

OPTIONEER SOFTWARE TERMS AND CONDITIONS

These “Terms and Conditions” govern Your license and use of Continuum’s Optioneer Software by executing an Order Form that references these Terms and Conditions, You (hereafter “Customer” or “You”) agree to the terms of this Agreement. If You are entering into this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity and its Affiliates to this Agreement. If You do not have such authority, or if You do not agree with these Terms and Conditions, You must not accept this Agreement and may not use the Software. This Agreement is effective as of that date that You accept it. Customer and Continuum hereby agree as follows:

1.1 DEFINITIONS

In this Agreement, the following definitions will apply. Additional terms may be defined in this Agreement.

“Affiliate”	means, in respect of a party, a party controlling, controlled by, or under common control with such party, from time to time, where “control” and its derivatives means the ownership of greater than 50% of the voting equity of such entity or the ability to direct and control the management of such entity.
“Agreement”	means these Terms and Conditions and each Order Form agreed between the parties.
“Applicable Law”	means any (a) legislation (including statute, statutory instrument, treaty, regulation, order, rules, directive, by-law, decree), common law and regulatory requirements; and (b) mandatory directions, codes, guidelines, and requirements of any regulator having legal effect.
“Authorized Users”	means the named individuals that are employed or sub-contracted by You, nominated by You to Continuum, and confirmed by Continuum in writing to You as individuals authorized to use the Software.
“Confidential Information”	means information that is proprietary or confidential and is either clearly labelled as such or given its nature or circumstances of disclosure ought reasonably to be considered confidential, including but not limited to any documentation relating to the Software.
“Continuum”	means Continuum Industries Inc., a Delaware corporation.
“Contract Year”	means the 12-month period starting on the Effective Date, and each subsequent 12-month period during the term of this Agreement.
“Customer” or “You” (or its derivatives)	means the entity identified as the ‘Customer’ in an Order Form.
“Data Protection Requirements”	means all applicable international, federal, and state regulation relating to the processing, protection, or privacy of personal data, including where applicable, the guidance and codes of practice issued by regulatory bodies with proper jurisdiction over the subject matters of this Agreement.
“Effective Date”	means the date set out as the ‘Effective Date’ on the Order Form.
“Geographic Area”	means the geographic extent(s) populated with GIS data by You or Continuum for Your use of the Software, as set out in an Order Form.
“Fees”	means the fees payable by Customer to Continuum under this Agreement (as set out in an Order Form).
“Intellectual Property Rights”	means patents, trademarks, service marks, trade names, design rights, copyright, database rights, trade secrets, rights in know-how and other intellectual property rights or equivalent forms of protection of whatever nature arising anywhere in the world, whether registered or unregistered and including applications for the grant of any such rights, including moral rights.
“License Period”	means the period of the license to use the Software set out in an Order Form.
“Professional Services”	means ad hoc consultancy and related services that Continuum may provide to Customer from time to time.

“Proposal”	means the written proposal from Continuum defining a costed project or projects for You related to Your use of the Software subject to the parties entering into an Order Form.
“Order Form”	means a document of the same name materially in the form appended to these Terms and Conditions as Schedule 1 and executed by the parties that incorporates the terms of this Agreement and describes the Professional Services and deliverables to be provided as part of that Order Form, if any.
“Output”	means the results of running the Software algorithms provided to Customer by the Software based on Customer’s inputs and data that may be provided by Continuum.
“Software”	means the software called Optioneer™, developed and operated by Continuum, as described in an Order Form.

1.2 In the event and only to the extent of any conflict between the clauses of these Terms and Conditions, the schedules of this Agreement, or the terms of the Order Form, the following order of precedence shall apply: first, the special terms section of the Order Form with respect to such Order Form; second, the clauses of these Terms and Conditions; third, the schedules of this Agreement; and fourth, the terms of the Order Form other than the special terms section of the Order Form. Any terms contained in any Proposals are not legally binding unless set forth in this Agreement.

