

Master License and Services Agreement

This License Agreement shall govern the provision of the Licensed Software by Continuity Software Inc. (“**Continuity**”) to the Customer. By downloading, installing or using the Licensed Software, you the Customer agree to be bound by the terms of this Agreement.

1. Definitions

For the purpose hereof the terms below are defined as follows:

“**Agreement**” means this master license and services agreement and any Order Form executed thereunder .

“**Consulting Services**” means the Continuity consulting and/or professional services offerings as set forth in an applicable Order Form or SOW.

“**Continuity Derivative Work**” means any software, code and designs, including all inventions, copyrights and all other intellectual property rights therein and in any other derivative works of Continuity Information, including but not limited to any modifications, extensions or enhancements to Continuity Information and any Gap Signature created by Continuity. For the purposes of this Agreement,

“**Continuity Information**” means any pre-existing proprietary or Confidential Information of Continuity or its licensors used to perform the Services, or any proprietary or Confidential Information of Continuity or its licensors included in any Deliverables, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, know-how, data or other intellectual property, written or otherwise.

“**Customer Derivative Work**” means any inventions, designs, intellectual property, or other derivative works of Customer Information.

“**Customer Information**” means Customer’s pre-existing information, including but not limited to Customer Products, software, appliances, methodologies, code, templates, tools, policies, records, working papers, know-how, data or other intellectual property or other Customer proprietary and Confidential Information of a similar nature.

“**Delivery**” means the transfer of the Licensed Software Key unless different terms are agreed by the parties in an applicable Order Form or SOW.

“**Deliverables**” means the items to be delivered by Continuity to Customer under an Order Form or SOW.

“**Gap Signatures**” means the identification of a Cyber Resilience, DR, HA and/or data protection gaps in data center or cloud configurations that may (i) threaten DR readiness or data protection readiness or business continuity readiness; or (ii) violate best-practices; or (iii) offer improvement opportunities.

“**Intellectual Property**” means any and all patents, copyrights, trademarks, designs, trade secrets, know-how and any other intellectual property rights, whether

registered or not, in the Licensed Software and/or created by Continuity during the course of the provision of the Services.

“**Key**” means the license key or similar control mechanism to help ensure compliance with the use and time limitations with respect to the Licensed Software.

“**Licensed Software**” means the Continuity software specified in an Order Form and licensed to Customer pursuant to the terms of this Agreement.

“**Maintenance Services**” means the technical support and maintenance services provided by Continuity to Customer, in accordance with the Order Form.

“**Order Form**” means a form signed by Continuity and Customer which shall set forth the commercial terms under which the Licensed Software and/or the Deliverables shall be provided by Continuity to the Customer.

“**Services**” means the Consulting Services, Maintenance Services, and any other professional services provided by Continuity to the Customer.

“**Site**” means the Customer’s premises.

“**SOW**” means a statement of work that describes the Consulting Services to be performed by Continuity and Deliverables (if any) to be provided under this Agreement and the associated fees to be paid by Customer for the foregoing, all in substantially the form attached hereto as Exhibit A.

“**Work Product Deliverables**” means all inventions, improvements, modifications, enhancements, derivatives, processes, methodologies, formulas, designs, drawings, data, information, and works of authorship in which any proprietary right exists or may be acquired or asserted, and which are developed, discovered, invented, authored, or first reduced to practice by Continuity, alone or jointly with Customer, in the course of performing Services under this Agreement; provided, however, that Work Product Deliverables shall not include: (a) Continuity’ Pre-Existing Intellectual Property, including without limitation the Continuity Platform, (b) General Enhancements, (c) Services Materials, (d) Training Materials, (e) Documentation, (f) Implementation Architectures, or (g) any Open Source Software.

2. Delivery

Continuity will deliver the Licensed Software to the Customer. The Licensed Software will be deemed accepted within 5 days of Delivery unless the Customer notifies Continuity in writing of its rejection thereof.

