QAD LICENSING PROVISIONS

These Licensing Provisions apply to all licenses for software resold by authorized QAD Partners.

Article 1.   Definitions

The following terms will have the following meanings in these Licensing Provisions:

1.1 Affiliate(s) means a legal entity in which Customer a) directly or indirectly holds more than fifty percent (50%) of the nominal value of the issued share capital, or b) has more than fifty percent (50%) of the voting power at general meetings; or c) has the power to appoint a majority of the directors; or d) otherwise maintains core control of such company.

1.2 Customer means the party to which a license to the QAD software was resold by an authorized QAD Partner.

1.3 Documentation means Vendor's published user manuals and other technical and functional documentation of the software and Maintenance made available to Customer by Vendor. The Documentation is provided in English and, when available, in other languages.

1.4 Partner means an authorized QAD partner operating under the terms of a Partner Agreement between QAD and Partner.

1.5 Software & Cloud Services Terms means the document titled "Software & Cloud Services Terms" available from http://www.qad.com/legal.html.

1.6 User means each individual, device, or process that has access to the software (also referred to as a "Named User"). Some software is licensed on the basis of a different licensing metric (i.e. not on the basis of Named Users). In such instances, the definition of such metric shall replace the definition of User for such software only. A full list of additional licensing metrics for the software is available in the Software & Cloud Services Terms.

Article 2.   Licenses

2.1 Software & Cloud Services Terms. The terms of the software & Cloud Services Terms are hereby incorporated by reference into these Licensing Provisions, but only to the extent that they concern products licensed by Customer. Licenses granted under application of the Software & Cloud Services Terms are not altered by changes made to the Software & Cloud Services Terms after the date of the license grant and such licenses will continue to be governed by the version of the Software & Cloud Services Terms that was in effect at the time of the license grant.

2.2 Perpetual Licenses. Upon condition that all applicable license fees are paid to Partner, QAD through its authorized Partner hereby grants to Customer a non-exclusive, non-transferable, perpetual license to use the software described in the Purchase Order, subject to the terms and conditions of these Licensing Provisions. Perpetual licenses granted under these Licensing Provisions are limited to the license quantity.

2.3 Term Licenses. Upon condition that all applicable license fees are paid to Partner, QAD through its authorized Partner hereby grants to Customer a non-exclusive, non-transferable, temporary license for the term indicated in the Purchase Order to use the software described in the Purchase Order, subject to the terms and conditions of these Licensing Provisions. Term licenses granted under these Licensing Provisions are limited to the license quantity and the term. Unless indicated otherwise, the number of licenses for a product licensed on a subscription basis must match the number of (perpetual) licenses for the QAD enterprise applications. A term license shall automatically renew for a period of one (1) year upon expiration of the previous term unless terminated by either party at least sixty (60) days prior to the effective date of renewal.

2.4 Restrictions on Use. Customer's use of the software shall be subject to the following conditions:
a) Customer shall use the software solely for its own business purposes.
b) Customer shall use third party products resold by QAD solely in combination with the software (i.e. they cannot be used as stand-alone products).
c) Customer shall use unique logon IDs for individuals, devices and processes (i.e. logon IDs shall not be shared).
d) Customer shall not use the software in a way that hides or understates the actual number of Users using the software (e.g. by circumventing the software's log-on process).
e) Customer shall not sublicense the software or use the software for timesharing, rental or service bureau purposes.
f) Customer shall not decompile, or reverse engineer the software, unless expressly permitted by law and only to the extent permitted by law.
g) Customer shall, upon QAD's request, identify all Affiliates to whom access has been granted to the software and also each location at which the software resides.

2.5 Development Software. QAD may provide certain development tools which Customer may use subject to the following conditions: (i) Customer may use the resulting developments exclusively for Customer's own business purposes and only together with the software made available to Customer hereunder; (ii) Customer shall not make the developments available to any other person; (iii) Customer shall follow instructions and guidelines published by QAD for using the development tools; (iv) Customer acknowledges and agrees that QAD makes no warranty with respect to developments created by Customer; and (v) the Progress Software Corporation development tools may be used only to install, support, localize or customize the software made available to Customer hereunder..

2.6 Backups and Failover Environments. Customer is allowed to make copies of the software for archive and back-up purposes. Additionally, Customer can use the software in a failover environment on the condition that the failover environment is set up as a passive mirror against which applications cannot execute, transact or query directly. In this scenario, failover is accomplished by after-imaging. If the files in the failover environment are maintained in such a format or configuration that a relevant application can execute, transact or query directly against them, additional licenses are required.

