



## AWS Marketplace - Software as a Service Agreement

This Software as a Service Agreement (the "Agreement") is between Infor (US), LLC ("Infor") and the party subscribing to the Subscription Services ("Customer") through the AWS Marketplace. This Agreement is offered by Infor on the AWS Marketplace subject to Customer's acceptance indicated by Customer clicking "Create Contract" on the AWS Marketplace. The parties agree as follows:

### 1. Definitions.

"**AIMS**" or "**Infor Augmented Intelligence Service**" allows use of Infor's artificial intelligence managed service up to the usage limits for the corresponding service level (level 1, 2, 3 or 4) as set forth in the Infor Augmented Intelligence Service limits at [https://docs.infor.com/inforos/2021.x/en-us/aiservice\\_1\\_0/default.html](https://docs.infor.com/inforos/2021.x/en-us/aiservice_1_0/default.html). Usage in excess of any usage limit requires a subscription to the appropriate level of Infor's Augmented Intelligence Service.

"**Affiliate**" means, with respect to either party, any entity that directly or through one or more intermediaries Controls, is Controlled by, or is under common Control with a party, where "Control" means the ownership of greater than 50% of such entity's capital stock.

"**Applicable Law**" means any applicable law, or declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule, or other binding restriction of or by any governmental authority, having the full force and effect of law.

"**Authorized Users**" means employees and contractors of Customer and its Affiliates.

"**AWS Marketplace**" means the software marketplace operated by Amazon Web Services, Inc. located at <https://aws.amazon.com/marketplace/> as it may be updated from time to time.

"**Confidential Information**" means non-public information identified as, or would be reasonably understood to be, confidential and/or proprietary. Confidential Information of Infor includes, without limitation, the Documentation and the Software. Confidential Information does not include information that: (i) is or becomes known to the public without fault or breach of Recipient; (ii) Discloser regularly discloses to third parties without restriction on disclosure; (iii) Recipient obtains from a third party without restriction on disclosure and without breach of a non-disclosure obligation known to Recipient; (iv) is independently developed by Recipient without use of Confidential Information; or (v) is a comment or suggestion about the other party's products or services.

"**Customer Data**" means information provided, entered or uploaded by Authorized Users into the Software. Customer Data is Confidential Information of Customer.

"**Defect**" means a material deviation between the then current, general release version of the Software and its Documentation.

"**Discloser**" means the party providing Confidential Information to the Recipient.

"**Documentation**" means the then current Infor provided generally available operating and technical documentation relating to the features, functions, and operation of the Software.

"**Initial Subscription Term**" means the initial subscription period selected by Customer as part of the Standard Contract Listing commencing on the date of acceptance of this Agreement indicated by Customer clicking "Create contract" on the AWS Marketplace.

"**Intellectual Property Rights**" means any and all rights in patents, copyrights, trademarks, trade secrets and service marks.

"**Personal Data**" means information that includes any non-public personal information that identifies and/or can be used to identify an individual, or as further defined by applicable data protection law. Personal Data is a subset of Customer Data.

"**Recipient**" means the party receiving Confidential Information of Discloser.

"**Renewal Term**" means any renewal term of Customer's right to access the Software and Subscription Services following expiration of the Initial Subscription Term.

"**Software**" means the Infor augmented intelligence with Infor OS software programs identified in the Standard Contract Listing to which Infor provides remote access as part of the Subscription Services. Software includes Updates.

"**Standard Contract Listing**" means an offer by Infor, as set forth in the detail page on the AWS Marketplace, to subscribe to the Software for a specific use capacity and provide Subscription Services therefor subject to this Agreement, including Infor's policies and procedures referenced or incorporated in the detail page.

"**Subscription Fees**" means the fees for the Subscription Services set forth in the Standard Contract Listing.

**“Subscription Services”** means the hosting, management and operation of the Software, and Support, by Infor.

**“Subscription Term”** means the Initial Subscription Term or any Renewal Term, as applicable.

**“Support”** means, (a) providing Customer with access (via the internet, telephone or other means established by Infor) to Infor’s support helpline, (b) installing, when and if generally available, Updates; and (c) using reasonable efforts to correct or circumvent any Defect. Support does not include professional services, including, without limitation, any of configuration, installation or implementation. Unless otherwise specified in the Standard Contract Listing, the level of Support Infor will provide Customer hereunder will be CXTF – Infor Premium (24x7) – a description of which can be found at <http://www.infor.com/cloud/subscription/>.

**“TECH”** or **“Tech Platform”** allows use of the Infor OS platform technology up to the usage limits for the corresponding service tier (Essentials, Professional, Enterprise) as set forth in the Infor OS Service Limits <https://docs.infor.com/inforos/12.0.x/en-us/usagelimits/default.html> plus any additional subscription quantities duly authorized by Customer pursuant to the Standard Contract Listing and this Agreement. Use in excess of any usage limit requires a subscription to the appropriate tier or a subscription for an additional quantity of permitted use where applicable.

**“Third-Party Offerings”** means products and services that are provided by third parties, interoperate with the Software or Subscription Services, and are licensed under such third parties’ own applicable license terms.

**“Updates”** means generally available updates, enhancements or modifications to the then current, general release version of the Software that are not separately priced as new products.