3. The License

Commencing on Delivery and until the expiry of the Term (as defined below) or termination of this Agreement and/or SOW or Order Form, Continuity grants Customer a non-exclusive, non-transferable, non-sublicensable royalty-free license to use the object form of the Licensed Software on the Customer's computer systems at the Site for such number of servers as defined in the Order Form (the "**License**"). The License shall be perpetual or annual, as set forth in the Order Form. If annual, the License will be for an initial term of 1 year as of Delivery (the "**Initial Term**"). At the end of the Initial Term, the License will renew automatically for additional terms of 1 year each (each, an "**Additional Term**" and together with the Initial Term, the "**Term**"), at the same price set forth in the Order Form unless a different price is agreed by the parties. In the event that the Customer does not wish to renew the License, it shall so notify Continuity within 90 days prior to the end of the Term.

The License is granted on a named-server basis. Customer may transfer License solely for hardware replacement purposes.

The License is personal to the Customer and does not include a right to reproduce or make copies of the Licensed Software, nor to market, distribute or sell the Licensed Software. Customer shall refrain from reverse engineering, reverse compiling or disassembling the Licensed Software and/or from making any modifications to the Licensed Software.

4. Payment

In consideration for the License, Customer will pay Continuity the fees set forth in the Order Form (the "**Fee**"), in accordance with the payment terms set forth in the Order Form. All costs associated with the wire transfer of such payments shall be fully met by Customer.

Should Continuity be required to collect or pay any tax, other than the taxes related to its income, in connection with the License and/or the Services, then such taxes shall be borne and paid by Customer.

If Customer fails to make payment within the specified time, Continuity reserves the right to discontinue the provision of the Services, by giving notice to the Customer, until payment is received, and Customer shall have 15 days to provide payment. If payment is not received within said 15 days, in addition to its other rights hereunder, including the right to terminate, Continuity may charge, and Customer agrees to pay, interest on any unpaid balance at a rate not to exceed the greater of 2% per month or the maximum amount allowed by applicable law, from the due date of any Fee until the date of its payment, for any amount not paid in accordance with the provisions herein.

5. Intellectual Property

Except for the rights granted pursuant to the License, this Agreement and the provision of the Services shall not confer upon Customer any rights, title or interest in the Licensed Software, including any Intellectual Property therein, nor shall it confer on Customer any rights, title or interest in any technology and knowhow developed in connection with the Services, including any Intellectual Property therein. Without derogating from the generality of the above, ownership of all rights, title and interest in such Intellectual Property shall remain and/or vest exclusively with Continuity and/or its licensors.

Ownership: Continuity shall retain all right title and interest in and to the Licensed Software and the Continuity Information. Any Continuity Derivative Work shall vest in and be the exclusive property of Continuity who shall retain all intellectual property rights, title and interest therein. Subject to said Continuity's rights in Continuity Information and Continuity Derivative Work: (i) all title in Deliverables created specifically for, and provided to, Customer by Continuity under a SOW shall, upon receipt of full payment by Continuity transfer to Customer solely for its internal business purposes; and (ii) any Customer Derivative Work shall vest solely with Customer.

Pre-Existing Work: Continuity Information, including any Continuity Derivative Works, shall remain the exclusive property of Continuity and its licensors. To the extent that Continuity incorporates any Continuity Information into the Deliverables, Continuity hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable license to use such Continuity Information at no additional charge solely for Customer's internal business purposes, in accordance with the limitations set forth in this Agreement and any applicable SOW. Any Customer Information shall remain the exclusive property of Customer and its licensors. Prior to Delivery and at Continuity's request during the Term, Customer shall be required to provide licensed copies in the required versions of all software products, including Continuity products, to be installed, implemented or used in connection with the Services provided hereunder.

Feedback. Customer may provide Continuity with bug reports, comments, suggestions, enhancement requests, recommendations, or other feedback related to the Maintenance Services, the Consulting Services or the Licensed Software, including, without limitation, about how to improve the Licensed Software (collectively, "Feedback"). By submitting any Feedback, Customer hereby assigns to Continuity all right, title, and interest in and to the Feedback, including all Intellectual Property rights therein or relating thereto.

No limitation. The parties acknowledge and agree that Continuity is in the business of providing training, consulting, professional services, and Maintenance Services to third parties that are or may be substantially similar to the Services being provided to Customer. Nothing herein shall limit or prevent Continuity services

to third parties, including without limitation, any know-how gained during the provision of the Services, , subject to the confidentiality obligations set forth in Section 10 below.