2.7 Termination of Appointment of Partner. The termination of the appointment of Partner shall not influence the effectiveness of this document. In such event, QAD or another authorized Partner agrees to endeavor to continue

the support to Customer upon terms, conditions and fees to be agreed upon between QAD/the other Partner and Customer.

Article 3.   Audits

3.1 Access to Software. QAD and Partner have a right to access the software in order to verify appropriate usage of the software. Customer agrees to cooperate with QAD and Partner in performing such audits. Customer further agrees to keep adequate books and records in connection with Customer's actions under these Licensing Provisions and to provide QAD or Partner with any files reasonably requested by QAD or Partner which will enable QAD or Partner to determine the actual usage of the software. Such files include, but are not limited to, a single master list of all User IDs used at all Locations and the log files generated by the software.

3.2 Single Point of Contact. Customer will assign a single point of contact for any audit issues (i.e. a contact that can address audit related issues for all Customers).

3.3 Protection. Customer agrees that QAD, at its option, may implement measures intended to prevent usage of certain software in excess of or otherwise in conflict with the license that was granted for the software. As part of this protection, QAD may issue software keys. Any attempt by Customer to alter, remove or deactivate this protection will be deemed a material breach by Customer of these Licensing Provisions.

3.4 Third Party Beneficiaries. Customer agree that certain components of the software are supplied by third-party vendors (including, but not limited to, Progress software Corporation), who are intended beneficiaries under these Licensing Provisions and who may independently enforce the license terms applicable to such components. For the avoidance of doubt, Customer expressly agrees that QAD may enforce the terms of the license directly against Customer.

3.5 Non-Compliance. If as a result of any audit it is discovered that Customer is using the software in excess of or otherwise in conflict with the license that was granted for the software, then Customer shall pay Partner or QAD, within thirty (30) days of receipt of notice from Partner or QAD, the amounts due to become compliant (including any related maintenance fees and interest). Failure to do so shall be a material breach of these Licensing Provisions. If the deficiency is U.S. $10,000 (ten thousand dollars) or more, Customer shall also be liable to pay the reasonable cost of the audit report and shall indemnify QAD and Partner for all reasonable costs incurred by QAD and Partner in recovering any amounts due to QAD or Partner, including, but not limited to, legal costs.

Article 4.   Confidentiality

4.1 Confidential Information. It is recognized that each party under these Licensing Provisions may make available to the other party proprietary or confidential information related to the business of such party. Each party shall keep confidential any information disclosed by the other party identified as proprietary or confidential information or by its nature deemed to be proprietary or confidential information.

Article 5.   Intellectual Property

5.1 Ownership Rights. Customer shall not acquire any rights of ownership in the software. Customer confirms and acknowledges that all intellectual property rights used or embodied in or in connection with the software shall be and remain the sole property of the owners of such software.

5.2 Ownership of Modifications. Any intellectual property rights arising from any modification of the software created by or for Customer, shall vest solely in the owner of such software. Customer hereby assigns all rights, title, and interest in the intellectual property arising from the modifications of the software to such owners. Customer further agrees to undertake all acts and execute all documents necessary to confirm and perfect the software owner's title in such modifications. If this is not possible at law, Customer hereby irrevocably licenses to the owner of the software, without charge, the right to use, modify, supplement and exploit in the broadest sense of the word, the modifications of the software on a perpetual and worldwide basis. Customer shall indemnify Vendor against any claim that such modifications to the source code infringe the intellectual property rights of any third party.

5.3 Use of Modifications. Modifications to the software can be used by Customer, subject to the terms and conditions of the Licensing Provisions, provided Customer has a license for the software on which the modifications are based (i.e. Customer should have an adequate license for the software that was modified prior to using any modifications).

Article 6.   Indemnification

6.1 Intellectual Property Indemnification. QAD shall defend, at its expense, any action brought against Customer based on the claim that the use of the software, when used within the scope of these Licensing Provisions, infringes any third-party intellectual property rights. QAD shall indemnify Customer for any damages finally awarded against Customer which are attributable to such claim, provided a) Customer promptly notifies QAD of any suit or claim, b) Customer permits QAD to defend, compromise, or settle the claim, and c) Customer gives QAD the requested information and fully cooperates in defending, compromising or settling the claim.

