly or indirectly, the management or direction of the entity by contract or corporate governance document; or (d) in the case of a partnership, the holding by an entity (or one of its Affiliates) of the position of sole general partner.

“控制权”及其衍生词表示：（a）直接或间接的（i）拥有某实体中所有表决权股权总数的百分之五十（50%）；或（ii）有权获得某实体利益的至少百分之五十（50%），或在实体解散时至少能获得百分之五十（50%）的资产；（b）直接或间接任命董事会多数成员的权利；（c）按照合同或企业治理文件，有权直接或间接地控制实体的管理或方向；或（d）若是合伙关系，则应是某实体（或其关联公司之一）的唯一普通合伙人。

- 11.7. "Current Release"** means the most current Release of the Software.

“当前版本”是指软件的最新版本。

- 11.8. "Customization"** shall mean any change to a component of the Software that is not a Configuration, including, without limitation: (a) a script file (.cs, .js, .vb); (b) a schema change in the database; (c) a User Defined Form; (d) a report or (e) a workflow file.

“定制”是指对非配置软件组件的任何更改，包括但不限于：（a）脚本文件（.cs, .js, .vb）；（b）数据库中的架构更改；（c）用户定义的表单；（d）报告或（e）工作流文件。

- 11.9. "Database Software" means Oracle Database or Microsoft SQL computer programs and procedures developed respectively by Oracle Corporation and Microsoft Corporation, the use of one of which is required for the operation of the Software.
“数据库软件”是指Oracle公司和Microsoft公司分别开发的Oracle数据库或Microsoft SQL计算机程序，软件的操作需要使用其中之一。
- 11.10. "Delivery Date" means the date the Software is to be delivered to Customer as specified in the applicable Order Form.
“交付日期”是指软件将按照适用订单中的规定交付给客户的日期。
- 11.11. "Equipment" means Customer's designated computer equipment on which the Software is running.
“设备”是指客户指定的运行软件的计算机设备。
- 11.12. "License Fee" means the fees for the License as specified in the applicable Order Form.
“许可费”是指适用订单中规定的许可费。
- 11.13. "Light Named User" means a Named User with view-only rights to the Software and, if and to the extent agreed by the parties, the right to approve product specifications when the necessary module is available in the License profile.
“轻度授权用户”是指仅对软件具有查看权限的授权用户，如果双方同意，则在许可证配置文件中提供必要模块时，有权批准产品规格。
- 11.14. "Location" means the Customer location where the Software is to be delivered and installed.
“位置”是指交付和安装软件的客户位置。
- 11.15. "Losses" means all losses, liabilities, damages (including punitive and exemplary damages), fines, penalties, interest and claims (including taxes), and all related costs and expenses (including reasonable legal fees and disbursements and costs of investigation, litigation, experts, settlement, judgment, interest and penalties).
“损失”是指所有损失、责任、损害赔偿（包括惩罚性和惩戒性损害赔偿）、罚款、罚金、利息和索赔（包括税款）以及所有相关成本和费用（包括合理的法律费用和支出以及调查、诉讼、专家、和解、判决、利息和罚款的成本）。
- 11.16. "Maintained Releases" means: (a) the last two (2) Current Releases of the Software (either right or left of decimal point); and (b) all previous Releases for a period of two (2) years after the launch date of their next Release.
“维护版本”是指：（a）软件的最后两（2）个当前版本（小数点的右边或左边）；和（b）下一版本发布日期后两（2）年内的所有先前版本。
- 11.17. "Maintenance and Support Fee" means the fee for the Maintenance Services as specified in the applicable Order Form, which may be increased by Company from time to time in accordance with [Section 5.2.3](#).
“维护和支持费”是指适用订单中规定的维护服务费，公司可根据[第5.2.3节](#)不时增加。
- 11.18. "Maintenance Services" means those services to be provided by Company to Customer pursuant to the terms and conditions outlined in [Exhibit 1](#) (Maintenance and Support Terms).
“维护服务”是指公司根据[附件1](#)（维护和支持条款）中概述的条款和条件向客户提供的服务。
- 11.19. "Named User" is defined as an individual authorized by Customer to use the Server Programs that are installed on a single server or on a server farm, regardless of whether the individual is actively using the Software at any given time. Each non-human operated device will be counted as a Named User in addition to all individuals authorized to use the Server Programs, if such device can access the Software. If multiplexing hardware or software (e.g., a TP monitor or a web server product) is used, this number must be measured at the multiplexing front end. Depending on the specific features of the Software and on Customer's indications about the kind and profile of its authorized users, the Named User can be enabled by Company to activate one or more different user profiles, each of them allowing access to a specific limited set of modules and functions of the Software, which might not correspond to the whole of the modules and functions of the Software as provided in the Specifications. As consequence, the License Fee for the single Named User might be construed pursuant to the width of the functions enabled in the corresponding assigned user profile.
“授权用户”是指经客户授权使用安装在单个服务器或服务器群上的服务器程序的个人，无论该个人是否在任何给定时间使用该软件。如果每个非人工操作的设备可以访问软件，则除了所有有权使用服务器程序的个人外，每个非人工操作的设备都将被视为授权用户。如果使用多路复用硬件或软件（例如，TP监视器或web服务器产品），则必须在多路复用前端测量该数字。根据软件的特定功能和客户对其授权用户的类型和配置文件的指示，公司可以启用授权用户来激活一个或多个不同的用户配置文件，每个用户配置文件都允许访问特定的有限的软件模块和功能集，这些模块和功能可能与软件的全部模块和功能如规范所述。因此，单个授权用户的许可费可以根据相应分配的用户配置文件中启用的功能的宽度来解释。
- 11.20. "Order Form" means all written order forms for Software and/or Maintenance Services entered into by Company and Customer containing the pricing and other specific terms and conditions applicable for the Software and/or Maintenance Services under the applicable Order Form.
“订购单”是指公司和客户签订的所有软件和/或维护服务的书面订单，其中包含适用订单下适用于软件和/或维护

