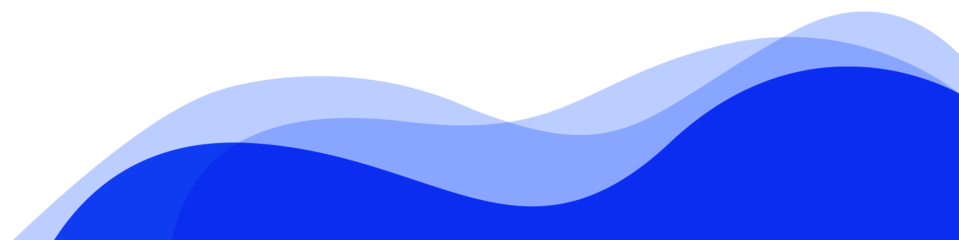


MASTER SOFTWARE AND SERVICES AGREEMENT



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1. Preamble

This Master Software and Services Agreement (as amended from time to time), herein referred to as this “Master Agreement” (“MA”) is by and between TydeCo Limited (“TYDECO”, “we” “us” or “our”) and “you” (together the “Parties”).

It contains the terms and conditions by which TYDECO shall provide the Software and Services (as defined in any addendum to this MA and include, but limited to, a Statement of Work (“SOW”), Order Schedule (“OS”), Service Level Agreement (“SLA”) defined below signed, attached and referencing the MA) to you and governs your use of the Software and Services.

The Parties state that their decision to enter into this Agreement is based only on the terms specified in this document, and neither Party is subject to any representation, warranty, or assurance not contained herein, whether express or implied.

2. Definitions and interpretation

In this Agreement, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

- 2.1 **“Affiliate”** means, in the case of either Party, any entity that, from time to time, is directly or indirectly controlling, controlled by, or under common control of said party. For the purposes of this definition, “control” means the power to direct or cause the direction of the management or policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.
- 2.2 **“Agreement”** means this Master Software and Services Agreement, inclusive of all Service Schedules, Statement of Work (“SOW”), Service Level Agreement (“SLA”) and other engagement letters, exhibits or addenda referred to or incorporated in them, executed under this MA, each of which may be amended from time to time.
- 2.3 **“Annual License Fee”** means the fee payable in terms of the relevant Order Schedule in terms of this Agreement by the Client;
- 2.4 **“Client”** or **“Customer”** means the licensee making use of the Software procured.
- 2.5 **“Client Data”** means the data, information or material the Client provide, input, process or submit into the Software or, and other content, in any form or medium, that is collected, downloaded, or otherwise received by TYDECO, directly or indirectly, from Client or an authorized third party or that incorporates or is derived from such information, data, or content by or through the Services, if applicable.
- 2.6 **“Charges and Fees”** means the charges and fees that TYDECO charges and the Client is obligated to pay for the Software and/or Services as specified or referred to in the relevant Statement of Work or Service Level Agreement.
- 2.7 **“Client Materials”** means information, software or other materials provided to TYDECO by or on behalf of the Client, which TYDECO is required to host, use, or modify in the provisions of the Services.
- 2.8 **“Commencement Date”** means the earlier of either the Signature Date of this Agreement or the start date as specified in the relevant Service Schedule or Order Schedule.
- 2.9 **“Disclosing Party”** means the Party that is disclosing its Confidential Information under the terms and conditions of this Agreement.
- 2.10 **“Consent”** means any voluntary, specific and informed expression of will in terms of which permission is given for the processing of personal information.
- 2.11 **“Customer Data”** means any and all (data and information, inclusive of Personal Data, that is either provided by the Client to TYDECO, or inputted, uploaded, and/or shared by the Client, the Client’s Staff, or Company acting on behalf of the Client, with the intent of utilising the Service or facilitating the Client’s use of the Service, and (ii) data that the Customer collects and processes in the course of using the Service.
- 2.12 **“Documentation”** means the online or written user guides, specifications and manuals regarding the Software made available to the Client, and any updates thereto.
- 2.13 **“Initial License Fee”** means the initial fees payable for the Licensed Materials as set out in this MA or any other document issued by TYDECO.