**“User Restriction”** means AIMS (Infor Augmented Intelligence Service) and TECH (Tech Platform) and any other limitation on the Software or Subscription Services identified in the Standard Contract Listing (e.g., number of Authorized Users or locations). User Restrictions are cumulative for all Authorized Users.

**“UserID”** means a unique user identification credential used in combination with a unique password to access the Software and Subscription Services.

## **2. Intellectual Property Rights and Restrictions.**

a. **Rights Grant by Infor.** Subject to this Agreement and the Standard Contract Listing, including applicable User Restrictions therein, Infor hereby grants Customer the right, for it and its Authorized Users, to access, in an operating environment hosted by Infor, the Software and use the Subscription Services, during the Subscription Term, solely for the internal operations of Customer and its Affiliates within the United States. Customer shall ensure Authorized Users comply with this Agreement and shall be liable for any noncompliance by Authorized Users.

b. **Documentation.** Infor hereby grants Customer a non-exclusive, non-transferable license (without the right to sublease or sublicense) to make a reasonable number of copies of the Documentation for the internal operations of Customer and its Affiliates in accordance with this Agreement. Authorized Users must reproduce the unaltered Intellectual Property Rights notice(s) in any such copies.

c. **Additional Restrictions.** Authorized Users are prohibited from (i) attempting, causing or permitting the reverse engineering, disassembly or de-compilation of the Software; (ii) using the Software or Subscription Services to provide service bureau services to, or to otherwise provide data processing services for the benefit of, third parties; (iii) allowing the Software or Subscription Services or Documentation to be used by, or disclosing all or any part of the Software or Documentation to, any person except Authorized Users; (iv) removing or altering any Intellectual Property Rights notice(s) embedded in, or that Infor otherwise provides with, the Subscription Services or Documentation; (v) violating or circumventing any restrictions specified in this Agreement or technological restrictions in the Subscription Services; or (vi) providing Customer Data that violates third party rights.

d. **Export Restrictions.** Customer acknowledges the Software and Subscription Services are U.S. origin and supported from the U.S., in whole or part, and are subject to U.S. export control laws and other applicable export and import laws. Authorized Users will not export, reexport, transfer, or use the Software or Subscription Services in violation of applicable export or import laws, economic sanctions laws, or other Applicable Laws.

e. **No Implied Rights.** Any rights not expressly granted in this Agreement are expressly reserved.

## **3. Subscription Services.**

a. **Generally.** Infor will provide the Subscription Services, as more particularly described in the Service Level Agreement applicable to the Subscription Software and Subscription Services which can be found at: <https://www.infor.com/service-level-description> discussing availability, scheduled maintenance, business continuity, disaster recovery, and Support. In the event of a conflict between the terms and conditions of this Agreement and the provisions of the Service Level Agreement, the provisions of the Service Level Agreement shall govern and control.

b. Security. Infor's Information Security Plan, setting forth the security measures with respect to the Software and Subscription Services, is referenced at: <https://www.infor.com/security-plan>. In the event of a conflict between the terms and conditions of this Agreement and the provisions of the Information Security Plan, the provisions of the Information Security Plan shall govern and control.

c. User Accounts. Customer shall ensure unique UserIDs and passwords are assigned to each Authorized User and Customer shall be responsible for managing such UserIDs and passwords through the Software interface. Customer shall maintain, and shall cause its Authorized Users to maintain, the confidentiality of UserIDs and passwords. Customer is responsible for all activities undertaken with UserIDs registered on Customer's account. Customer will immediately notify Infor of any unauthorized use of UserIDs.

d. Connectivity. Customer is responsible for ensuring latency and available bandwidth from Authorized Users' devices to Infor's hosted routers are adequate to meet Customer's desired level of performance.

e. Customizations. Customizations are not permitted in the hosted environment. "Customizations" means modifications to the generally available Software other than configurations and extensions created by Authorized Users via the standard user interface or tools included in the generally available Software.

f. Abrogation of Support. Infor has no Support obligations to the extent caused by (i) Customer deployed Third Party Offerings; or (ii) issues resulting from or arising out of professional services performed other than by Infor.

g. Migration. Infor reserves the right to migrate Customer from an existing single tenant environment for the Subscription Services to a new multi-tenant environment for the Subscription Services, and Customer will be notified in advance of such change, if and when it occurs.

#### **4. Payment and Taxes.**

a. Fees. Payment terms are specified in the Standard Contract Listing. Customer shall be responsible for reasonable fees associated with third party collection efforts actually as a result of Customer's failure to pay on time. After the Initial Subscription Term, Subscription Fees are subject to annual adjustment. Renewal Subscription Fees are due prior to the commencement of the Renewal Term. Except as otherwise set forth in this Agreement, all payments are non-refundable.

b. Taxes. Customer is responsible for paying all taxes relating to this Agreement (except for taxes based on Infor's net income or capital stock). Applicable tax amounts (if any) are not included in the fees and will be invoiced to Customer.