服务的定价和其他特定的条款和条件。

- 11.21.** "Release" means any subsequent update, improvement, addition, modification, adaptation or development of the Software made available by Company to Customer pursuant to [Exhibit 1 \(Maintenance and Support Terms\)](#).
“发布”是指公司根据附件1（维护和支持条款）向客户提供的软件的任何后续更新、改进、添加、修改、改编或开发。
- 11.22.** "Software" means all computer programs and procedures developed by Company, owned by Company and/or licensed by third parties to Company, offered by Company to its customers in the form of machine-readable object code and on a license to use basis.
“软件”是指由公司开发、公司拥有和/或由第三方许可给公司的所有计算机程序，由公司以机器可读的目标代码和使用许可的形式提供给客户。
- 11.23.** "Software Documentation" means the operating manuals, customer instructions, technical literature and all other related materials in eye-readable form only as supplied to Customer by Company for aiding the use and application of the Software.
“软件文档”是指公司提供给客户的操作手册、客户使用说明、技术文献和所有其他相关材料，其格式仅供公司提供给客户，以帮助客户使用和应用软件。
- 11.24.** "Software Materials" means the Software and the Software Documentation.
“软件材料”是指软件和软件文档。
- 11.25.** "Server Program" means the Software program installed on a single system made of a single server machine or the server farm.
“服务器程序”是指安装在由单个服务器或服务器群组成的单个系统上的软件程序。
- 11.26.** "Specifications" means the functional specifications of the Software, including, without limitation, (a) the facilities and functions of the Software, (b) details of the environment in which the Software is designed to operate, (c) the language in which the Software is written and (d) the results the Software is designed to achieve.
“规范”是指软件的功能规范，包括但不限于（a）软件的设施和功能，（b）软件设计运行环境的详细信息，（c）软件的编写语言和（d）软件的设计结果。
- 11.27.** "Support Hours" means the hours between 9:00 am and 5:00 pm (of the time zone where the support facility is located) Monday to Friday (excluding public and statutory holidays) during which Company shall provide the Maintenance Services.
“支持时间”是指公司应提供维护服务的时间，为周一至周五上午9:00至下午5:00（支持设施所在时区）之间的时间（不包括公共和法定节假日）。

