



Termination

This Support and Maintenance Agreement (“Agreement”) is valid for an indefinite term. Each party is entitled to terminate the Agreement upon six (6) months written notice of termination. However, the Agreement may not be terminated earlier than six (6) months after the Effective Date of the Agreement, whereupon the Agreement shall terminate six (6) months thereafter.

Scope of Services

The Services to be provided by Supplier consist of the services described in Schedule 1 attached here to.

Terms and Conditions

1 General. The terms and conditions set forth herein shall apply on all services (“Services”) offered or performed by Mentice Inc. or any subsidiary (“Supplier”), except for any third party software offered for sale or sold by Supplier. The terms and conditions set forth in this Agreement constitute the sole and entire agreement between Supplier and the Customer in respect of Services.

2 Services. Supplier shall provide services in accordance with the terms and conditions specified in this Agreement. The Services include the services set out in the schedules attached hereto.

3 Supplier’s obligations. Supplier undertakes to perform the Services described in this Agreement. Supplier’s undertaking to perform Services includes the latest and second-to-last official release of any software of Supplier (“Software”). Services shall be planned and managed by Supplier. Services are to be provided during the periods as set out above. Services shall be rendered with the speed that is required by the circumstances.

4 Exceptions from Supplier’s obligation. Supplier’s obligations do not include: (a) errors caused by Customer’s use of Supplier’s products (“Products”) and Software together with equipment or appliances which have not been specified by Customer at the time of the execution of the Agreement, (b) errors caused by Customer’s use of the Products and Software in a manner other than the manner prescribed in the user documentation.

5 Customer’s obligations. Prior to operational use, Customer shall perform tests on all Products and Software described in the Agreement. Customer shall continuously monitor the functionality and quality of the Products and Software. In addition thereto, appropriate preventive measures against errors shall be taken, including the production of back-up copies of data, error diagnostics and regular monitoring of results. Upon discovering an error, Customer shall as soon as possible inform Supplier thereof in a written report. When reporting an error, Customer shall specify and, if necessary, demonstrate how the error occurs. Customer shall provide Supplier with requisite assistance in conjunction with maintenance. Customer is responsible for all back-ups, including storage

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of disks.

6 Fee and payment. The fee set out in the Agreement, calculated and payable on an annual basis in advance, shall be payable for all services performed pursuant to Supplier's obligations, according to the prices and conditions set out in above. After the initial twelve (12) months of the term of the Agreement, Supplier may change prices pursuant to Supplier's price list applicable at the relevant time. All fees shall be subject to sales tax/VAT, which shall be added as applicable as well as other special taxes or fees imposed by changes in public regulations introduced after execution of the Agreement. If Customer has caused Supplier to provide services that are not included in Supplier's obligations according to this Agreement, such services shall be invoiced on account according to the prices set out in Supplier's price list applicable at the relevant time. In all other respects, the terms of the Agreement shall apply. Payment for services invoiced on account shall be paid monthly, thirty (30) days after the date of the invoice. If payment has not been made on or before the due date, Supplier shall be entitled to penalty interest on overdue payments at the rate of one and one-half percent (1 1/2 %) per month or the highest rate then permitted by law, whichever is less, until paid in full. In addition, Supplier is entitled to cancel or postpone Services under the Contract without prior notice if Customer is in delay in making payment.

Moreover, Supplier is entitled to terminate the Agreement by written notification if Customer's delay in paying the amount due exceeds thirty (30) days. Supplier is entitled to damages if Supplier terminates the Agreement.

7 Warranty and liability for defects. Supplier warrants that the Services will be performed in accordance with the Agreement. In order to be binding, the Products' and the Software's functionality must be confirmed by Supplier in writing. Specifications in documents, brochures, project plans, Supplier's web site, or otherwise do not constitute such confirmation. Customer shall report all defects in the Services to Supplier in a manner so that Supplier can track how and when the error occurred. Furthermore, Customer shall attach all information that is required for the rectification of the error. A report according to this Section 7 shall be made in writing, upon demand by Supplier. Non-substantial deviations from Supplier's obligations or warranties or deviations which are not of significance to Customer shall not be deemed to constitute defects. Supplier is not liable for defects to the extent they are caused by Customer, its personnel, or the computer environment used by Customer, or a result of incorrect or altered conditions for the Services. Supplier is entitled to fulfil its obligations regarding defects by rectifying such defects. If Supplier fails to rectify a defect with the speed that is required by the circumstances, Customer may give Supplier a final and reasonable grace period for rectification. In the event Supplier is unable, or elects not to rectify a defect within the time period stipulated herein, Customer shall be entitled to reduce the fee or, if the error is of substantial nature, to declare each party's respective obligations under the Agreement terminated without prior notice hereof, and Customer shall be entitled to a pro-rata refund of any pre-paid Services fees. However, Customer shall not be entitled to terminate the Agreement unless Supplier has received a written notice of a thirty (30) days grace period to rectify the defect. THESE REMEDIES CONSTITUTE CUSTOMER'S



SOLE REMEDIES IN THE EVENT OF DEFECTS IN SERVICE PERFORMANCE BY SUPPLIER. SUPPLIER MAKES NO OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, THAN THOSE PROVIDED HEREIN.

8 Damages and limitation of liability. Supplier shall only be liable for direct damage to Customer caused by the negligence of Supplier or Supplier's employees. Supplier's liability for such direct damage shall be limited to a total amount not greater than the fixed yearly fee at the time the damage occurred. Supplier's liability for personal injuries shall be limited to the limits of the Supplier's business insurance policy in effect from time to time. Under no circumstances shall Supplier be liable to compensate Customer for any indirect damage including, but not limited to, loss of data, loss of profit, loss of revenues or expected savings, loss of production, third party losses or other indirect losses, regardless of its nature. Supplier shall bear the same liability for its sub-contractor's conduct as it bears for its own conduct. Customer is obliged to attempt to limit any damages to a reasonable extent. If Customer fails to do so, Supplier's liability shall not include liability for damage attributable to such failure. In order to be valid, claims for compensation must be made within twelve (12) months after the circumstance giving rise to the claim became known to the Customer claiming compensation. IN NO EVENT SHALL SUPPLIER BE RESPONSIBLE FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES.

9 Intellectual property rights. Ownership of all intellectual property rights covered by this Agreement, including methods, solutions and concepts created during the course of the performance of the Services, shall be the sole property of Supplier.

10 Term and termination. In addition to the above, either party may terminate this Agreement with immediate effect if the other party is in material breach of this Agreement and fails to remedy such breach within thirty (30) days. Under such circumstances, Supplier is entitled to compensation for agreed Services and Customer shall be entitled to a pro-rata refund of any pre-paid Service fees. Notice of termination shall be made in writing and include the reasons for the termination.

11 Governing Law. This Agreement will in all respects be governed and interpreted in accordance with the laws of US, expressly excluding the application of the United Nations Convention for the International Sale of Goods (CISG; the Vienna Sales Convention).

12 Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be submitted for discussion and settlement to a committee consisting of a senior representative of Supplier and of Customer. If no settlement is reached within fifteen (15) days then either party shall be entitled to bring such matter before the competent court of US as applicable for Supplier, the parties hereby agreeing to consent to the exclusive jurisdiction of the applicable courts. Notwithstanding the foregoing, Supplier shall be entitled to obtain injunctive relief or bring a matter regarding payment for Services before any competent court of any jurisdiction.

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