#### **5. Warranties.**

a. Limited Software Warranty. Infor warrants the Software will operate without a Defect during the Initial Subscription Term. Infor's sole obligation with respect to a breach of the foregoing warranty shall be to repair or replace the Software giving rise to the breach within a reasonable period of time. If Infor is unable to repair or replace such Software within a reasonable period of time, Infor may terminate the access rights for that Software and promptly refund to Customer the unused portion of the Subscription Fee if any, paid to Infor for the Subscription Services giving rise to the warranty claim.

b. Malicious Code. Infor warrants it will use generally accepted industry tools and practices to provide Software and Subscription Services that do not contain any "time bombs," "worms," "viruses," "Trojan horses," "protect codes," "data destruct keys," or other programming devices that are intended to modify, delete, damage, deactivate or disable Customer Data.

c. Abrogation of Limited Warranty. Infor will have no obligation under this Section 5 to the extent any alleged breach of warranty is caused by: (i) any Customer deployed Third Party Offerings; or (ii) issues resulting from or arising out of professional services performed other than by Infor.

d. Corporate Power. Each party represents and warrants that it has the full right, power and authority to enter into this Agreement.

e. **DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 5 NEITHER INFOR NOR ITS THIRD PARTY LICENSORS MAKE ANY OTHER WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, SUBSCRIPTION SERVICES PROVIDED UNDER THIS AGREEMENT. INFOR AND ITS THIRD PARTY LICENSORS EXPLICITLY DISCLAIM ALL WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE. INFOR AND ITS THIRD PARTY LICENSORS EXPRESSLY DO NOT WARRANT THE SOFTWARE OR SUBSCRIPTION SERVICES, IN WHOLE OR IN PART, WILL BE ERROR FREE, OPERATE WITHOUT INTERRUPTION OR MEET CUSTOMER'S REQUIREMENTS.**

f. **FAILURE OF ESSENTIAL PURPOSE. THE LIMITATIONS SPECIFIED IN SECTIONS 5 AND 9 WILL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

#### **6. Confidential Information.**

a. Recipient will take reasonable measures designed to prevent the unauthorized use or disclosure of Discloser's Confidential Information, including, at a minimum, those measures Recipient takes to protect its own Confidential Information of a similar nature. Infor will use and disclose Customer's Confidential Information only to its employees, Affiliates, and contractors ("Infor Representatives") and to the extent necessary to further and fulfill the purposes of this Agreement. Customer will use and disclose Infor's Confidential Information only to its Authorized Users and to the extent necessary to further and fulfill the purposes of this Agreement. The non-disclosure and non-use obligations of this Agreement will remain in full force with respect to each item of Confidential Information for a period of 10 years after termination of this Agreement.

b. Recipient shall be responsible for any breach of the confidentiality terms contained in this Section by any of its, in the case of Infor, Infor Representatives and, in the case of Customer, Authorized Users, and shall ensure such Infor Representatives, or Authorized Users, are bound by confidentiality obligations no less restrictive than those herein.

c. If Recipient should receive any legal request or process in any form seeking disclosure of Discloser's Confidential Information, or if Recipient should be advised by counsel of any obligation to disclose such Confidential Information, Recipient shall provide Discloser with prompt notice of such request or advice (if allowed by law) so Discloser may seek a protective order or pursue other appropriate assurance of the confidential treatment of the Confidential Information. Regardless of whether or not a protective order or other assurance is obtained, Recipient shall provide only that portion of Discloser's Confidential Information which is legally required to be provided and use reasonable efforts to assure the information is maintained in confidence by the party to whom it is furnished.

d. If Applicable Law requires a written agreement setting forth the parties' obligations with respect to Personal Data, Infor's Data Protection Addendum for Customers applies to the processing of Personal Data and is incorporated into this Agreement at Exhibit A attached hereto.

## **7. Indemnity by Infor.**

a. Infor will defend, indemnify and hold harmless Customer and its Affiliates (the "Indemnitees") from and against any loss, cost and expense to the extent arising from a third party claim against the Indemnitees ("Claim") that the Software or Subscription Services infringe any Intellectual Property Rights of others, when used by Authorized Users in accordance with this Agreement.

b. Infor's obligations under this Section are expressly conditioned on the following: (1) Customer must promptly notify Infor of any such Claim; (2) Customer must, in writing, grant Infor sole control of the defense of any such Claim and of all negotiations for its settlement or compromise so long as such settlement or compromise does not result in payment of money by Customer or an admission of guilt by Customer; and (3) Customer must reasonably cooperate with Infor to facilitate the settlement or defense of the Claim. If Customer chooses to represent its own interests in any such action, Customer may do so at its own expense, but such representation must not prejudice Infor's right to control the defense of the Claim and negotiate its settlement or compromise.

c. Notwithstanding the foregoing, Infor will not be obligated under this Section to the extent the Claim arises from (1) Customizations; or (2) any Customer deployed Third Party Offerings.

d. If any Software (or Subscription Services) is, or in Infor's opinion is likely to become, the subject of an Intellectual Property Rights infringement claim, then Infor, at its sole option and expense, will either: (1) obtain for Customer the right to continue using the Software (or Subscription Services) per the terms of this Agreement; (2) replace the Software with software (or Subscription Services with services) that is substantially equivalent in function, or modify the Software (or Subscription Services) so that it becomes non-infringing and substantially equivalent in function; or, if (1) or (2) are not available on commercially reasonable terms, (3) terminate this Agreement and refund to Customer the un-used portion of the paid Subscription Fee, if any, for the Software and Subscription Services giving rise to the Claim. **THIS SECTION SETS FORTH INFOR'S EXCLUSIVE OBLIGATION AND LIABILITY WITH RESPECT TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.**