- 2.14 **“Know-How”** refers to all ideas, designs, documents, data, trade secrets, and methods related to a Party’s business, including marketing and promotional information, as well as any modifications or improvements that are not entirely new products or services.
- 2.15 **“License File”** means the applicable order and the file with the Software components licensed to the Client.
- 2.16 **“Order Schedule”** means the applicable order document signed by TYDECO and the Client containing the details of the Software procured by the Client as well as the fees which together with this MA forms a binding contract between the Client and TYDECO;
- 2.17 **“Personal information”** means any information about a living human being or existing organisation (as applicable data protection laws require), provided that someone is capable of identifying them from that information
- 2.18 **“Personnel”** means, in relation to a party, without limitation, employees, directors, agents, consultants, contractors, subcontractors, professional advisers, or other representatives of such party, while “Employees” of a party is limited to employees (whether permanent or fixed term) and directors of the party;
- 2.19 **“Receiving Party”** means the Party receiving Confidential Information from the Disclosing Party under the terms and conditions of this Agreement.
- 2.20 **“Service Schedules”** means any service schedule with a specific and agreed written statement of requirements, start date and possible end date, tasks and deliverables defining in detail the scope, all technical, aesthetic, operational and functional characteristics and related requirements, acceptance criteria, cost and delivery schedule of each portion of the service forming part of this Agreement and which governs the provision of any Service(s) by the Company to the Client to which the terms of this Agreement shall apply.
- 2.21 **“Signature Date”** means the date of signature of this Agreement by the Party last signing.
- 2.22 **“Software”** means the computer programs licensed to the Client pursuant to this MA, including any upgrades, modifications, enhancements or corrections thereto, in accordance with the specific in machine readable object code form, and/or any part thereof and any back-up copies made in accordance with this Agreement;
- 2.23 **“Staff”** means any natural person who is either an employee, consultant or sub-contractor of either Party.
- 2.24 **“Tier 1 support”** means basic troubleshooting and end-user assistance. Support representatives will respond to initial queries, answer routine questions, perform basic diagnostics, and address simple issues that can be resolved quickly. Activities include tasks such as password resets, new user onboarding and termination processing, and software installation or access-administration for individual users.
- 2.25 **“Writing” or “written”** means any written document, including letters and electronic communication, as contemplated in the Personal Information Protection and Electronic Documents Act (PIPEDA) as amended from time to time, but excluding electronic messages transmitted (i) by mobile or cell phone short message text services, and (ii) by using local networks or platforms such as WhatsApp and other similar social media networks or platforms.

In this Agreement:

- 2.26 headings are for convenience only and shall not affect its construction or interpretation;
- 2.27 words of a technical nature shall be construed in accordance with the relevant general usage in the computer software industry;
- 2.28 references to a person include an individual, a body corporate and an unincorporated association of persons;
- 2.29 any gender includes the other genders; use of the singular shall be treated as including the plural and vice versa;
- 2.30 any reference to “business hours” shall be construed as being the hours between 08:00 to 17:00 on any business day.
- 2.31 Any reference to time shall be based upon EAST (North America) or GMT (UKIA).
- 2.32 “days” shall be construed as calendar days unless qualified by the word “Business” in which instance a “business day” will be any day other than a Saturday, Sunday or public holiday; and

3. Appointment

The Client hereby appoints TYDECO, and TYDECO hereby accepts such appointment, to provide the Services as described in the Addendums, subject to and in accordance with the terms and conditions set forth in this MA.

4. Agreement Structure and Service Schedules

The Parties agree that -

- 4.1 This Agreement is intended to function as a master service agreement, with Addendums referenced in 2.2 above, to be executed under this Agreement.
- 4.2 The terms and conditions of this Agreement shall apply mutatis mutandis to each and every Service Schedule and documentation in clause 2.2 above that the Parties may enter into.
- 4.3 Each Service Schedule executed under this Agreement shall be deemed as part of this Agreement as if fully set forth herein.
- 4.4 An addendum can modify the terms and conditions of this MA solely regarding the subject matter of that addendum, provided the document clearly identifies the specific clause in this MA being amended and explicitly states that the Parties intend to amend that clause.
- 4.5 In the event of a conflict or inconsistency between the provisions of this MA and any Addendum, the provisions of this MA shall prevail to the extent of such conflict or inconsistency.
- 4.6 The terms of a particular Addendum apply only to that Addendum, and each Addendum may be terminated according to **clause 16** or the specific termination provisions within the relevant Addendum, without impacting the other Service Schedules.

5. Effective date

The Effective date of this Agreement shall be the date on which the Client signs the MA (signature date) or the date on which the Client accesses and uses the Software for the first time, whichever date is earlier.