2. LICENSES AND IPR OWNERSHIP

2.1 All Intellectual Property Rights in the Software shall belong to and remain the property of Continuum. All Intellectual Property Rights in any improvements and modifications to the Software, or derivatives of the Software, whether made by or on behalf of Continuum independently of the Agreement, pursuant to its terms or otherwise in the course of the Agreement, shall belong to and remain the property of Continuum. This Agreement in no way conveys any rights, title, or interest in the Software in accordance with this Agreement, except as expressly set forth in this Agreement, all of which rights, title, and interests are hereby reserved.

2.2 You agree that, if at any time You make suggestions or provide feedback to Continuum for the modifications, new features, improvements, or enhancements of the Software, then any Intellectual Property Rights in such suggestions and feedback shall be the property of Continuum and Continuum may use such suggestions or feedback for any purpose in perpetuity.

2.3 Subject to You paying the Fees and remaining in full compliance with all provisions of this Agreement, Continuum grants to You, (a) for the License Period, a limited, non-exclusive, non-transferable, non-sublicensable and revocable License, solely to allow the Authorized Users to access and use the Software (solely for the scope of the project set out in a relevant Order Form) in respect of planning and developing infrastructure projects, subject to the terms of this Agreement and the restrictions on use of the Software set forth in the Order Form; and (b) a limited, non-exclusive license to use the Output solely for planning and developing infrastructure projects for which the Output was created within the limitations and restrictions of the Order Form.

2.4 Continuum shall provide each specific Authorized User with either read-only access to the Software (a “Read-only License”), or with full rights to run the Software (a “Full-access License”); You and Continuum shall together agree upon the scope of rights provided to each Authorized User. You shall not allow more than one individual to utilize the Software under each Authorized User credential. Read-only Licenses allow related Authorized Users to view the Output and are restricted in functionality compared to Full-access Licenses.

2.5 Continuum shall, during the License Period, provide bug-fixes and minor updates to the Software to You at no additional cost.

2.6 Continuum may, during the License Period, develop and offer to You new and enhanced versions of the Software, with Fees to be set by Continuum.

- 2.7 The Software may be run by You multiple times in respect of planning and developing of the infrastructure projects subject to the restrictions and as detailed in the Order Form by Authorized Users holding a Full-access License. However, the volume and frequency of runs are to be reasonable and not excessive (and in any event, not more than 500 algorithm runs per day). If Your use exceeds this limit, then Continuum will provide notice to You, and if You continue with excessive use of the Software after notice, then Continuum reserves the right to suspend or limit Your access and use of the Software until Your use of the Software is within the limits or restrictions in the Order Form without further notice, except that Continuum may give You notice of such suspension or limitation and allow You to cure the issue. Excessive use or exceeding any limits or restrictions in the Order Form will be subject to additional Fees if set forth in the Order Form.
- 2.8 If Continuum has not received payment of Fees within 30 days after their due date, and without prejudice to any other rights and remedies, Continuum may disable Your credentials, accounts, and access to the Software. Continuum shall be under no obligation to permit You to use the Software while any Fee invoice(s) remain(s) unpaid beyond their stated payment due date.