## **8. Term and Termination.**

a. Term. As selected by Customer under the Standard Contract Listing as of the effective date of this Agreement, the Subscription Term shall either (i) terminate at the end of the Initial Subscription Term or (ii) renew for successive one-year Renewal Terms, unless either party provides written notice of non-renewal to the other party at least 90 days prior to expiration of the Initial Subscription Term or then current Renewal Term, as the case may be. Except as otherwise expressly set forth in this Agreement, the Subscription Term cannot be terminated prior to its expiration date. Upon the effectiveness of termination at the end of the Initial Subscription Term or non-renewal of the Subscription Term for additional Renewal Terms, as the case may be, Customer's rights to the applicable Software and Subscription Services shall immediately terminate. Further, Infor reserves the right to suspend access to the Subscription Software and Subscription Services in the event of any past due Subscription Fees and in the event Subscription Fees are not paid prior to the applicable Renewal Term to which they apply.

b. Right of Termination. If either party breaches any material obligation in this Agreement and/or the Standard Contract Listing and fails to remedy such breach within 30 days of receipt of written notice of such breach, the other party may terminate this Agreement by providing written notice to the breaching party. Notice of an alleged Defect does not constitute notice of material breach for purposes of this Section.

c. **Effect of Termination.** Upon the effectiveness of expiration or termination of the Subscription Term, this Agreement shall terminate and Customer's rights to the applicable Software and Subscription Services shall immediately terminate. Expiration or termination of this Agreement will not release either party from making payments which may be owing to the other party through the effective date of such expiration or termination. Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies pursuant to this Agreement, unless otherwise expressly stated herein.

d. **Survival of Obligations.** All obligations relating to non-use and non-disclosure of Confidential Information, limitations of liability, and such other terms which by their nature survive termination, will survive termination or expiration of this Agreement.

## **9. LIMITATIONS OF LIABILITY.**

a. **LIMITED LIABILITY.** EXCEPT WITH RESPECT TO THE "EXCLUDED LIABILITIES" (DEFINED BELOW) AND CUSTOMER'S OBLIGATION TO PAY AMOUNTS DUE HEREUNDER, THE TOTAL LIABILITY OF EITHER PARTY AND ITS AFFILIATES AND THIRD PARTY LICENSORS (IN THE CASE OF INFOR), WHATEVER THE BASIS OF LIABILITY, IN CONNECTION WITH OR RELATED TO SOFTWARE OR SUBSCRIPTION SERVICES WILL NOT EXCEED THE SUBSCRIPTION FEES PAID TO INFOR DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH LIABILITY FIRST AROSE FOR THE SOFTWARE OR SUBSCRIPTION SERVICES GIVING RISE TO THE LIABILITY.

b. **EXCLUSION OF DAMAGES.** EXCEPT WITH RESPECT TO THE EXCLUDED LIABILITIES, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR ITS THIRD PARTY LICENSORS (IN THE CASE OF INFOR) BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS, WHETHER BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. UNDER NO CIRCUMSTANCES SHALL EITHER PARTY SEEK OR BE LIABLE FOR PUNITIVE DAMAGES.

c. **EXCLUDED LIABILITIES.** THE TERM "EXCLUDED LIABILITIES" MEANS: (I) INFOR'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 7; (II) DISCLOSURE OF CONFIDENTIAL INFORMATION IN BREACH OF THIS AGREEMENT RESULTING FROM A PARTY'S ACTIONS, WHICH LIABILITY SHALL BE SUBJECT TO SECTION (d) BELOW; (III) CUSTOMER'S INFRINGEMENT OR MISAPPROPRIATION OF INFOR'S INTELLECTUAL PROPERTY RIGHTS; AND (IV) A PARTY'S WILLFUL MISCONDUCT.

d. **UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL INFORMATION.** WITH RESPECT TO DISCLOSURE OF CONFIDENTIAL INFORMATION IN BREACH OF THIS AGREEMENT RESULTING FROM A PARTY'S ACTIONS, THE TOTAL LIABILITY OF THE BREACHING PARTY, ITS AFFILIATES AND THIRD PARTY LICENSORS (IN THE CASE OF INFOR), SHALL NOT EXCEED 3 TIMES THE SUBSCRIPTION FEES PAID TO INFOR DURING THE TWELVE-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH LIABILITY FIRST AROSE HEREUNDER. TO THE EXTENT SUCH BREACH RESULTS IN THE UNAUTHORIZED DISCLOSURE OF PERSONAL DATA, DAMAGES SHALL INCLUDE (1) THE COSTS OF PROVIDING NOTICE TO AFFECTED PERSONS, (2) THE COST OF ESTABLISHING AND OPERATING A CALL CENTER TO FIELD INQUIRIES RELATED TO SUCH UNAUTHORIZED DISCLOSURE FOR UP TO 12 MONTHS; AND (3) THE COST OF PROVIDING CREDIT MONITORING SERVICES TO AFFECTED PERSONS, IN EACH CASE TO THE EXTENT REQUIRED BY APPLICABLE LAW AND ACTUALLY INCURRED.