6. Licence and term

- 6.1 As from the Effective Date, the Client will be granted a non-exclusive, non-transferable, non-sublicensable, perpetual license to use and access the Software and Licensed materials for the number of users set out in the Order Schedule.
- 6.2 The Client accepts the licence granted to it in terms of the Order Schedule and acknowledges that it obtains no rights of ownership of the Software.
- 6.3 The Terms and Conditions commence on the Effective Date specified in the Addendum/s and will remain in force during the term. Unless otherwise stated in Addendums, the Initial Term of each Service is one year from the Effective date and will automatically renew for additional one-year periods unless one party gives at least 60 (sixty) days written notice prior to the end of the then current term.
- 6.4 Should either Party wishes to modify the terms of the MA or any Addendum upon renewal, such amendments must be documented in writing and signed by both Parties, failing which the MA and Addenda shall remain unamended.
- 6.5 No pro-rata refunds will be provided if this Agreement is cancelled by the Client before expiry of the Initial Term. TYDECO reserves the right to reduce the fee based on the remaining period at its sole discretion, but the Client shall not be relieved of any of its obligations under the Agreement to pay all applicable fees and expenses incurred prior to such termination and all subsequent payments until the end of the Initial Term shall remain due and payable.

7. Client Responsibilities

- 7.1 User numbers cannot exceed those listed in the License File. The extra licensed system is for backup only, not for any other processing.
- 7.2 In the event you use on-premises Software that integrates with the Software, your use of such on-premises Software is subject to the terms and conditions of the relevant end user license agreement, subscription agreement, or other agreement applicable to such on-premises Software.

- 7.3 You may only use the Software through your private Internet/extranet connection or a wireless network on your own devices.
- 7.4 Client will assign a qualified person to oversee Services. Client is responsible for all management decisions relating to the Services, the use of implementation of the Services and for determining whether the Services are appropriate for Your purposes.
- 7.5 Client shall provide to TYDECO the information, data, resources, and assistance (including access to records, systems, premises, and people) that TYDECO reasonably requires to perform the Services. Client agrees to provide all reasonable assistance and cooperation to TYDECO in support of the Services. Any approvals which are required for TYDECO to perform the Services, shall be obtained by the Client. Such approvals may include, but are not limited to, approval for TYDECO to access and use third-party facilities, hardware and software.
- 7.6 To the best of your knowledge, all information provided by you or on your behalf ("Client Data") will be accurate and complete in all material respects. It is the Client's responsibility to ensure that the provision of Client Data to us will not infringe any copyright or other third-party rights.
- 7.7 TYDECO will rely on the Client Data made available to us, and unless we expressly agree otherwise, will have no responsibility to evaluate or verify it.
- 7.8 Client shall not rely on the Services performed under this Agreement to disclose errors, irregularities or illegal acts, including fraud or defalcations that may exist. However, TYDECO may inform the appropriate level of Client's management in writing of any material errors, irregularities or illegal acts that come to TYDECO's attention unless they are clearly inconsequential.
- 7.9 Furthermore, Client grants permission to TYDECO to access Client's computers, networks and other technology required to perform the Services but acknowledges that security of such items that may be accessed by TYDECO is the sole responsibility of Client.

8 Our Relationship with You

- 8.1 TYDECO will provide the Services to you as an independent contractor and not as an employee, agent, partner, or joint venture. Neither party shall have any right, power, or authority to bind the other.
- 8.2 TYDECO will not assume any of your management responsibilities in connection with the Services. We will not be responsible for the use or implementation of any of the Services, although we may otherwise provide advice and recommendations to assist you in your management functions and making decisions.
- 8.3 TYDECO will perform the Services in a professional manner in accordance with applicable industry standards and at a level of proficiency to be expected of a consultant with a similar background and level of experience at the time the Services are rendered.
- 8.4 If a Service is not performed as stated above, TYDECO shall, at TYDECO's sole option, promptly utilize commercially reasonable efforts to correct any defective Service or refund the relevant fees paid for the defective Service; provided that Client notifies TYDECO of said breach in writing within 5 (five) business days after the defective Service is provided to Client.
- 8.5 TYDECO will cooperate with any security and clearance investigation activities initiated by the Client, as reasonably necessary, provided that such activities are communicated to TYDECO in advance.

