

BACKBASE PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“PSA”) is entered into on [month, date, year] (“Effective Date”) and sets forth the terms and conditions pursuant to which Backbase USA Inc., whose place of business is at 330 Townsend Street, Suite 207 San Francisco, CA 94107 USA, or Backbase B.V., whose place of business is at Jacob Bontiusplaats 9, 1018 LL Amsterdam, The Netherlands (to be individually and jointly referred to as “Backbase”) will provide Services as defined below [company name], a [state or country of incorporation] corporation having a principal place of business at [address] (“Customer”).

1. Definitions

- 1.1 Agreement: means the Backbase End User License Agreement, Backbase OEM Agreement, or other written agreement between Backbase and Customer which grants Customer a license to use the Software.
- 1.2 Backbase Property: means all Backbase Confidential Information, the Software, and proprietary methodologies for delivery of the Services, including but not limited to Backbase proprietary tools, code, design concepts, questionnaires, process guidelines, document templates and generic workflow processes such as reusable scripts, parameter design templates, algorithms, and API's.
- 1.3 Customer Property: means all Customer Confidential Information and all data and related materials provided by Customer under the terms of this PSA or pursuant to a Work Order;
- 1.4 Fees: means the fees payable by Customer to Backbase for the Services provided pursuant to a Work Order.
- 1.5 Rights: means all intellectual property rights, including but not limited to patents, copyrights, design rights, database rights, trademarks and trade names, including any applications in respect thereof, and all rights regarding inventions, know-how and trade secrets under Dutch, USA and foreign law.
- 1.6 Software: means the Backbase Portal Software, in object code, licensed to Customer pursuant to the Agreement, and all related material and documentation provided to Customer, and all updates, upgrades, modifications and revisions thereto which may be provided by Backbase to Customer.
- 1.7 Services: means the services elected by Customer and rendered by Backbase pursuant to a Work Order, including but not limited to implementation services, system integration services, business and/or technical consultancy services and training, but excluding the provision of any updates, new releases or new versions or the tracing or repairing of defects with respect to the Software.

1.8 Work order: means a statement of work executed between Backbase and Customer (substantially in the form attached to in Schedule A) for the rendering of Services specifying the kind of Services requested and the applicable fees.

2. Applicability

This PSA is applicable only with respect to the rendering of Services. The right and license to the Software and related terms and conditions regarding the Software are as set forth in the Agreement.

3. Relationship of Parties

3.1 Independent Parties. Each party will be and act as an independent contractor and not as an agent or partner of, or joint venture with, the other party for any purpose related to this PSA, any Agreement or the transactions contemplated by this PSA or any Agreement, and neither party by virtue of this PSA or any Agreement will have any right, power or authority to act or create any obligation, express or implied, on behalf of the other party.

3.2 Contact Persons. Each party will appoint in writing an employee or agent of such party to act as the "Contact Person" for all communication between the parties related to the Services. The Contact Person will be responsible for monitoring the status of the Services and will schedule regular meetings with both technical and management personnel of each party to review the status of the Services. Either party may change its Contact Person upon written notice to the other.

3.3 Replacements. If an individual being assigned to the project by Backbase is not acceptable in the reasonable opinion of the Customer, Backbase shall make commercially reasonable efforts to replace said individual with another individual acceptable to Customer. Backbase may, at its sole discretion, replace individuals assigned to the project with other individuals having similar qualifications or assign new individuals to the project.

3.4 Non-Solicitation. Customer acknowledges and agrees that the employees and consultants of Backbase who perform the Services are a valuable asset to Backbase and are difficult to replace. Accordingly, Customer agrees that, during the rendering of Services and for a period of 1 year after the completion of the Services, it will not solicit/offer employment (as an employee, independent contractor, or consultant) to any Backbase employee or consultant deployed by Backbase who renders any of the Services. In the event Customer is in breach of this provision, Backbase will be entitled to recover from Customer liquidated damages equal to the greater of (i) the gross revenue generated by such employee or consultant for the 12-month period immediately preceding the breach or (ii) the employee's or consultant's gross income paid by Backbase in the same 12-month period.

3.5 Direction. Backbase will perform the Services under the direction and responsibility of the Backbase project manager assigned in the Work Order. Backbase may subcontract any and all of its rights and obligations under any Agreement.

4. Work Orders

4.1 Nature of the Services. The precise nature of the Services to be rendered by Backbase to Customer shall be set forth in Work Orders. Backbase shall not have any obligations towards Customer with

respect to any project unless parties have executed a Work Order. Each Work Order shall be governed by the terms and conditions of this PSA.