**10. Notices.** All notices and other communications required or permitted under this Agreement must be in writing and will be deemed given when sent by overnight courier. Notices to Customer must be sent to its address shown on the signature page of this Agreement, or to such other place as it may subsequently designate in writing. Notices to Infor must be sent to Infor, Attention: General Counsel, 133 Peachtree Street NE, 24<sup>th</sup> Floor, Atlanta, GA 30303 and legalnotices@infor.com, or to such other place as it may subsequently designate in writing.

## **11. Force Majeure.**

a. Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including, without limitation, Acts of God, war, terrorist acts, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance, pandemic, international sanctions, or the threat of any of the foregoing (a "Force Majeure Event").

b. A party seeking to excuse its non-performance as a result of a Force Majeure Event shall have the burden of proof to demonstrate the Force Majeure Event prevents its performance and must, upon becoming aware of a Force Majeure Event preventing its performance, provide written notice to the other party specifying the details in such regard (a "Force Majeure Notice"). If, within 15 days following a party's provision of a Force Majeure Notice, such party is unable to provide written assurances of its ability to perform in accordance with the Agreement, the other party shall be entitled to terminate the Agreement or suspend its performance thereunder upon providing written notice.

**12. Assignment.** Neither party may assign or transfer any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other. Notwithstanding the foregoing, a party may, upon written notice to the other, and without the other's prior consent, assign or transfer this Agreement to (i) an Affiliate, or (ii) its successor in connection with a merger, acquisition, or sale of all or substantially all of its assets, provided the assigning party is not in breach

of this Agreement and such successor has agreed, in writing to the non-assigning party, to assume all obligations of the assigning party hereunder. Any such assignment by Customer must be in its entirety; Infor may assign partially to effectuate a change of control with respect to a product or business line. Any attempted assignment or transfer in violation of the foregoing will be void.

**13. No Waiver.** A party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that party to later enforce any such rights or to enforce any other or any subsequent breach.

**14. Choice of Law; Severability.** This Agreement, and all related disputes and claims hereto, shall be governed by the laws of the State of Delaware, without reference to its conflict of laws provisions thereof. If any provision of this Agreement is illegal or unenforceable, it will be deemed stricken and the remaining provisions of this Agreement will remain in full force and effect. The United Nations Convention on the International Sale of Goods shall not apply to the interpretation or enforcement of this Agreement. Other than with respect to a breach of Section 6 (Confidential Information) or any actual or threatened misappropriation or infringement of Intellectual Property Rights, a party is not entitled to seek injunctive relief.

**15. Usage check.** Infor will check usage of Customer's compliance with this Agreement and the Standard Contract Listing. If Customer has exceeded the permitted scope of use, then Customer will promptly pay Infor any underpaid Subscription Fees associated with such overuse based on any valid price option then in effect in the Order Form for additional Software usage or, if none, Infor's then current rates for such Software usage.

**16. Independent Contractors.** Infor and Customer are independent contractors under this Agreement, and nothing herein will be construed to create a partnership, joint venture or agency relationship between them.

**17. Insurance.** During the Subscription Term Infor will maintain insurance coverage as described at <https://dam.infor.com/api/public/content/a140f29cc818435786443a746bb5410d?v=cb16ce4b>.

**18. Compliance with Laws.** In relation to the Subscription Services, each party will comply with Applicable Law.

**19. Miscellaneous.** This Agreement together with the Standard Contract Listing, contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications, representations and understandings between the parties about its subject matter. This Agreement shall be construed as if drafted by both parties and shall not be strictly construed against either party. Each party acknowledges that, in entering into this Agreement, it does not rely upon, and shall have no remedy in respect of, any statement or representation of any person other than as expressly set out in this Agreement. Any purchase order or similar document that may be issued by Customer in connection with this Agreement does not modify, supplement or add terms to this Agreement. No modification of this Agreement will be effective unless it is in writing, is signed by each party, and expressly provides that it amends this Agreement.

**Exhibit A**  
**US Data Protection Addendum for Infor Customers**

Infor (US), LLC and Customer agree to the terms of this Data Protection Addendum ("**DPA**") which sets forth their obligations with respect to the processing and security of Personal Data (defined below) subject to Data Protection Requirements (defined below) in connection with the Subscription Services offered by Infor to Customer under the Agreement (defined below) (collectively, Infor and Customer are the "**Parties**"). The DPA is deemed incorporated into Customer's AWS Marketplace Software as a Service (SaaS) Agreement with Infor (the "**Agreement**"). In the event of any conflict or inconsistency between the DPA terms and any other terms in the Agreement, the DPA terms shall prevail.

**1. Definitions**

Capitalized terms used but not defined in this DPA will have the meanings provided in the Agreement. The following defined terms are used in this DPA:

"**Data Protection Requirements**" means applicable laws, regulations, and other legal or self-regulatory requirements in relevant jurisdictions relating to privacy, data protection, data security, breach notification, or the Processing of Personal Data, including without limitation, to the extent applicable, the California Consumer Privacy Act (as amended by the California Privacy Rights Act of 2020), Cal. Civ. Code § 1798.100 et seq., and any amendments thereto ("CCPA/CPRA") and similar laws passed in other states as they become effective, including but not limited to the Colorado Privacy Act, the Connecticut Data Privacy Act, the Utah Consumer Privacy Act, and the Virginia Consumer Data Protection Act), as relevant to the Subscription Services.