Last updated October 25, 2019

EXHIBIT 1

附录1

MAINTENANCE AND SUPPORT TERMS

维护和支持条款

1. **SERVICES.** Subject to Customer's compliance with its obligations under the Agreement, Company hereby agrees to provide the Maintenance Services to Customer, during the Support Hours, for the Maintained Releases.
服务。 在客户遵守其在本协议项下的义务的前提下，公司同意在支持时间内向客户提供维护服务，用于软件维护。
2. **TERM.** The initial term of the Maintenance Services shall commence on the Commencement Date and shall remain in force until the first anniversary of the Commencement Date. Thereafter, the term of the Maintenance Services shall automatically renew for additional terms of one (1) year each unless either party notifies the other party in writing of its desire not to renew at least ninety (90) days prior to the start of the renewal term.
期限。 软件维护服务的初始期限应自开始日期开始，并应保持有效，直至开始日期一周年。此后，维护服务的期限应自动延长一（1）年，除非任何一方在延长期限开始前至少九十（90）天以书面形式通知另一方其不希望延长。
3. **MAINTENANCE SERVICES.**
维护服务
 - 3.1. During the term of the Maintenance Services, Company shall provide Customer with Maintenance Services for the Maintained Releases of the Software licensed to Customer under the License Agreement.
在维护服务期间，公司应向客户提供根据许可协议许可给客户的软件的维护版本的维护服务。
 - 3.2. In order to receive Maintenance Services, Customer must designate a qualified English speaking contact within its organization (the "Contact Person") and provide Company with the contact details (including, without limitation, e-mail address and telephone number) for such Contact Person. Customer's Contact Person shall be Customer's authorized representative empowered to make necessary decisions for Customer or bring about such decisions without undue delay.
为获得维护服务，客户必须在其组织内指定一位合格的说英语的联络人（“联络人”），并向公司提供该联系人的详细联系方式（包括但不限于电子邮件地址和电话号码）。用户的联络人应是用户的授权代表，有权为用户作出必要的决定，或毫不延迟地促成有关决定。
 - 3.3. **Error Correction Services.** Company shall use reasonable efforts to correct any defects or errors found in the Software on the following basis:
错误修正服务。 公司应尽合理努力，在以下基础上修正软件中发现的任何缺陷或错误：
 - 3.3.1. If Customer discovers that a Maintained Release fails to substantially comply with the Specifications, Customer shall promptly submit a problem report via Company's online problem tracking system. The problem report must be in English and contain sufficient information to describe the nature of the defect or error and its impact on Customer's operations so as to enable Company to classify the defect or error.
如果客户发现维护版本实质上不符合规范，客户应通过公司的在线问题跟踪系统及时提交问题报告。问题报告必须是英文的，并包含足够的信息来描述缺陷或错误的性质及其对客户操作的影响，以便公司能够对缺陷或错误进行分类。
 - 3.3.2. Upon Company's request, Customer shall provide any additional detail, information, or data and/or perform tests on the Software in order to identify the defect or error.
应公司要求，客户应提供任何额外的细节、信息或数据，并/或对软件进行测试，以识别缺陷或错误。
 - 3.3.3. Upon Company's correction of such defect or error, Company shall deliver to Customer the corrected version of the object code of the Maintained Release in machine readable form.
在公司修正该等缺陷或错误后，公司应以机读形式向客户提供被维护版本的目标代码的修正版本。
 - 3.3.4. Company shall provide Customer with all such assistance, including, without limitation, site visits (to be charged at Company's then-current rate) as may be reasonably required by Customer to enable Customer to implement and use the corrected version of the Maintained Release.
公司应向客户提供所有此类协助，包括但不限于客户为其能够实施和使用已修订版本的维护版本而合理要求的现场访问（按公司当时的现行费率收取费用）。
 - 3.3.5. Company shall be under no obligation to correct defects or errors to the extent caused by:

公司没有义务修正以下原因造成的缺陷或错误:

- (a) any failure by Customer to comply with its obligations under the Agreement;
用户未能遵守其在本协议项下的义务;
- (b) use of the Software in a manner that was not intended or contemplated by the Software Documentation, or other misuse or abuse of the Software;
未以软件文档要求的方式使用本软件, 或对本软件的其他误用或滥用;
- (c) use of the Maintained Releases on or with computer equipment or programs that have not been approved or designated for use with the Maintained Releases in the Specifications;
在未获批准或指定与规格中的维护版本一起使用的计算机设备或程序上或与之一起使用维护版本;
- (d) any fault in the Equipment or database, or in any programs not supplied by Company and used in conjunction with the Maintained Releases;
设备或数据库, 或公司未提供并与维护版本一起使用的任何程序中的任何故障;
- (e) incorrect use of the Software or operator error;
不正确使用软件或操作员的错误;
- (f) any defects or errors that, in the reasonable opinion of Company, result from any modifications to the Maintained Releases made by any person other than Company;
在公司的合理意见下, 由公司以外的任何人对所维护的版本进行的任何修改所导致的任何缺陷或错误;
- (g) operation of the Software outside Company's recommended applicable operating procedures, requirements and environmental specifications as specified in the Software Documentation; or
未按软件文档中规定的建议的适用操作程序、要求和环境规范操作软件;或
- (h) accident, neglect, hazard or misuse, natural calamity, failure or fluctuation of electrical power or environmental conditions.
意外、疏忽、危害或误用、自然灾害、电力故障或波动或环境条件。

3.3.6. Customer shall grant Company access to Customer's facilities as reasonably necessary to allow Company to render the services described herein.