4.2 Content. Each Work Order shall set forth or incorporate by reference:

- (i) A description of the Services to be performed;
- (ii) The fee rates which will be applicable on a time and materials basis;
- (iii) The location where the Services will be performed;
- (iv) The professional categories to be deployed in the project;
- (v) If applicable (and solely and exclusively for planning purposes), the time periods for starting and completing the project, and the number of days such individuals shall be retained;
- (vi) A description of any software to be provided by and licensed from third party vendors required for the Services;
- (vii) The acceptance procedure for the Services to be performed, if applicable;
- (viii) Any other relevant terms and conditions as may be agreed by the parties in writing.

4.3 Changes. Changes to Work Orders regarding the items (i) to (viii) mentioned in section 4.2 above shall be accomplished by either a) written amendment to the applicable Work Order or b) via an e-mail confirmation from Customer's Contact Person upon the proposal prepared by Backbase's Contact Person.

4.4 Software. Unless otherwise specifically noted in the applicable Work Order, if Backbase renders services to Customer with respect to any Software, the Services will be provided for the release of the Software licensed by the Customer on the date of execution of the Work Order pursuant to the terms of the Agreement). Backbase will not be responsible for the migration or re-implementation of the Services for future releases of such Software, unless Customer separately contracts for such migration or re-implementation.

5. Manner of Performance

Backbase shall perform the Services in a manner consistent with generally accepted industry standards and shall use its commercially reasonable efforts to perform the Services in accordance with the terms and conditions of this PSA and the applicable Work Order. However, it is understood that the time schedules and budgets mentioned in a Work Order are estimates and that Backbase will not be in default by the mere exceeding of any time schedule or budget estimate included in any Work Order or related correspondence. If Backbase foresees that the time schedules or budget estimate(s) included in the Work Order will be exceeded, it will inform Customer in writing accordingly.

6. No representations

No employee, agent, representative or affiliate of Backbase has authority to bind Backbase to any oral representations or warranty concerning the Software. Any written representation or warranty not expressly contained in this Agreement is unenforceable.

7. Customer's duties and responsibilities

7.1 Data and Information. Customer shall make available in a timely manner and at no charge to Backbase all Customer Property and all technical data, computer facilities, programs, files, documentation, test data, sample output, or other information and resources required by Backbase for the performance of the Services. Customer will be responsible for, and assumes the risk of any problems resulting from the

content, accuracy, completeness and consistency of all such Customer Property, data, materials and information supplied by Customer.

7.2 Equipment. Customer shall provide, at no charge to Backbase, office space, services and equipment (such as copiers, fax machines and modems) as Backbase requires to perform the Services. Customer agrees that certain Services to be performed by Backbase hereunder may be provided via remote access, requiring the establishment of a secure link via the internet, and Customer agrees that it will assist Backbase in establishing such a remote connection. Backbase agrees to abide by standard security procedures required by Customer and notified to it pursuant to the establishment of such a connection.

8. Fees and Payments

8.1 Fees. Customer shall pre-pay Backbase for time and materials for the Services in accordance with the fees set forth in the applicable Work Order. Backbase reserves the right to modify the fees by providing Customer with ninety (90) days prior written notice. All payments for Services and related expenses must be made within thirty (30) days as of the date of the applicable invoice.

8.2 Expenses. Unless otherwise agreed in the Work Order, Customer shall reimburse all reasonable travel and other related expenses incurred by Backbase in performance of the Services. Backbase will invoice Customer on a bi-weekly basis as expenses are incurred.

8.3 Taxes and Prices. All charges and fees pursuant to any Work Order are exclusive of and do not include any taxes, duties, or similar charges imposed by any government. Customer agrees to pay or reimburse Backbase for all federal, state, dominion, provincial, or local sales, use, ad valorem, personal property, excise or other taxes, fees, or duties arising out of any Agreement or the transactions contemplated by any Agreement (other than taxes on the net income of Backbase).

8.4 Interest. Customer shall pay Backbase one percent (1.0%) interest per month on the outstanding balance of any fees or expenses not paid within thirty (30) days of the date of the applicable invoice.
No-Offset. Fees and expenses due from Customer under any Agreement may not be withheld or offset by Customer for any reason. In any action or proceeding brought by Backbase to recover fees or expenses to be paid by Customer under this Agreement, there will be included as an item for damages that Backbase will be entitled to recover reasonable attorneys' fees incurred by reason of such action or proceeding.