9 Software maintenance services

- 9.1 In consideration for the payment of the Annual License Fee, TYDECO will provide Tier 1 Software Support Services to the Client. Any additional Support or Professional Services would be set forth in an attached addendum.
- 9.2 If a support request goes beyond basic usage questions or remote troubleshooting (for example, it requires add-on implementations, report writing, system configuration changes, onboarding or extensive user training) TYDECO will notify the Customer and, with Customer approval, either coordinate an escalation to Tier 2 support with Sage or treat the work as a separate professional-services engagement.
- 9.3 TYDECO will document each Tier 1 support incident and, where escalation is needed, provide case monitoring and communication with Sage Intacct on behalf of the Customer
- 9.4 TYDECO will not be required to provide such Services to the client where any errors arise from:
 - 9.4.1 Client's failure to fulfil or comply with its obligations under this Agreement; or

- 9.4.2 any other circumstance where it is stated in the Documentation that such Software and Support Services will not be provided.

10 Use of Subcontractors

- 10.1 The Parties acknowledge and agree that TYDECO may, at its sole discretion, engage suitably qualified subcontractors to perform any portion of the Services on behalf of TYDECO, subject to the following conditions:
- 10.2 The Company shall retain responsibility for the proper, timely, and due performance of the Services;
- 10.2.1 Any failure by a subcontractor to perform its obligations in accordance with the terms of this Agreement shall be deemed a default by TYDECO; and
- 10.2.2 The Company shall bear all costs associated with the engagement of any subcontractor, and the Client shall have no liability or responsibility for such costs, unless otherwise expressly agreed in writing by the Parties.

11 Engagement of Third-Party Contractors

- 11.1 Should TYDECO liaise or cooperate with third party contractors at any time during the course of TYDECO rendering the Services to the Client, TYDECO shall manage the communication, coordination and collaboration with the third-party contractor, as well as the deliverables for the Services, unless otherwise specified in the Service Schedule.
- 11.2 Should the Client require TYDECO to liaise or cooperate with third party contractors during the course of TYDECO rendering the Services to the Client, the following shall apply:
- 11.2.1 Subject to receiving notification in accordance with clause 11.2 TYDECO shall reasonably cooperate with such third-party contractor to ensure the integration of the Services and any other services provided by the third-party contractor to the Client; and
- 11.2.2 The Client shall be responsible for securing and maintaining all necessary licenses, consents, or authorities under any contract referred to in clause 11.2, including any required to enable the TYDECO to fulfil its obligations under this Agreement, and shall bear all fees and other charges payable to any third-party contractor pursuant to the contracts referred to in clause 11.2.
- 11.2.3 The Parties agree that TYDECO shall not be liable for any act of omission of any third-party contractor appointed by the Client in terms of clause 11.2.
- 11.3 All the terms and conditions of clause 11.1 in terms of non-solicitation shall apply to this clause 11.

12 Company's Operational requirements

- 12.1 Unless specified in any relevant addendum, the Parties agree that the Client shall not be required to reimburse or compensate the Company (or any of its Staff) for any costs or expenses of any kind incurred by it (or its Staff) without the Client's prior written approval, which shall not be unreasonably withheld, or delayed.
- 12.2 Disbursements that have been pre-approved by the Client and are incurred by the Company in the course of providing the Services are recoverable. The procedure for obtaining approval for disbursements and the associated limits for travel, travel-time, visas, accommodation, subsistence, and daily out-of-town allowances shall be as stipulated in the relevant Addendum.

13 Compensation

- 13.1 TYDECO will send invoices at least monthly, but no more frequently than semi-monthly.
- 13.2 Non-payment is considered a material breach of this Agreement.
- 13.3 Client agrees to notify TYDECO of any disputes within 10 (ten) days of the date of invoice.
- 13.4 Unless otherwise specified in a Service Schedule, Client will pay the Charges that are not the subject of a good faith dispute within 15 (fifteen) days of the date of an invoice and without set off, or counterclaim deduction.
- 13.5 TYDECO will apply a service charge of 2% per month or the highest lawful interest rate (whichever is lower) to all amounts not paid to TYDECO when due.
- 13.6 No right to Use the Licensed Materials shall be granted until TYDECO has received full payment of the Initial License Fee and the Annual License Fee due regardless of implementation status.