6.2 Additional Remedies. QAD shall, in addition to indemnification, a) procure for the Customer the right or license to use the software, or b) replace or modify the infringing software to make it non-infringing, or c) if the foregoing alternatives are not commercially reasonable, terminate the access for the infringing part of the software and refund the license fees paid for the infringing part of the software.

6.3 Exclusions. QAD shall have no liability for any claim based on a) the use of anything other than the latest release of the licensed software, if such infringement could have been avoided by the use of the latest release of the licensed software, or b) use or combination of the licensed software with software, hardware or other materials not provided by QAD, or c) modification of the software.

6.4 Entire Liability. THIS ARTICLE STATES THE ENTIRE LIABILITY OF QAD WITH RESPECT TO INFRINGEMENT OF COPYRIGHTS, TRADE SECRETS, PATENTS AND OTHER INTELLECTUAL PROPERTY RIGHTS ARISING FROM THE USE OF THE LICENSED SOFTWARE.

Article 7.   Limited Warranty

7.1 Software Warranty. QAD warrants for a period of ninety (90) days from date of delivery of the software that the software shall be free from material program errors and defects in materials and workmanship and that the software shall function substantially in accordance with the Documentation. The warranty applies to the standard software only. If the software is modified in any way, then the warranty applies only to the unmodified software as distributed by QAD.

7.2 Warranty Requirements. The warranty described above shall only apply providing:

a) Customer provides written notice of the software's material program error(s) or defect(s) in material and workmanship in reasonable detail within the warranty period.

b) Customer installs all releases and updates to the software provided by QAD or Partner which intend to fix errors or defects.

c) Customer installs and uses the latest version of all prerequisite operating system and other software currently recommended by QAD.

d) QAD or Partner can reproduce the defect in a standard version of the software on officially supported configurations.

e) Customer uses the software in accordance with the Documentation.

7.3 Remedies. During the initial ninety (90) day warranty term, if QAD or Partner is unable, after reasonable efforts, to make the software perform as warranted, Customer's sole remedy shall be to terminate the license by removing the licensed software from the Location and returning it to Partner. Customer will then receive a refund of the license fees paid for the software. After the initial ninety (90) day warranty term, if QAD or Partner are unable, after reasonable efforts, to make the software perform as warranted, Customer may terminate the license to the software. Customer will then receive a refund of a portion of the license fees paid for the software. Such portion shall be determined based on a three (3) year straight-line depreciation of the fees paid for the licensed software. The period of depreciation shall begin on the date of the initial license grant.

7.4 Content. Vendor may provide with the software (but not as part of the software) third-party content, such as trade or compliance content. This content is provided "as is", and Vendor makes no warranty as to the accuracy or completeness of such content. Customer uses such content at its own risk, and Vendor shall have no liability to Customer or any third party based on Customer's use of or reliance on such content.

7.5 Warranty Exclusions. THE LIMITED WARRANTIES EXPRESSED IN THIS ARTICLE ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NO OTHER WARRANTY IS MADE HEREUNDER BY QAD AND ALL OTHER CONDITIONS, WARRANTIES, AND REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, ARE EXCLUDED.

Article 8.   Limitation of Liability

8.1 Damages. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR ANY LOSS OF PROFITS OR REVENUE.

8.2 License Fee Limitation. THE MAXIMUM LIABILITY OF A PARTY FOR DAMAGES RELATED TO ANY USE OF THE SOFTWARE IN CASE OF PERPETUAL LICENSES SHALL BE LIMITED TO THE LICENSE FEES PAID BY CUSTOMER UNDER THESE LICENSING PROVISIONS FOR THE PARTICULAR LICENSED SOFTWARE WHICH CAUSED THE DAMAGES. THE MAXIMUM LIABILITY OF A PARTY FOR DAMAGES RELATED TO ANY USE OF THE SOFTWARE IN CASE OF TERM LICENSES SHALL BE LIMITED TO THE LICENSE FEES PAID BY CUSTOMER UNDER THESE LICENSING PROVISIONS FOR THE PARTICULAR SOFTWARE IN THE PARTICULAR YEAR IN WHICH THE DAMAGES OCCURRED. THE FOREGOING MAXIMUM LIABILITY LIMIT SHALL NOT APPLY TO (1) DAMAGES ARISING FROM DEATH OR PERSONAL INJURY; OR (2) UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (3) A PARTY'S INDEMNIFICATION OBLIGATIONS IN RELATION TO INTELLECTUAL PROPERTY INFRINGEMENT AS PROVIDED UNDER THE AGREEMENT; OR OR (4) CUSTOMER'S NON-COMPLIANCE WITH THE LICENSING PROVISIONS.