客户应允许公司在合理必要时使用其设施提供本文描述的服务。

3.3.7. The parties acknowledge that (a) the Software is complex, and that certain non-material errors and defects are incapable of correction or may require an inordinate amount of time and money to correct; and (b) certain errors are cosmetic and do not affect the accuracy of the data produced by the Software or deviate from the functional specifications set forth in the Software Documentation. If a defect or error falls into either of these categories, then Company shall have no obligation to correct such defect or error other than to use its reasonable efforts to correct such defect or error in any subsequent Release.

双方承认(a)“软件”是复杂的, 并且某些非实质性的错误和缺陷无法纠正或可能需要大量的时间和金钱来修正;(b)某些错误只是表面, 并不影响软件产生的数据的准确性或偏离软件文档中规定的功能规范。如果缺陷或错误属于这两类中的任何一种, 则公司没有义务修正此类缺陷或错误, 除非在随后的任何版本中尽其合理努力修正此类缺陷或错误。

3.3.8. In performing its obligations under this **Section 3.3**, Company may in its sole and absolute discretion: 在履行本**第3.3条**项下的义务时, 公司可全权和绝对酌情决定:

- (a) provide a local fix or patch to the Software;
为软件提供本地修补程序或修补程式;
- (b) provide a temporary solution;
提供临时解决办法;
- (c) schedule the resolution of the defect or error for inclusion in a subsequent Release;
将缺陷或错误的解决方案列入后续版本;
- (d) modify the Software Documentation to reflect operating limitations and correct operating procedures;

or
修改软件文档以反映操作限制和正确的操作程序;或

- (e) request such additional information from Customer as may be required to enable it to identify and correct the defect or error in question.
要求客户提供可能需要的附加信息，以使其能够识别和纠正问题中的缺陷或错误。

- 3.4. Documentation Amendment Service.** Customer shall notify Company in writing immediately if it discovers that the Software Documentation does not provide adequate or substantially correct instruction for the proper use of any features or functions of the Maintained Releases as set out in the Specifications. Upon receipt of Customer's notice, Company shall use reasonable endeavours to correct promptly the fault and provide Customer with appropriate updates to the Software Documentation.

文档修改服务。如果客户发现软件文档未能提供足够或基本正确的说明，以正确使用规范中规定的“维护版本”的任何特性或功能，则客户应立即书面通知公司。在收到客户通知后，公司应尽合理努力及时纠正错误，并向客户提供适当的软件文档更新。

- 3.5. Support Hours.** Company shall only be required to provide the Maintenance Services during the Support Hours.
支持时间。公司只需要在支持时间内提供维护服务。

- 3.6. Software Maintenance and New Releases Service.**
软件维护和新版本发布服务

- 3.6.1.** Company shall deliver to Customer the object code for each new Release in machine-readable form, together with any updates to the Software Documentation necessary to enable proper use of the altered features and functions of the new Release.
公司应以机器可读的形式向客户交付每个新版本的目标代码，以及任何必要的软件文档更新，以使新版本的功能得到适当利用。

- 3.6.2.** If required by Customer, Company shall provide training for Customer's staff in the use of the new Release as soon as reasonably practicable following delivery of the new Release at Company's then-current rates.
如客户要求，在新版本按公司当时的汇率交付后，在合理可行的情况下，公司应尽快为客户员工提供新版本的使用培训。

- 3.6.3.** If Customer accepts the new Release, Customer shall return the Software or the previous Release (as the case may be) and any part of the Software Documentation that has been superseded, and all copies of the whole or any part thereof, to Company, or, if required by Company, Customer shall destroy the same and certify in writing to Company that they have been so destroyed.
如果客户接受新版本，则客户应将软件或以前的版本（视情况而定）和被取代的软件文档的任何部分以及全部或部分的所有副本返还给公司，或者，如果公司要求，客户应将其销毁，并以书面形式向公司证明其已被销毁。