9. Rights

9.1 Ownership. All Rights in the Customer Property, and any enhancements, modifications and/or derivatives of Customer Property, shall be and remain the sole and exclusive property of Customer. All Rights in the Backbase Property, and any enhancements, modifications and/or derivatives of Backbase Property, shall be and remain the sole and exclusive property of Backbase.

9.2 Right to Use.

Upon completion of the Services under the applicable Work Order and full payment to Backbase of all fees due for the respective Services under the applicable Work Order, Customer shall be granted a non-exclusive, non-transferable license to use for internal purposes only, and during the term of the

Agreement, the Backbase Property developed during the Services, solely in connection with Customer's licensed use of the Software.

10. Support

Support and maintenance for any of the Backbase Property is not covered this PSA. In the event that Customer desires to obtain support for any of the Backbase Property, Customer may separately contract with Backbase pursuant to mutually agreeable support terms and conditions.

11. Indemnification for infringement

11.1 Defense. Backbase shall, at its expense, defend or settle any claim, action or allegation brought against Customer that the Backbase Property infringes any US or EU patent issued as off the Effective Date, or any US or EU copyright, trade secret or other proprietary right of any third party, and shall pay any final judgements awarded or settlements entered into, provided that Customer gives prompt written notice to Backbase of any such claim, action or allegation of infringement and gives Backbase the authority to proceed as contemplated herein. Backbase will have the exclusive right to control and defend any such claim, action or allegation and make settlements thereof at its own discretion, and Customer may not settle or compromise such claim, action or allegation, except with prior written consent of Backbase. Customer shall give such assistance and information as Backbase may reasonably require to settle or oppose such claims. In the event any such infringement, claim, action or allegation is brought or threatened, or in Backbase's opinion is likely, Backbase may, at its sole option and expense: (i) modify or amend the Backbase Property or infringing part thereof, or replace the Backbase Property or infringing part thereof with other goods having substantially the same or better capabilities; (ii) procure for Customer the right to continue the use of the Backbase Property or infringing part thereof; or (iii) if neither of the foregoing is commercially practicable, Backbase shall terminate the Agreement with respect to the infringing part of the Backbase Property and refund the fees paid by Customer for the infringing part thereof, as depreciated over a three (3) year straight line basis. Backbase will then be released from any further obligation whatsoever to Customer in connection with the infringing part of the Backbase Property.

11.2 Scope. This Section 11 states the entire liability of Backbase and Customer's sole and exclusive remedy with respect to infringement of any (intellectual or industrial property) rights of any third party.

12. Limitation of liability

12.1 Except as expressly stated in this Section or where an exclusion of liability is prohibited by law, Backbase shall have no other liability of any nature, whether in contract, tort or otherwise, for any damage whatsoever and howsoever caused arising from or in any way connected with the performance of Services to the Customer.

12.2 Backbase will not be liable for any damage suffered (or cost incurred) by Customer due to the provision of false, misleading or incomplete information or documentation by or on behalf of Customer.

12.3 Backbase explicitly disclaims any warranty of merchantability, quality or fitness for a particular purpose with respect to the Backbase Property.

- 12.4 Backbase's maximum aggregate liability to Customer, its employees, agents, subcontractors or other representatives, for damage, including interest, connected with or arising out of Services provided to Customer (whether in contract or in tort or under any other form of liability) shall in no event be greater than the amount of the fees paid by Customer under the applicable Work Order.
- 12.5 In no event will Backbase be liable for any loss of profits, loss of use, business interruption, loss of data, cost of cover or indirect, special, incidental or consequential damages of any kind in connection with or arising out of the performance of Services to Customer, including any delay in rendering the Services to Customer.
- 12.6 Any liability of Backbase towards Customer, its employees, agents, subcontractors or other representatives for bodily injury or death connected with or arising out of the performance of Services to Customer shall be limited to the amounts paid to Backbase by the insurance company under the respective insurance policy(s).
- 12.7 The above limitations of liability do not apply in case of grossly negligent or willful misconduct of Backbase.
- 12.8 No action for alleged breach of this PSA or an Agreement or the transactions contemplated by this PSA or an Agreement may be brought by Customer more than ninety (90) days after the cause of action has accrued. A cause of action will be deemed to have accrued when a party knew or reasonably should have known the cause of action.