- 13.7 An Annual License Fee is payable for access to the Software and the Software Maintenance Services for a period of 1 (one) year from the date of the relevant invoice for such Annual License Fee ("Maintenance Period") and on each Renewal Term to ensure access to and Use of the Software and Software Maintenance Services.
- 13.8 Payment of the Annual License Fee stipulated in the applicable Order will result in the automatic renewal of the Agreement for a further period of 12 (twelve) months (or for a term as stipulated in the applicable Order).
- 13.9 License Fees are subject to an annual revision at the start of each Renewal Term.
- 13.10 In the event of non-payment of the Initial License Fee and/or Annual License Fee, TYDECO have the right to terminate this Agreement with immediate effect, suspend Client's access to the Software and/or withhold the license renewal code.
- 13.11 A re-instatement fee will apply should the Client wish to re-instate access.
- 13.12 Changes to Compensation
During the term of Service, TYDECO may increase, or adjust the basis for calculating the compensation on a periodic basis. At a minimum, this will be a 5% increase annually. Except as otherwise stated in the Statement of Work, TYDECO will, prior to any increase, or adjustment the basis for calculating the Compensation give Client at least 30 (thirty) days' advance written notice.
- 13.13 Autopayment
The preferred means of payment for all clients is autopay via an ACH or E-check. Any client that opts out of auto payment will be required to supply TYDECO a retainer, the amount of which will be stated in the Statement of Work. Autopayments will be processed as described in the Statement of Work. If Client becomes delinquent in payment longer than 15 (fifteen) days from the invoice being issued, TYDECO reserves the right to pause work until payment is made in full. This may also result in a penalty fee, as well as a late-payment fee and interest.
- 13.14 All payments, fees and other charges payable by Client to TYDECO under this Agreement are exclusive of all federal, national, state, local and foreign taxes, levies and assessments, which are Client's responsibility. Client shall obtain and provide to TYDECO any certificate of exemption or similar documents required to exempt any transaction under this Agreement from sales tax, use tax or other tax liability.
- 13.15 It is further understood and agreed that Client will be responsible for any and all costs and expenses related to the process of collections, including but not limited to court cost, filing fees, 3rd party collection fees or any other expenses related to the collection of any debt. In the event that TYDECO utilizes services from a collection attorney the Client agrees to pay, for the procurement of a lawyer, reasonable attorney's fees.

14. Performance Failures

- 14.1 A failure to comply with this Agreement will be deemed to be a Performance failure and will entitle the Client to impose a financial penalty as contemplated in the penalty Clauses below.
- 14.2 If TYDECO fails to perform the Services in accordance with specifications or turnaround times specified due to reasons solely applicable to TYDECO, the Client shall, without prejudice to its other remedies under this Agreement, be entitled to deduct, as a penalty for non-performance, delayed performance or defective performance, an amount of up to 2% of the amount due to TYDECO in relation to the part of the Services out of which the performance failure triggering the penalty arose.
- 14.3 However, should TYDECO be unable to perform the Services as a result of the Client's delays, lack of timely response, or staff turnover, it will not be considered a failure by TYDECO.
- 14.4 Notwithstanding the above, the Client shall not impose any financial or other penalty unless a notice of Performance Failure has been issued (a) giving TYDECO a reasonable response time and opportunity to remedy such failure, or (b) to provide sufficient reasons why such penalty should not be imposed.
- 14.5 It is recorded that no penalty shall be imposed unless the Parties have, in good faith, considered the relevant circumstances of the case and reasonably determined that the imposition of a penalty is appropriate and justified under the circumstances.
- 14.6 A penalty in terms of this Agreement is a non-performance, delayed performance, or defective performance fee, and is payable regardless of the fact that TydeCo ultimately delivers the pertinent performance.

- 14.7 In the absence of expressly agreed specifications or turnaround times, TYDECO shall perform the Services in accordance with industry best practices, using reasonable skill, care, and diligence, and within commercially reasonable timeframes.

15. Breach

If either Party breaches any of the material provisions of this Agreement and fails to remedy that breach within 7 (seven) business days after receipt of a written notice from the non-defaulting Party requiring it to remedy that breach, the non-defaulting Party shall be entitled without prejudice to any remedies which it may otherwise have in terms of this Agreement or at law, to terminate this Agreement without further notice to the defaulting party.