"**Personal Data**" means information that includes any non-public personal information that identifies and/or can be used to identify an individual, or as further defined by applicable Data Protection Requirements.

"**Personal Data Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

"**Subprocessor**" means other processors used by Infor to process Personal Data.

Lower case terms used but not defined in this DPA, such as "processing", "controller", "processor", and "profiling", have the same meaning as set forth in the Data Protection Requirements. "Business Purpose," "Commercial Purpose," "Consumer," "Deidentified," "Process," "Sell," "Service Provider," and "Share" have the meanings ascribed to them under applicable Data Protection Requirements.

**2. Nature of Data Processing**

**2.1. Scope and Application of this Agreement**

This DPA applies to all Subscription Services provided or made available to Customer by Infor under the Agreement.

**2.2. Nature and Details of Processing**

- **Categories of Consumers Whose Personal Data is Transferred:**
  - Consumers may include Customer's representatives and end-users including employees, contractors, collaborators, and customers of Customer, depending on Customer's use of the Subscription Services at Customer's election. Consumers may also include individuals attempting to communicate or transfer Personal Data to users of the Subscription Services provided by Infor.
- **Categories of Personal Data Transferred:**
  - The Personal Data transferred that is included in email, documents and other data in an electronic form in the context of the Subscription Services. Infor acknowledges that, depending on Customer's use of the Subscription Services, Customer may elect to include Personal Data from any of the following categories in the Personal Data: basic personal data; contact information; unique identification numbers and signatures; authentication data; financial and insurance information; commercial information; biometric information; location data; photos, video, and audio; device identification; HR and recruitment data; education data; citizenship and residency information; data processed for the performance of a task carried out in the public interest or in the exercise of an official authority; or any other personal data identified in the applicable Data Protection Requirements.
- **Sensitive data transferred (if applicable) and applied restrictions or safeguards that fully take into consideration the nature of the data and the risks involved, such as for instance strict purpose limitation, access restrictions (including access only for staff having followed specialized training), keeping a record of access to the data, restrictions for onward transfers or additional security measures.**
  - Special categories of data as set forth in Data Protection Requirements if applicable to the Subscription Services. Technical and Organizational Security Measures in Section 5.1 are applied to all Customer Data regardless of sensitivity.
- **The frequency of the transfer (e.g. whether the data is transferred on a one-off or continuous basis).**

- The duration of data processing shall be so long as Infor processes Personal Data for the term designated under the applicable Agreement between Customer and Infor. The objective of the data processing is the performance of Subscription Services.
- *Nature of the processing*
  - For Subscription Services, Infor will only act upon Customer's instructions as conveyed by Customer.
- *Purpose(s) of the data transfer and further processing*
  - The purpose of processing Personal Data is described in this DPA. Infor operates a global network of data centers and management/support facilities, and processing may take place in any jurisdiction where Infor or its sub-processors operate such facilities as described in this DPA.
- *The period for which the personal data will be retained, or, if that is not possible, the criteria used to determine that period*
  - Upon expiration or termination of Customer's use of Subscription Services, Customer may extract Personal Data and Infor will delete Personal Data, each in accordance with the DPA terms applicable to the Agreement.

### 2.3. Processing to Provide Customer the Subscription Services

For purposes of this DPA, providing a Service may include, as applicable the following limited and specified purposes:

- Delivering functional capabilities as licensed, configured, and used by Customer and its users, including personalized user experiences;
- Troubleshooting (preventing, detecting, and repairing problems); and
- Ongoing improvement (installing the latest updates, if and when available, and making improvements to user productivity, reliability, and security).

Incidentally to the provision of the Subscription Services, Infor acts as a data controller for certain processing activities, which include the following: (i) billing and account management; (ii) compensation (e.g., calculating Infor employee commissions and partner incentives); (iii) internal reporting and business modeling (e.g., forecasting, revenue, capacity planning, product strategy); (iv) combatting fraud and cybercrime; (v) improving functionality; and (vi) compliance with legal obligations. Infor will comply with its obligations, as an independent data controller, under the Data Protection Requirements for such use.

Infor will not use or otherwise process Personal Data for: (i) user profiling, (ii) advertising, or (iii) any other purpose, except as provided in the Agreement.

As required by applicable Data Protection Requirements, with respect to Personal Data received from Customer under the Agreement, Infor agrees it will not, unless otherwise permitted by Data Protection Requirements or the Agreement: (a) Sell or Share the Personal Data; or (b) retain, use, or disclose the Personal Data for any purpose other than for the limited Business Purpose(s) specified in the Agreement, including retaining, using, or disclosing the Personal Data for a commercial purpose other than providing the Subscription Services specified in the Agreement; (c) retain, use, or disclose the Personal Data outside of the direct business relationship between Customer and Infor; or (d) combine Personal Data received pursuant to the Agreement with Personal Data received from or on behalf of another person(s), or collected from Infor's own interactions with Consumers, provided that Infor may combine Personal Data to perform any Business Purpose as defined in applicable Data Protection Requirements.