13. Term and Termination

- 13.1 Term. This PSA will take effect on the date of execution by both parties and will remain in effect, until all of the Services have been completed unless earlier terminated in accordance with Section 13.2.
- 13.2 Termination. (a) This PSA may be terminated, with or without cause, by Customer upon thirty (30) days' prior written notice to Backbase. Unless Backbase manages to re-allocate to another project the employees or consultants that Backbase had scheduled to deliver to Customer within such 30 day period, the time and resources scheduled will be payable regardless of whether Customer instructs Backbase not to deliver the said scheduled Services. Unless Customer wishes that the Services continue being delivered within the said 30 day period, Backbase will deploy reasonable efforts to re-allocate the said idle resources to other projects or Customers.
- Each party shall be entitled to terminate or dissolve this PSA in whole or in part, with immediate effect, by notice sent by registered mail and without prejudice to the right to claim damages, in the event and at the time when:
- the other party applies for (provisional) suspension of payments;
 - the other party has presented a petition of bankruptcy or is declared bankrupt;
 - the other party is dissolved;
 - the other party closes down its business;
 - the other party fails to pay any amount due to the other Party within thirty (30) days after
 - the other party gives written notice of such non-payment;
 - the other party fails to meet any other substantive obligation under this PSA or fails to perform it promptly or satisfactorily and if this attributable default is not remedied within a period of 30 days

after a written notice of default; and/or performance by the other party is impossible on a permanent basis, without any case of force majeure.

- 13.3 Effect of Termination. Rights and obligations which in their nature are intended to continue even after termination or dissolution of this PSA shall continue to exist after termination or dissolution, including amongst others, the provisions with respect to payment of fees, the Rights, limitation of liability, confidentiality, governing law and competent courts.

14. Confidentiality

- 14.1 "Confidential Information" shall mean the terms of this PSA, the Software in object and source code, the Backbase Property and all technical and other business information of either Backbase or Customer which is marked as confidential in writing or, if disclosed orally, is identified as confidential at the time of disclosure. Each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except as set forth herein, and shall use reasonable efforts not to disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other party under this Agreement. Each party agrees that it will make Confidential Information available only on a "need to know" basis and only to its employees and representatives who are bound in writing to protect the confidentiality of such Confidential Information. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of such other party's Confidential Information, and, upon the request of the other party, shall promptly return to the other party all copies of Confidential Information within its possession or control. Notwithstanding the foregoing, a party shall have no liability to the other party with regard to any Confidential Information of such other party which the receiving party can demonstrate: (a) was in the public domain at the time it was disclosed or has entered the public domain through no fault of the receiving party; (b) was known to the receiving party without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (c) was disclosed with the prior written approval of the disclosing party; (d) was independently developed by the receiving party without any use of the Confidential Information of the other party, as demonstrated by files created at the time of such independent development; or (e) is required to be disclosed by law or pursuant to the order or requirement of a court, administrative agency or other governmental body; provided that the receiving party provides prompt written notice thereof to the disclosing party to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure.

15. Miscellaneous

- 15.1 Waiver. Any waiver of the provisions of this PSA, or rights or remedies of either party must be in writing to be effective. Failure, negligence or delay to enforce any such rights or remedies at any time, will not be construed as a waiver and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to make subsequent action.
- 15.2 Severability. If any provision in this PSA is found to be invalid, unlawful or unenforceable to any extent, the parties will in good faith agree to such amendments that will preserve, as far as possible, the intentions expressed in this PSA. If the parties fail to agree on such an amendment, such invalid

provision will be severed from the remaining provisions, which will continue to be valid and enforceable to the fullest extent permitted by applicable Law.

15.3 Public Announcements. Customer agrees that Backbase may use its name in press releases, product brochures and financial reports indicating that Customer is a customer of Backbase. Any quotation of Customer will be subject to Customer's prior consent which will not be unreasonably withheld or delayed.

15.4 Governing Law and Competent Court. This PSA and any Agreement will be interpreted and construed in accordance with (a) if you are a North or South American legal entity, the laws of the State of California, without giving effect to principles of conflict of laws, and Customer hereby consents to the exclusive jurisdiction and venue of the state courts sitting in San Francisco County, California or the federal courts in the Northern District of California to resolve any disputes arising under this PSA, (b) if you are a legal entity anywhere else in the world, the laws of the Netherlands, and Customer hereby consents to the exclusive jurisdiction and venue of the District Court of Amsterdam.

IN WITNESS WHEREOF Backbase and Customer hereby execute this PSA by their duly authorized representatives.

Backbase

Signature: _____

Name Signatory: _____

Title: _____

Date: _____

Customer

Signature: _____

Name Signatory: _____

Title: _____

Date: _____