16. Termination

- 16.1 TYDECO may terminate this Agreement immediately if the Client commits a material breach of this Agreement or fails to pay any amounts due in terms of this Agreement that are outstanding for more than 30 (thirty) days.
- 16.2 Either Party shall have the right to terminate this Agreement forthwith (but without affecting its accrued rights in terms of this Agreement or any Service Schedule as the case may be) should either Party discover (or, in the case of clauses 15.2.1 or 15.2.2 upon reasonable grounds believe) that any of the following events have occurred, namely that:
- 16.2.1 Termination for Bankruptcy. To the extent permitted under applicable Laws, if at any time during the Term of this Agreement, an Event of Bankruptcy relating to either Party occurs, the the "Non-Bankrupt Party" shall have, in addition to all other legal and equitable rights and remedies available hereunder, the option to terminate this Agreement upon sixty (60) days written notice to the Bankrupt Party.
- 16.2.2 Judgment is granted against either Party and such party fail to satisfy or appeal against such judgment within 30 days of the judgment being granted; or
- 16.2.3 Either Party ceases to carry on business as a going concern.
- 16.3 In the event of termination of the Agreement in its entirety, all Services shall cease simultaneously on the termination date.
- 16.4 Termination under this **clause 16** shall be without prejudice to either Party's other rights or remedies under the Agreement and in law.
- 16.5 Termination or expiry of the agreement and/or any Addendum shall not release either Party from any obligation, warranty, or duty that arose prior to termination or expiry and remains due or continues beyond termination or expiry in accordance with the terms of the Agreement.

17 Confidentiality

- 17.1 The Client acknowledges that the Licensed Materials contain intellectual property rights and know-how, system design and proprietary information which is the exclusive and valuable property of undertakes to treat as confidential all information contained or embodied in the Licensed Materials and in any specifications thereof made available.
- 17.2 The Client shall be permitted to disclose aspects of the Licensed Materials to its Personnel to the extent necessary and to those Personnel having a legitimate need to know. The End-User is responsible for ensuring that such Personnel are made aware, prior to such disclosure, that the Licensed Materials are the confidential material of the Supplier, and that such Personnel may not disclose such material to outside third parties but keep the information confidential.
- 17.3 Each party agrees to hold the other party's Confidential Information in strict confidence and not to disclose such Confidential Information to any third parties. Each party also agrees not to use the other party's Confidential Information for any purpose other than the performance or receipt of the Services.
- 17.4 "Confidential Information" as used herein means all information disclosed by one party to the other, or otherwise obtained by the receiving party pursuant to Services provided under this Agreement that is not generally known in the disclosing party's trade or industry and shall include, without limitation:

- 17.4.1 concepts and ideas relating to the development and distribution of content in any medium or to the current, future and proposed products or services of the disclosing party or its subsidiaries or affiliates;
- 17.4.2 trade secrets, drawings, inventions, know-how, software programs, and source documents;
- 17.4.3 information regarding plans for research, development, new service offerings or products, marketing and selling, business plans, business forecasts, budgets and unpublished financial statements, licenses and distribution arrangements, prices and costs, suppliers and customers; and
- 17.4.4 any information regarding the skills and compensation of employees, contractors or other agents of the disclosing party or its subsidiaries or affiliates.
- 17.4.5 Confidential Information also includes proprietary or confidential information of any third party who may disclose such information to Client or TYDECO in the course of performance of the Services. The receiving party's obligations set forth in this section shall not apply with respect to any portion of the Confidential Information that the receiving party can document by competent proof that such portion -
 - 17.4.5.1 is in the public domain without any fault of the receiving party;
 - 17.4.5.2 has been rightfully independently communicated to the receiving party free of any obligation of confidence;
 - 17.4.5.3 was developed by the receiving party independently of and without reference to any information communicated to the receiving party by the disclosing party. In addition, the receiving party may disclose Confidential Information to the limited extent required by a valid order of a court or other governmental body, or as otherwise required by law; or
 - 17.4.5.4 information which is required to be publicly disclosed by law or by any statutory, governmental or regulatory body having jurisdiction over such party.

The foregoing obligations as to confidentiality shall survive any termination under this Agreement, howsoever caused.

18. Intellectual Property

- 18.1 TYDECO shall retain ownership of the copyright and all other intellectual property rights involved in the production of the Services including, but not limited to, data, software, designs, utilities, tools, models, systems, work product, schedules and other methodologies and know-how that TYDECO owns or licenses.
- 18.2 TYDECO acknowledges that all Intellectual Property Rights in the Client Materials and Client Data are owned by the Client.
- 18.3 The Client must notify TYDECO of any copyright or intellectual property infringement claim or action related to the Licensed Materials.
- 18.4 The foregoing obligations as to intellectual property rights indemnity shall survive any termination under this Agreement, howsoever caused.
- 18.5 The Client's rights in respect of the Licensed Software shall be governed by the terms and conditions agreed between the Client and the relevant third-party supplier of such Licensed Software.