### 2.4. Respective Roles and Responsibilities

Customer and Infor agree that Customer is the controller of Personal Data and Infor is the processor of such data. Infor will use and otherwise process Personal Data to provide Customer the Subscription Services and in accordance with Customer's documented instructions. Customer agrees that the Agreement (including the DPA terms and any applicable updates), along with the product documentation and Customer's use and configuration of features in the Subscription Services, are Customer's complete documented instructions to Infor for the processing of Personal Data. For the avoidance of doubt, the term "Customer Data" as defined in the Agreement, may include Personal Data.

## 3. Regulatory Changes

Infor may modify or terminate a Service in any country or jurisdiction where there is any current or future government requirement or obligation that (i) subjects Infor to any regulation or requirement not generally applicable to businesses operating there, (ii) presents a hardship for Infor to continue providing the Service without modification, and/or (iii) causes Infor to believe the DPA terms may conflict with any such requirement or obligation.

Infor reserves the right to revise the DPA (making the revised version available in advance through the Customer's account in Infor support portal or alternative equivalent methods): (i) to comply with and to reflect any changes in the applicable Data Protection Requirements, so long as any such revisions continue to ensure the protection of Personal Data processed by Infor in the course of providing the Subscription Services to Customer; or (ii) if Infor implements a different legal mechanism for transfers of Personal Data.



#### 4. Subprocessors

Customer acknowledges and agrees that Infor may hire Subprocessors to provide services on its behalf. Customer may access a list of relevant Subprocessors engaged by Infor through Customer's account in Infor support portals or alternative equivalent methods.

From time to time, Infor may engage new Subprocessors. Infor will give Customer reasonable advance notice of any new Subprocessor to provide Customer with an opportunity to object to the use of such new Subprocessor. When engaging any Subprocessor, Infor will ensure via a written agreement that (i) the Subprocessor may access and use Personal Data only to deliver the services Infor has retained them to provide and is prohibited from using Personal Data for any other purpose and (ii) that Subprocessor provides for, in substance, the same data protection obligations as those binding Infor under this DPA. Infor agrees to oversee the Subprocessors to ensure that these contractual obligations are met.

#### 5. Security

##### 5.1. Data Security

Infor will implement and maintain appropriate technical and organizational measures designed to protect Personal Data against any Personal Data Breach (e.g., encryption, access control, confidentiality obligations, etc.). Those measures are set forth in the Infor Security Plan which is located at [www.infor.com/security-plan](http://www.infor.com/security-plan). Infor will maintain the security measures for the processing of all Personal Data in conjunction with the Subscription Services. A listing of Infor's relevant certifications can be found at: [trust.infor.com](http://trust.infor.com).

Customer acknowledges and agrees that (taking into account the state of the art, the costs of implementation, context of processing, and the risk of varying likelihood and severity for the rights and freedoms of natural persons) the technical and organizational measures implemented and maintained by Infor provide a level of security appropriate to the risk and in compliance with applicable Data Protection Requirements. Customer will implement appropriate technical and organizational measures to ensure the security of the Personal Data during its transmission.

##### 5.2. Confidentiality

Infor will ensure that those engaged by Infor in the processing of Personal Data (i) will process such data only on instructions from Customer or as described in this DPA, and (ii) will be obligated to maintain the confidentiality and security of such data even after their engagement ends. Infor shall provide periodic and mandatory data privacy and security training and awareness to its employees with access to Personal Data in accordance with applicable Data Protection Requirements and industry standards.

##### 5.3. Personal Data Breach Notification

If Infor becomes aware of a Personal Data Breach affecting Personal Data processed by Infor, Infor will, without undue delay (i) notify Customer of the Personal Data Breach; (ii) investigate the Personal Data Breach and provide Customer with detailed information about the Personal Data Breach as such information becomes known to Infor; (iii) take reasonable steps to mitigate the effects and to minimize any damage resulting from the Personal Data Breach. Customer is responsible for complying with its obligations under Data Protection Law for fulfilling any third party notification obligations related to a Personal Data Breach. Infor's notification of or response to a Personal Data Breach under this section is not an acknowledgement by Infor of any fault or liability with respect to the Personal Data Breach.

As authorized by applicable Data Protection Requirements, upon written notice to Infor, Customer may take reasonable and appropriate steps to stop and remediate the unauthorized use of Personal Data.

#### 6. Audit

##### 6.1 *Proactive Audit for Subscription Services:*

Infor will conduct audits of its security controls applied to processing Personal Data for Subscription Services, as follows:

- Each audit will be performed according to the rules of the accreditation body for each applicable control standard or framework
- Each audit will be performed by qualified, independent, third party security auditors at Infor's selection and expense.

Each audit will result in the generation of an audit report ("**Infor Data Protection Audit Report**"), which Infor will make available to Customer upon request. The Infor Data Protection Audit Report is Infor's Confidential Information and is subject to non-disclosure and distribution limitations of Infor and the auditor.

##### 6.2 *Supplemental Audit for Subscription Services:*

To the extent Customer's audit requirements under applicable Data Protection Requirements cannot reasonably be satisfied through the Infor Data Protection Audit Report, if applicable, any other audit reports or other information Infor makes generally available to its customers, Infor will promptly respond to Customer's additional audit instructions.