Article 9.   Termination

9.1 Termination for Cause. QAD may terminate any licenses granted under these Licensing Provisions by a one (1) month prior written notice upon failure of Customer to remedy a material breach of its obligations hereunder within ten (10) days after being notified of such breach. Customer shall discontinue all use of the software and return the software to Partner and not keep any copies of the software. Under no circumstances Customer shall be entitled to claim any indemnification or compensation as a result of the termination of this license.

Article 10.   Miscellaneous

10.1 Law Applicable to these Licensing Provisions. If these Licensing Provisions govern licenses granted in the Americas (North and South America), these Licensing Provisions shall be deemed to have been entered into with QAD Inc. and they shall be subject to and construed, interpreted, and applied in accordance with the laws of the State of California, United States of America. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, shall be determined by arbitration in Los Angeles California USA before a single arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The language of the arbitration shall be English. The arbitral award, which shall be final and binding on both parties, may be enforced in any court having jurisdiction thereof. Any discovery as part of the arbitration process shall include the right to subpoena. If these Licensing Provisions govern licenses granted in the rest of the world, these Licensing Provisions shall be deemed to have been entered into with QAD Europe (Netherlands) B.V. and they shall be construed, interpreted, and applied in accordance with the laws of The Netherlands. Any dispute arising in connection with this Agreement shall be solely within the jurisdiction of the competent court of Amsterdam. In either case, parties acknowledge and agree that the U.N. Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act shall not apply to this Agreement.

10.2 Assignment and Transfers. Customer may not assign or transfer a license to the software without QAD's prior written consent and the payment of QAD's standard transfer fees in effect at the time of the transfer.

10.3 Independence. QAD and Partner conduct their own businesses each for its own account and risk. Neither Partner nor QAD shall have the power or authority to act on behalf of or incur any liability for the account of the other party.

10.4 Legal Construction. To the extent that any law, statute, treaty, or regulation by its terms as determined by a court, tribunal, or other government authority of competent jurisdiction, is in conflict with these Licensing Provisions, the conflicting terms of these Licensing Provisions shall be superseded only to the extent necessary by the terms required by such law, statute, treaty, or regulation. If any portion of these Licensing Provisions shall be otherwise unlawful, void, or for any reason unenforceable, then that

provision shall be enforced to the maximum extent permissible so as to give effect to the intent of the parties. In either case, the remainder of these Licensing Provisions shall continue in full force and effect.

10.5 Publicity. QAD is allowed to incorporate Customer's name in the Customer reference list of QAD and in any public filings required by law and to issue a press release that the parties have entered into these Licensing Provisions.

10.6 Force Majeure. Neither party shall be liable for delays or non-performance if such delays or non-performance are beyond such party's reasonable control provided the party takes reasonable steps to remedy the delay or non-performance promptly.

10.7 Waiver. The waiver by any party of a breach or default by the other party of any provision of these Licensing Provisions shall not be construed as a waiver by such party of any succeeding breach or default by the other party of the same or another provision.

10.8 Language. The original of these Licensing Provisions has been written in the English language. Customer hereby waives any right they may have under the laws of the country in which the software is licensed to have these Licensing Provisions written in another language. The user manuals and on-line documentation are provided in English and, when available, in other languages.

10.9 Export Controls and Sanctions. The parties shall comply with all applicable export controls and sanctions restrictions, including those provided for in the Export Administration Regulations ("EAR") (15 C.F.R. § 730 et seq.) and the Office of Foreign Assets Control ("OFAC") regulations (31 C.F.R. § 500 et seq.). Customer warrants that it is not listed nor owned by a person that is listed on the List of Specially Designated Nationals ("SDNs"), Bureau of Industry and Security Entity List ("BIS Entity List") or Denied Persons List ("DPL"), or otherwise a restricted party under U.S. export controls or sanctions laws. Customer shall not export, reexport, or transfer (in country) to, or use Vendor's products or services for the benefit of, a restricted party or embargoed destination without authorization from the U.S. government. If Vendor has reason to believe Customer has committed a violation of export controls or sanctions, Vendor may immediately terminate this agreement, notwithstanding the terms of the clause titled "Term and Termination".

10.10 Survival. The provisions of these Licensing Provisions which are by their nature intended to survive termination of these Licensing Provisions, will survive such termination. Such provisions include, but are not limited to, the provisions on Confidentiality, Intellectual Property, Indemnification, Limitation of Liability, and Export Controls and Sanctions.

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