19. Warranty

TYDECO warrants that it has the right to grant the licences to Use the Software as set out in this Agreement.

20. Disclaimer of any Warranties

TYDECO EXPRESSLY DISCLAIMS, AND CLIENT EXPRESSLY WAIVES, ALL WARRANTIES, EXPRESSED, STATUTORY OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNLESS OTHERWISE PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS" WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTION, QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH CLIENT. CLIENT ACKNOWLEDGES THAT THERE IS NO WARRANTY AGAINST INTERFERENCE WITH ENJOYMENT OR INFRINGEMENT IN CONNECTION WITH THE SERVICES.

TYDECO SHALL NOT BE LIABLE FOR ANY COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, LOSS OF USE, LOSS OF DATA, LOSS OF REVENUE, INTERRUPTION OF BUSINESS, LOST PROFITS OR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY KIND UNDER ANY

CAUSE OR ACTION (INCLUDING CONTRACT, TORT OR STRICT LIABILITY) ARISING FROM OR OUT OF THIS AGREEMENT, WHETHER OR NOT TYDECO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

21. General

21.1 non-solicitation

During the term of this Agreement and for a period of not less than one (1) year following its expiration or termination, Client agrees not to solicit as an employee, consultant, agent, subcontractor and/or representative (hereinafter "Employee") any person who is an Employee of TYDECO at the time of such solicitation. If this covenant is breached TYDECO be entitled to injunctive relief to be issued by any court of equity having jurisdiction to enjoin and restrain the Client and the subject Employee, and each and every other person concerned therein from further violation thereof, and in addition thereto, if a court finds a violation of this clause, TYDECO will be entitled to liquidated damages, due to the difficulty of proof of actual damages, against the Client in the amount one year of the hired Employee's fully loaded annual salary, including benefits, bonuses, commissions, stock grants, the cost of training and other similar fully loaded elements. The Client acknowledges that such amount is reasonable, not a penalty and not disproportionate to the presumed investment in the training of such Employee and the damages suffered by TYDECO. If Client hires any TYDECO employee during the term of this Agreement and for a period of not less than one 1 year following its expiration or termination, the Client shall pay TYDECO a recruitment fee of 33% of the employee's annual salary offered by Client.

21.2 Indemnification

Client agrees to defend, indemnify, and hold harmless TYDECO its respective principals, officers, directors, employees, and agents, from any losses, liabilities, damages and all related costs and expenses including reasonable attorneys' fees arising from or in connection with:

- 21.2.1 any third-party legal proceedings or action arising from Client's actions, negligence or wilful misconduct,
- 21.2.2 any claims of infringement of any patent, trade secret, copyright or other proprietary rights alleged to have occurred because of resources, data, material, systems, hardware, software or any other information provided to TYDECO by, or on behalf of the Client, and
- 21.2.3 injury or death of a person, or loss of or damage to real or tangible personal property caused by the conduct of Client.

21.3. Limitation of Liability

- 21.3.1 The aggregate liability of TYDECO towards the Client, arising in any way and on any basis, and irrespective of its legal basis; for any damage arising from or in connection with the Services; regardless of the cause of loss or damage including TYDECO's negligence is limited to the amount of fees Client has paid to TYDECO the previous 6 (six) months.
- 21.3.2 TYDECO cannot be held liable for indirect damages, such as but not limited to, financial and commercial losses, loss of profits, increase of general costs, interruptions of the planning disturbances and any glitches in software, loss of the expected profit, capital, or clients.

21.4 Force Majeure

TYDECO shall not be liable to Client for any delay or failure to perform due to causes beyond its reasonable control. Performance times shall be considered extended for a period equivalent to the time lost because of any such delay. TYDECO is not bound to carry out its obligations mentioned under this Agreement if its enforcement is hindered by an event of force majeure. Following circumstances shall be considered as force majeure, without being limitative; a state intervention, weather conditions, war, insurrection, terrorist attack, pandemic, act of God, breakdowns and disruptions in telecommunications and internet connections, disruptions in software, delay or breach of TYDECO's contractors in the performance of their obligations or strikes or similar circumstances which results in the Services not being provided or being provided with delay and/or being provided partially. TYDECO shall have no obligation to prove that such circumstances were unforeseeable and unavoidable.