- 3.6.4.** If Customer does not accept the new Release, Customer shall return the new Release and all the updates to the Software Documentation, and all copies of the whole or any part thereof, to Company or, if required by Company, Customer shall destroy the same and certify in writing to Company that they have been so destroyed.
如果客户不接受新版本，客户应将新版本和软件文档的所有更新，以及全部或部分的所有副本返还给公司，或者，如果公司要求，客户应销毁它们，并以书面形式向公司证明它们已被销毁。

- 3.6.5.** Company shall be under no obligation to ensure that Customizations that were previously applied to the Software will be compatible or interoperate with any new Release.
公司没有义务保证以前应用于软件的定制部分与任何新版本兼容或交互使用。

- 3.6.6.** All new Releases provided to Customer (as well as any other Software Materials delivered to Customer) shall be subject to the terms and conditions of the Agreement.
向客户提供的所有新版本(以及交付给客户的任何其他软件材料)均应遵守本协议的条款和条件。

- 3.6.7.** Maintenance Services do not include advice or support related to the implementation and installation of upgrades or new Releases. If requested by Customer, such assistance and support shall be provided by Company as a separate service chargeable at Company's then current rates.
维护服务不包括与升级或新版本的实现和安装相关的建议或支持。如果客户提出要求，公司应将该等协助和支持作为单独的服务提供，并按公司当时的现行费率收取费用。

3.6.8. Company is not and shall not be obligated to develop new Releases.
公司没有义务开发新版本。

3.7. Support Service. Upon Customer's request, Company will provide Customer with support during the Support Hours. Such support may be provided via telephone, facsimile, electronic mail or post and may consist of:

支持服务。应客户要求，公司将在支持时间内为客户提供支持。这种支持可通过电话、传真、电子邮件或邮政提供，包括：

3.7.1. identification and verification of the causes of suspected errors or defects in the Maintained Releases;
识别和验证被维护版本中可疑错误或缺陷的原因；

3.7.2. workarounds for such identified and verified errors or defects, where reasonably possible;
在合理可能的情况下，针对这些已识别和验证的错误或缺陷的变通方法；

3.7.3. the completion of a fault report; and
完成故障报告；和

3.7.4. the status of any fault report previously submitted by Customer that has not yet been resolved by Company pursuant to the Agreement.
公司尚未根据协议解决的客户之前提交的任何故障报告的状态，。

Company will provide Customer with up to five (5) days of remote support services per each twelve (12) month period to assist Customer in evaluating the innovation capabilities of the latest Software enhancements and how these may be deployed for Customer's business process requirements. Details such as the exact date and time of such services shall be mutually agreed.

公司将为客户提供每12个月不超过5天的远程支持服务，以帮助客户评估最新软件增强的创新功能，以及如何根据客户的业务流程需求进行部署。服务的具体日期和时间等细节应由双方商定。

3.8. Service Levels.
服务级别

3.8.1. Service Levels for Supported Software. Company will use good faith efforts to achieve the Service Levels defined below.

支持软件的服务级别。公司将本着诚信的原则努力达到以下规定的服务水平。

Service Level Name 服务级别名称	Service Level 服务级别
Initial Response Time – Severity 1 初始反应时间-严重程度1	95% within 1 hour (measured during Support Hours) 在1小时内达到95%(在支持服务时间内)
Initial Response Time – Severity 2 初始反应时间-严重程度2	95% within 4 hours (measured during Support Hours) 在4小时内达到95%(在支持服务时间内)
Corrective Action Time – Severity 1 纠正措施时间-严重程度1	95% within 4 hours (measured during Support Hours) 在4小时内达到95%(在支持服务时间内)

"Severity 1" means a problem that causes substantial Customer production system downtime, system halts, data loss or corruption that renders the Software entirely unusable or non-functional and that can cause serious losses of service.

“严重程度1”指导致客户生产系统大量停机、系统暂停、数据丢失或损坏，导致软件完全不可用或不能使用，并可能导致严重服务损失的问题。

"Severity 2" means a problem where Customer's system is functioning but in a severely reduced capacity. Severity 2 errors have significant impact to portions of Customer's business operations and productivity. The system is exposed to potential loss or interruption of service.