Retention: Continuity has the right to retain for its internal use copies of the Deliverables, subject to the confidentiality obligations set forth in Section 10.

6. Warranty

In the event that the Customer purchases an annual license, or a separate Services subscription, and at any time during the period of 12 months from Delivery, a significant error is discovered in the Licensed Software, Customer's exclusive remedy shall be for Continuity to attempt, through reasonable efforts, to provide a correction for such error as part of the provision of the Maintenance Services (the "Warranty").

The following are excluded from the Warranty: (i) insignificant defects, such as errors that can be easily corrected and will not show up as a performance defect; (ii) defects discovered in the Licensed Software that has been modified, altered, or enhanced without Continuity's prior consent; and (iii) other damage caused by abuse, misuse, neglect, adjustment, or unauthorized repair or installation, or by the misuse of the Licensed Software.

THIS WARRANTY IS EXPRESSLY MADE IN LIEU OF ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. Services

In the event that the Customer purchases an annual license, or a separate annual Maintenance Services subscription, Continuity will provide Licensee with the Maintenance Services, as provided in the Order Form.

In the event that the Customer purchases Consulting Services, Continuity will provide the services, in accordance with the SOW.

The Maintenance Services subscription and/or Consulting Services will renew automatically for 1 year periods, according to the same terms set forth in the Order Form, unless different terms are agreed by the parties. In the event that the Customer does not wish to renew the Maintenance Services subscription and/or the Consulting Services, it shall so notify Continuity within 90 days prior to the end of the relevant term for such service.

The Services shall be provided by Continuity to Customer on a reasonable efforts basis, without any express or implied warranty by Continuity to Customer relating thereto, including, without limitation, any warranties that Continuity will find and solve all potential problems.

In the event that the Customer requires additional services not covered by the Maintenance Services, Continuity will provide such services at such hourly/daily/ fixed rates as shall be agreed by the parties in a SOW or Order Form.

8. Liability

Continuity agrees to defend, at its expense, any suit or claim brought against Customer to the extent such suit or claim is based upon an assertion that the Licensed Software infringes any Intellectual Property of a third party, and Continuity will pay the amount of any settlement and/or the costs, damages, and reasonable attorney's fees finally awarded by a court in any such suit, claim or the like provided that (i) Continuity is notified promptly in writing by Customer of any notice of threatened or actual suit or claim; (ii) Customer makes no admission relating to the suit or claim; (iii) Continuity has sole control of the defense and settlement of such suit or claim or related settlement negotiations; (iv) Customer gives Continuity full information and reasonable assistance which is available to Customer and is useful or necessary to defend such claim; and (v) Customer has paid all fees due to Continuity under this Agreement and continues to pay all such fees as such fees become due. Continuity' duty of indemnification is in lieu of any and all other remedies of the Customer.

Continuity' liability to Customer under this Agreement shall be limited to the Fees actually paid by Customer to Continuity pursuant to this Agreement. Continuity's limitation of liability is cumulative with all Continuity' expenditures being aggregated to determine satisfaction of the limit.

EXCEPT IN RESPECT OF DEATH OR PERSONAL INJURY CAUSED BY CONTINUITY'S NEGLIGENCE, IN NO EVENT WILL CONTINUITY BE LIABLE TO CUSTOMER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOSS, INCLUDING BUT NOT LIMITED TO LOSS OF OPPORTUNITY, USE, INCOME OR PROFIT, OR INTERRUPTED OPERATION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, OR ARISING OUT OF OR IN CONNECTION WITH CONTINUITY'S PERFORMANCE OR FAILURE TO PERFORM PURSUANT TO THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. Termination and Consequences

This Agreement shall come into effect upon execution of the Order Form by the parties and may be terminated by either party: (i) in the event of a breach of any material provision of this Agreement by the other party if such breach is not cured within 30 days of receiving notice demanding that such breach be cured; or (ii) should the other party: (a) file or have filed against it a petition in bankruptcy or seeking re-organization and such filing shall not be removed within 45 days; or (b) have a receiver appointed and such appointment is not revoked within 45 days; or (c) institute any proceedings for liquidation or winding up.