21.5 Account Information from Third Party Sites

If necessary for the provision of Services, Client may direct TYDECO to retrieve certain information maintained online by third-party financial institutions or providers with which Client has a customer relationship and maintain accounts or engage in financial transactions ("Account Information"). Client agrees to provide username, password, PIN and other log-in information and credentials necessary to access Client's account with such institutions or providers ("Access Information"), and you hereby grant TYDECO permission to use the Access Information and Account Information if necessary for the provision of Services.

21.6 Data Privacy Laws

The Parties agree that they will comply with any data privacy laws, such as the General Data Protection Regulation (GDPR); Personal Information Protection and Electronic Documents Act (PIPEDA) and process all the information and/or personal data in respect of the services being rendered in accordance with the said Acts and Regulations and only for the purpose of providing the Services as set out in the Agreement.

21.7 Disputes

The Parties shall attempt to resolve any dispute or claim arising out of or in connection with the Agreement or TYDECO's services, by mediation, with written notice to the other party. The mediator shall be selected by the parties and agreed to in writing. Each party shall bear its own costs in mediation. The parties shall equally share the fees and expenses of the mediator. If the parties have not resolved a dispute within 90 (ninety) days after mediation, the mediation shall terminate, and the dispute shall be settled by binding arbitration. The arbitration will be conducted before a panel of three arbitrators. Any issue concerning the extent to which any dispute is subject to arbitration, or concerning the applicability, interpretation, or enforceability of any of these procedures shall be governed by the ADRI Arbitration Rules and resolved by the arbitrators. The arbitration panel shall have no power to award non-monetary or equitable relief of any sort or to make an award or impose a remedy that (i) is inconsistent with the agreement or any other agreement relevant to the dispute, or (ii) could not be made or imposed by a court deciding the matter in the same jurisdiction. In deciding the dispute, the arbitration panel shall apply the limitations period that would be applied by a court deciding the matter in the same jurisdiction

21.8 Notices

All notices under the Agreement must be in writing and sent by email (except for notices of breach of the Agreement which may not be sent by email) and mail, courier, or delivered in person at the address set out on the latest Statement of Work between the parties (or such other more recent address notified to the other).

21.9 Choice of Venue

The validity, construction, and interpretation of this Agreement and the rights and duties of the parties hereto, shall be governed by the laws of Ontario, excluding its principles of conflict of laws. The venue for any dispute resolution will be Ontario and Client hereby waives its rights to trial by jury.

21.10 Waiver and Severability

Any failure by TYDECO to enforce one of its rights or prerogatives under this Agreement or any failure by TYDECO to react to a default or breach by the Client of all or any parts of the provisions of the Agreement shall not constitute a waiver by TYDECO of any of its rights thereunder. Each clause or term of the Agreement constitutes a separate and independent provision. If any of the provisions of the Agreement is void or unenforceable, the remaining provisions shall continue in full force and effect.

21.11 Assignment

Neither party may assign or transfer (by operation of law or otherwise) any right or obligation under the Agreement without the other party's prior written consent, which may not be unreasonably withheld or delayed. Any assignment in violation of this clause shall be null and void. However, TYDECO may, without Client's consent, assign the Agreement or any rights granted in the Agreement, in whole or part, either to

an Affiliate or in connection with a reorganization, merger, acquisition or divestiture of TYDECO or any similar business transaction, provided that TYDECO provide the Client in writing of such assignment 30 days prior to its effect.

21.12 [Precedence.](#)

If there is any conflict among any elements of the Agreement, the descending order of precedence will first be the Statement of Work (unless expressly stated otherwise for any particular terms) then this MA.

21.13 [Continuing effectiveness of certain provisions](#)

The expiration or termination of this MA shall not affect such of the provisions as expressly provide that they will operate after such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

22. **Signature**

- 22.1 Each party and their Affiliates certify that they may enter this Agreement and any other document, such as a Statement of Work or engagement letter, governed by these Terms and Conditions.
- 22.2 All Statements of Work executed by the same entities, together with these Terms and Conditions, collectively comprise a single Agreement between such entities only. Accordingly, one or more separate Agreements may be created, each governed by these same Terms and Conditions.
- 22.3 The Parties agree that electronic signature, whether digital or encrypted, shall have the same legal effect as manual signatures. Each Party consents to the use of electronic signatures on this Agreement.
- 22.4 The Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts.

Signature: _____
Printed Name: _____
Title: _____
Company: _____
Address: _____
Date: _____

Signature: _____
Printed Name: Matthew Lescault
Title: President
Company: TydeCo Ltd
Address: _____
Date: _____