“严重程度2”指用户系统功能正常但容量严重减少的问题。严重程度2错误对客户的部分业务操作和生产力的重大影响。系统暴露于潜在的服务丢失或中断。

"Severity 3" means a medium-to-low impact problem that involves partial non-critical functionality loss. One that impairs some operations but allows Customer to continue to function. It may be a minor issue with limited loss or no loss of functionality or impact to Customer's operation, or an issue in which there are means of

circumvention or avoidance by Customer.

“严重性3”指的是一个中到低影响的问题，包括部分非关键的功能损失。或一种削弱某些业务运作，但允许客户继续发挥作用的问题。这类问题造成的损失有限，或没有功能损失或影响客户的运作，以及客户有方法有效避免。

- (a) The Service Levels titled "Initial Response Time" measure Company's ability to notify Customer that Company has received an error report and has started working to correct the problem (a "**Response**") within the prescribed time period. These Service Levels are measured, during Support Hours, from the time that Company receives the applicable error report to the time when Company provides a Response or reduces the severity of the error report to Severity 3.

名为“初始响应时间”的服务级别衡量公司通知客户公司已收到错误报告并已开始在规定时间内纠正问题(“响应时间”)的能力。这些服务水平是在支持时间内测量的，从公司收到适用的错误报告到公司提供响应或将错误报告的严重程度降低到严重程度3的时间。

- (b) The Service Level titled "Corrective Action Time" measures Company's ability to provide a solution, workaround or action plan for the error in question (each, a "**Correction**") within the prescribed time period. This Service Level is measured, during Support hours, from the time that Company receives the applicable error report to the time when Company provides a Correction or reduces the severity of the error report to Severity 2 or Severity 3.

名为“纠正行动时间”的服务水平衡量公司在规定的时间内为问题中的错误(每个“纠正”)提供解决方案、变通方法或行动计划的能力。在支持时间内，从公司收到适用的错误报告，到公司提供纠正或将错误报告的严重程度降低到二级或三级，对该服务水平进行测量。

- (c) The Service Level titled "Corrective Action Time" only counts time when the error report is being processed by Company ("**Processing Time**"). Processing Time does not include time when the error report is not being processed by Company, such as when the status of the error report is classified as "Partner Action," "Customer Action," "Waiting for Customer Details" or "Selerant Proposed Solution."

名为“纠正措施时间”的服务级别只计算公司处理错误报告的时间(“处理时间”)。处理时间不包括错误报告未被公司处理的时间，例如错误报告的状态被归类为“合作伙伴行动”、“客户行动”、“等待客户详细信息”或“Selerant建议的解决方案”。

- The status classification "Partner Action" means the error report was handed over to a technology or software partner of Company or a third party vendor of Company outside Company's organization for further processing.
状态分类“合作伙伴”是指错误报告被提交给公司的技术或软件合作伙伴或公司组织外部的第三方供应商进行进一步处理。
- The status classification "Customer Action" or "Waiting for Customers Details" means the error report was handed over to Customer.
状态分类“客户操作”或“等待客户详细信息”意味着错误报告已提交给客户。
- The status classification "Selerant Proposed Solution" means Company has provided a Correction
状态分类“希乐仑拟议解决方案”表示公司已经提供了更正。

- (d) If Company provides an action plan to Customer, such action plan will include descriptions of:

如果公司向客户提供行动计划，该行动计划应包括以下内容：

- the status of the resolution process;
决议过程的状况；
- the next steps planned by Company and the responsible person(s) allocated by Company;
公司计划的下一步工作和公司分配的负责人；
- required cooperation by Customer;
客户需要的合作
- date and time for the next status update from Company; and
公司下一次更新状态的日期和时间，和
- estimated due dates for actions taken by Company, to the extent these are capable of being provided.
在公司能够提供的范围内，公司估计采取行动的截止日期。

- (e) Company will provide regular status updates on the processing of Severity 1 error reports, which shall include:
公司将定期更新处理严重1级错误报告的状态, 包括:
- results of actions undertaken so far;
迄今采取行动的结果
 - next steps planned; and
下一步计划, 和
 - date and time for next status update.
下一次状态更新的日期和时间。
- (f) If there are fewer than twenty (20) Severity 1, Severity 2 or Severity 3 incidents in any calendar month, Company's performance shall be measured based on the twenty (20) most recent incidents of the same severity level, which shall include incidents from the prior quarter(s). For example, if there are fifteen (15) Severity 1 incidents in a given quarter, Company's performance shall be based on those incidents plus the five (5) most recent Severity 1 incidents from the prior quarter. This is true even though the five (5) Severity 1 incidents from the prior quarter will have already been counted in measuring Company's performance for that quarter.
如果任何日历月的严重程度1、2或3级的事件少于20起, 则公司的业绩应以相同严重程度最近20起事件为基础进行衡量, 其中应包括上一季度发生的事件。例如, 如果一个季度发生15起严重一级事件, 公司的业绩应以这些事件加上上一季度最近发生的5起严重一级事件为基础。即使上一季的五(5)宗严重一级事故已被计算在公司当季的表现内, 情况仍是如此。