Before the commencement of an audit, Customer and Infor will mutually agree upon the scope, timing, duration, control and evidence requirements. Customer may use an independent accredited third party audit firm to perform the audit on its behalf, provided the third party auditor is mutually agreed to by Customer and Infor. Customer agrees that the audit will be conducted without unreasonably interfering with Infor's (or Infor's Subprocessor's) business activities, during regular business hours with reasonable advance notice, and subject to Infor's (or the applicable Subprocessor's) security policies and confidentiality procedures. Where on-site audits of physical data centers, systems, or facilities are not permitted, Infor will work with Customer (and Subprocessor if applicable) to reach a mutually agreeable resolution sufficient to provide information necessary for Customer to comply with audit requirements under the applicable Data Protection Requirements.

Neither Customer, nor the auditor, shall have access to any data from Infor's other customers or to Infor systems or facilities not involved in the Subscription Services provided to Customer. Customer is responsible for all costs and fees related to the audit, including all reasonable costs and fees Infor expends for the audit and any costs and fees Infor incurs from any Subprocessor where the audit involves a Subprocessor.

## **7. Consumer Rights and Third Party Disclosure**

### **7.1. Consumer Rights**

Taking into account the nature of the processing and the applicable Service, Infor will make available to Customer, in a manner consistent with the functionality of the Subscription Services and Infor's role as a processor of Personal Data of consumers, the ability to fulfill consumer requests to exercise their rights under the Data Protection Requirements. If Infor receives a request from Customer's consumer to exercise a right in connection with a Service for which Infor is a data processor, Infor will redirect the consumer to make its request directly to Customer. Customer will be responsible for responding to any such request including by using the functionality of the Subscription Services. Infor shall comply with reasonable requests by Customer to assist with Customer's response to such a consumer request.

### **7.2. Disclosure of Personal Data**

Infor will not disclose or provide access to any Personal Data except: (i) as Customer directs; (ii) as described in this DPA; or (iii) as required by law, and in any event in accordance with the applicable Data Protection Requirements.

Customer agrees that the disclosure of Personal Data to a third party for the purposes of the Subscription Services is in accordance with Customer's documented instructions. As for any legally binding requests for the disclosure of Personal Data issued by a public authority, or any direct access requests to Personal Data by a public authority, Infor will (i) challenge such requests where the request conflicts with applicable law, is overbroad, or other appropriate objection applies, and (ii) if compelled to do so, disclose only the minimum amount of Personal Data necessary to satisfy the request.

## **8. Data Retention and Deletion**

At all times during the Term of Customer's subscription, Customer will have the ability to access, extract and delete Personal Data stored in each Subscription Service. Where Infor is required to continue any processing of Personal Data following the expiration or termination of Customer's Agreement, the terms and conditions of this DPA shall continue to apply to such Personal Data until deleted or returned as set out above.

The Service may not support use of third party retention or extraction software provided by Customer. In the event that Customer uses a third party to support the retention and/or deletion of Personal Data on its behalf, Customer acknowledges and agrees that Infor shall not be liable for any losses incurred by Customer or the third party arising from or in connection with such use.

## **9. Data Transfers**

The Parties shall comply with any data transfer obligations required by the Data Protection Requirements, including but not limited to executing any additional contractual language for such data transfers. In addition, Customer is responsible for ensuring that transfers of Personal Data under this DPA are permissible under Data Protection Laws, and that any necessary contractual measures and security assessments or registrations/permits, if any are required under Data Protection Laws, have been completed before Customer provides such Personal Data to Infor.

## **10. Compliance with Laws; Assistance**

### **10.1 Compliance with Laws**

Each Party shall comply with its obligations under applicable Data Protection Requirements, including but not limited to providing the level of protection as is required under applicable Data Protection Requirements. Infor shall notify Customer within

the time frame, if any, specified by applicable Data Protection Requirements, if Infor can no longer meet its obligations under applicable Data Protection Requirements. Customer may take reasonable and appropriate steps to help ensure that Infor uses Personal Data in a manner consistent with Customer's obligations under applicable Data Protection Requirements.

#### 10.2 Assistance.

Infor shall provide reasonable assistance to Customer by providing generally available information relating to the Subscription Services to extent such information is needed by Customer in conducting and documenting data protection assessments and otherwise in complying with Customer's obligations under applicable Data Protection Requirements. Upon Customer's reasonable request in the event of a valid regulator audit or investigation, Infor shall make available to Customer generally available information demonstrating Infor's compliance with its obligations under this Exhibit and the applicable Data Protection Requirements.

#### **11. Limitation of Liability**

The Parties agree that any liability arising out of or in connection with this DPA, whether based on breach of contract, tort or otherwise, is, as between the Parties, limited to direct damages (i.e., excluding any indirect, consequential, special or incidental cost, loss or damage of any kind, including lost data or lost profits, or punitive damages) and subject to the applicable provisions on limitation of liability of the Agreement. Infor's total liability for all claims issued by Customer, arising out of or related to the Agreement, will apply in the aggregate. For the avoidance of doubt, the limitation of liability in this Section does not apply to or limit in any way the rights or remedies of a consumer provided by the Data Protection Requirements.

#### **12. How to Contact Infor**

Customer may contact Infor Privacy at:

##### **Infor Global Data Privacy Officer**

Infor (US), LLC  
133 Peachtree Street, Floor 24  
Atlanta, GA 30303 USA  
[Privacy@infor.com](mailto:Privacy@infor.com)

**13. Certification.** Infor certifies that it understands and will comply with the requirements and restrictions set forth in this Exhibit.