The provisions of sections 5 (Intellectual Property), 6 ("Warranty"), 8 (Liability), 9 (Termination and Consequences), 10 (Confidentiality), 11 (Jurisdiction) and

13 (General) of these Terms and Conditions shall survive termination of the Agreement.

10. Confidentiality

During the term of the Agreement and for 5 years thereafter, the parties shall (i) treat as confidential and proprietary all information which is disclosed by one party to the other and is identified as confidential or proprietary, or which can be reasonably deemed to be such ("**Confidential Information**"); (ii) shall take reasonable steps to protect such Confidential Information from disclosure (which steps should at least include those steps that it takes to protect its own Confidential Information); (iii) shall require any employee or subcontractor with access to such Confidential Information to have an executed confidentiality agreement protecting such information; and (iv) shall avoid disclosing Confidential Information to any employee or subcontractor not having a specific need to know such information for the purposes of the Agreement.

The foregoing shall not apply to any information which the receiving party can prove (i) is already in the receiving party's possession, other than as a result of the breach of a legal obligation; (ii) is or becomes a part of the public knowledge or literature through no wrongful act of the receiving party; (iii) is approved for release in writing by the disclosing party; (iv) is or was developed independently; or (v) is disclosed pursuant to the lawful requirement or request of a governmental agency or judicial process.

The parties acknowledge and agree that any breach of the restrictions contained in this section 10 may cause irreparable harm to the non-breaching party, entitling such party to seek injunctive relief in addition to all other legal remedies.

As an essential function of the Licensed Software, Continuity may collect certain non-personal information from Customer's system for the purpose of product administration and analysis. This information will not be correlated with any personal information. By using the Licensed Software, Customer acknowledges that Continuity may collect, transmit, store, disclose and analyze such information for these purposes. In addition, the Licensed Software contains an optional telemetry feature which may collect non-personal information for the purpose of product usage tracking. Such non-personal information may include, without limitation, error codes and installed server version numbers being managed. This information will not be correlated with any personal information. This feature will only be enabled if Customer affirmatively opts-in. The collected information may be transferred to Continuity in the United States or other countries that may have less stringent data protection laws than the region in which Customer is situated (including the European Union), but Continuity has taken steps so that the collected information, if transferred, receives an adequate level of protection. Continuity may disclose the collected information if

asked to do so by a law enforcement official as required or permitted by law or in response to a subpoena or other legal process.

11. Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, USA, without reference to its conflict of laws principles and the competent courts of New York, NY shall have exclusive jurisdiction over any dispute arising herein.

12. Assignment

The Agreement may not be assigned by either party without the express written consent of the other party, which shall not be unreasonably withheld, provided that either party may assign or transfer the Agreement, in whole or in part, to any of its affiliates or to any successors of substantially that part of its business to which the Agreement relates.

13. General

This Agreement may not be modified or any right of a party waived, except by means of an amendment which expressly refers to these terms and is duly executed by each of the parties.

Continuity shall not be liable for any delay or failure to perform resulting from acts beyond its control. Such acts shall include natural disasters, labor conflicts, acts of war or civil disruption, or governmental regulations beyond the reasonable control of Continuity. All such causes entitle Continuity to a postponement of the performance of Continuity's duties equal to the delay resulting from such cause.

The parties acknowledge and agree that each party is entering into this Agreement as an independent contractor, and nothing contained in this Agreement shall be interpreted as creating an employer-employee relationship, joint venture or partnership, or as conferring upon either party the power or authority to bind the other party in any transaction with third parties.

The terms of the Agreement comprise the entire understanding between the parties and they shall supersede and prevail over any oral or written understanding, commitment, representation, or undertaking entered into prior to the signing of the Agreement.

Any notice required or permitted hereunder shall be given in writing and shall be deemed given upon personal delivery confirmed in writing, or 5 business days after deposit with the postal service, if sent by registered airmail to the address of the other party as specified in the Order Form, or to such other address as one party notifies the other of in writing from time to time.