3.8.2. Prerequisites. For Severity 1 error reports, the following prerequisites must be fulfilled by Customer:
先决条件。 对于严重程度1的错误报告, 客户必须满足以下先决条件:

- (a) The issue and its business impact must be described in detail;
必须详细说明问题及其业务影响;
- (b) An English-speaking counterpart must be assigned to assist Company during the time that Company is working to provide a Correction; and
必须指派一名说英语的对应人员, 在公司努力提供更正期间协助公司; 和
- (c) A contact person must be nominated for opening the remote connection to the system and to provide the necessary log-on data.
必须提名一名联络人, 负责开启系统的远端连接, 并提供所需的登入资料。

3.8.3. Exclusions. The following types of error reports are excluded from the Service Levels for "Initial Response Time" and "Corrective Action Time":
排除项。 以下类型的错误报告被排除在“初始响应时间”和“纠正措施时间”的服务级别之外:

- (a) Error reports relating to a Release, version and/or functionality of the Software developed specifically for Customer, including, without limitation, those developed by Company's professional services organization.
与专为客户开发的软件的发布、版本和/或功能相关的错误报告, 包括但不限于由公司的专业服务机构开发的软件。
- (b) Error reports relating to country versions that are not part of Company's standard version of the Software, including, without limitation, partner add-ons, enhancements, or modifications, even if these versions were created by Company or an associated organization.
与不属于公司软件标准版本的国家版本相关的错误报告, 包括但不限于合作伙伴附加组件、增强或修改, 即使这些版本是由公司或相关组织创建的。
- (c) The root-cause behind the error report is not a malfunction in the Software, but rather a missing functionality that is not included in Company's standard version of the Software or the error report is ascribed to a consulting or development request.
错误报告背后的根本原因不是软件的故障, 而是公司的软件标准版本中没有包含的功能缺失, 或错误报告归因于咨询或开发请求。

3.8.4. Service Level Non-Performance, Credits and Remedies.
服务水平不履行, 信用和补救措施

- (a) All Service Levels shall be measured on a quarterly basis, beginning on the first full quarter after the Effective Date of the applicable Order Form.
所有服务水平均须按季计算，由适用订单生效后第一个完整季度开始计算。
- (b) On the event that either of the Service Levels for Initial Response Time and/or the Service Level for Corrective Action Time are not met (each a "Failure"), the following rules and procedures shall apply:
如果初始响应时间的服务水平和/或纠正措施时间的服务水平都没有达到(每个都是“失败”), 则应适用下列规则和程序:
- Customer shall notify Company of any alleged Failure in writing. Such notice must be provided by Customer within thirty (30) days after the end of the quarter in which the alleged Failure occurred.
客户应以书面形式通知公司任何据称的失败。该通知必须是由客户在声称发生故障的季度结束后三十(30)天内提供。
 - Following receipt of Customer's notice, Company will provide Customer with a report that confirms or denies the accuracy of Customer's claim.
在收到客户的通知后，公司将向客户提供一份报告，同意或拒绝客户索赔。
 - Customer will provide reasonable assistance to Company in its efforts to correct any problems or processes inhibiting Company's ability to meet the Service Levels.
客户将向公司提供合理的协助，以纠正任何妨碍公司满足服务水平的问题或过程。
 - If Company's report confirms the accuracy of Customer's claim, Company shall apply a service level credit (SLC) to Customer's next annual Maintenance and Support Fee equal to one quarter percent (0.25%) of the Maintenance and Support Fee applicable to the quarter in which the Failure in question occurred.
如果公司的报告确认客户索赔的准确性，公司应向客户的下一年度维护和支持费用申请服务级别信用（SLC），该信用金额等于所涉故障发生的季度所适用的维护和支持费用的四分之一。
 - SLCs are Customer's sole and exclusive remedy for any failure by Company to meet the Service Levels.
对于公司未能达到服务水平的情况，SLC是客户的唯一补救措施。
 - Per quarter, penalty payments shall in no event exceed a total of three quarters of one percent (0.75%) of the Maintenance and Support Fee as specified in the applicable Order Form applicable to such quarter.
在任何情况下，罚款总额不得超过适用于该季度的适用订单中规定的维护和支持费用的0.75%。

4. CUSTOMER'S OBLIGATIONS 客户的义务

- 4.1. In order to enable Company to provide the Maintenance Services in accordance with the Agreement, Customer shall:
为了使公司能够按照本协议提供维护服务，客户应:

- 4.1.1. use only the Maintained Releases;
只使用已维护的版本;
- 4.1.2. ensure that the Software and the Equipment are used in a proper manner by competent and appropriately trained employees or by persons under their supervision;
确保有能力和受过适当培训的雇员或在其监督下的人员以适当方式使用软件和设备;
- 4.1.3. keep full security copies of the Software and of Customer's databases and computer records in accordance with the industry best practice;
按照行业最佳实践保存软件的完整安全副本，以及客户的数据库和计算机记录;
- 4.1.4. not alter or modify the Software Materials in any way;
不得以任何方式改变或修改软件材料;
- 4.1.5. not request, permit or authorise anyone other than Company to provide any maintenance or other support services in respect of the Maintained Releases or the Software Documentation;
不得要求、允许或授权公司以外的任何人就被维护的版本或软件文档提供任何维护或其他支持服务;

- 4.1.6.** co-operate fully with Company's personnel in the diagnosis of any error or defect in the Software Materials;
与公司人员充分合作，对软件材料中的任何错误或缺陷进行诊断;
- 4.1.7.** make available to Company free of charge:
向公司免费提供:
- (a)** all information, facilities and services reasonably required by Company to enable Company to perform the Maintenance Services, including, without limitation, computer runs, core dumps, printouts, data preparation (including data required by Company to replicate any problem encountered with the Software or Maintenance Services), office accommodations, and word processing and photocopying capabilities; and
公司为使其能够提供维修服务而合理要求的所有信息、设施和服务，包括但不限于计算机运行，核心转储，打印输出，数据准备（包括公司复制软件或维护服务遇到的任何问题所需的数据），办公用具，和文字处理和复印功能；和
- (b)** such telecommunication facilities as are reasonably required by Company for testing and diagnostic purposes.
公司为测试和诊断目的合理需要的电信设施。
- 4.1.8.** grant Company all necessary authorizations, and in particular any authorizations needed for Company to perform problem analysis, as part of message handling;
授予公司所有必要的授权，特别是公司执行问题分析所需的任何授权，作为消息处理的一部分;
- 4.1.9.** provide first-level support to Customer's users (Company is only responsible for providing second-level support to Company's designated Contact Person); and
为客户用户提供一级支持(公司仅负责为公司指定联系人提供二级支持);和
- 4.1.10.** continue to pay all fees for the Maintenance Services in accordance with the Agreement.
继续按照协议支付维护服务的所有费用。
- 4.2.** Customer acknowledges that it is exclusively responsible for:
客户确认其对以下事项负全部责任:
- 4.2.1.** reviewing the new Releases prior to installation in Company's environment;
准备在公司环境中安装新版本之前进行审核;
- 4.2.2.** ensuring that its personnel are, at all time, educated and trained in the proper use and operation of the Maintained Releases;
确保其工作人员在任何时候都接受有关如何正确使用和操作最新软件版本的培训;
- 4.2.3.** ensuring that its personnel use and operate the Maintained Releases in accordance with the terms of the Agreement;
确保其人员按照协议条款使用和操作维护版本;
- 4.2.4.** processing its data and ensuring the security and accuracy of all inputs and outputs;
处理其数据，并确保所有输入和输出的安全性和准确性;
- 4.2.5.** checking all results obtained from its use of the Maintained Releases;
检查其使用维护版本所获得的所有结果;
- 4.2.6.** making regular back-up copies of its data to ensure recovery of such data in the event of a malfunction of the Maintained Releases; and
定期备份数据，以确保在维护的版本出现故障时能够恢复该等数据；和
- 4.2.7.** the selection, use of and results obtained from any other programs, equipment, materials or services used in conjunction with the Maintained Releases.
与维护版本一起使用的任何其他程序、设备、材料或服务的选择、使用和结果。