3. CUSTOMER OBLIGATIONS

- 3.1 Except to the extent such activities are either expressly agreed to by the parties or otherwise prohibited from being restricted by Applicable Law, Customer shall not, and shall ensure that no Authorized User does:
- a) copy, reproduce, publish, distribute, redistribute, broadcast, transmit, modify, adapt, edit, abstract, create derivative works of, store, archive, publicly display, sell, provide access to, or in any way commercially exploit any part of the Software;
 - b) copy, frame, or mirror any part of the Software;
 - c) reverse engineer, decompile, translate, disassemble, or attempt to discover any source code or underlying ideas or algorithms in the Software or the software (or any part of it) that is used to provide the Software;
 - d) access the Software to develop a competing Software or software;
 - e) use, or authorize or permit any other person to use, the Software in any manner which violates any law or regulation or which infringes the rights of any third party under the laws of any jurisdiction;
 - f) post, link to, or transmit, or allow posting, linking, or transmission by any third party, through the Software any material which is unlawful, threatening, libelous, or otherwise harmful, fraudulent, deceptive, threatening, harassing, tortious, abusive, malicious, defamatory, vulgar, obscene, pornographic, or that contains a virus, Trojan horse, worm, time bomb, or other hostile computer program, including password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, packet sniffers, encryption circumvention programs, or which constitutes, or encourages the commission of, a criminal offense, or which infringes any right of any person which may exist;
 - g) obscure, remove, or delete any copyright or other intellectual property notices from the Software or Output;
 - h) use the Software or allow the transfer, transmission, export, or re-export, of the Software or portion thereof, in violation of any applicable export control laws or regulations under the laws of any jurisdiction;
 - i) use the Software for any purpose which is reasonably likely to bring the business of Continuum into disrepute;
 - j) interfere or attempt to interfere with the integrity of the Software; or
 - k) attempt to gain access to third-party data contained on the Software.
- 3.2 Further, the Customer agrees:
- a) not to use the Software in conjunction with third party confidential data unless You have that third party's consent;
 - b) not to sell, assign, transfer, rent, lease, sublicense, lend, give, or make available the Software to others, or otherwise to transfer the Software in its present form or as converted or

modified by You or Continuum, or to make the Software available in any manner for use by any other person, firm, or customer;

- c) to provide Continuum with feedback on any bugs, faults, or errors encountered during use of the Software, as well as any modifications, new features, improvements, or enhancements You wish to see in the Software;
- d) to provide such Customer materials or information as Continuum may reasonably request to provide the Service and ensure that such materials or information are complete and accurate in all material respects;
- e) to ensure that all Authorized Users are aware of Customer's obligations under this Agreement and always comply with the applicable terms of the Agreement when using the Software; and
- f) to be responsible for all acts and omissions of Authorized Users during their usage of the Software and that any such act or omission that would breach the terms of the Agreement had the same been undertaken by Customer shall be deemed to be a breach by the Customer of the relevant provision(s) of the Agreement.

4. DATA PROTECTION

- 4.1 The parties shall comply with Data Protection Requirements. The parties acknowledge that the types of personal data processed under this Agreement will be names, usernames, IP addresses, email addresses, and other information provided by or related to Authorized Users, and Continuum will retain such personal data for as long as is necessary to perform its obligations under this Agreement.

5. CUSTOMER LICENSE TO CONTINUUM

- 5.1 As between Continuum and Customer, all Intellectual Property Rights in the Customer Data shall be owned by Customer. You may add or include in the Software Your own GIS data, technical and cost parameters, and other Confidential Information and these will remain entirely Your own Confidential Information that will not be shared by Continuum with other licensees or customers of Continuum. You grant an irrevocable License for the term of this Agreement to allow Continuum to use Your Confidential Information solely to enable Continuum to fulfil its obligations pursuant to this Agreement, and You accept that other users and Continuum may use public domain information, ordinary general knowledge, industry standard approaches, and ordinary skills used to develop information that is similar or identical to Your Confidential Information. Continuum has no liabilities or obligations to You pertaining to Continuum's use or third-parties' use of such information or knowledge.
- 5.2 You agree that, provided that Continuum shall not use, share, or make available Your Confidential Information to any third parties, Continuum may analyze any and all outputs and other data related to Your use of the Software, either manually or through automated systems, specifically in order to maintain, optimize, bug and error-fix, enhance, or improve the performance of the Software itself for the benefit of any and all customers of Continuum, for example, by accessing the results of past runs of the Software and their associated data analytics in order to make improvements based on realistic operating conditions.

6. PROVISION OF THE SOFTWARE

- 6.1 Continuum agrees that the Software will comply with the description of the Software set out in the Order Form. If the Software does not conform with the description of the Software, Continuum will, at its expense, use commercially reasonable efforts to correct any such non-conformance with reasonable promptness. Such effort constitutes Your sole and exclusive remedy for any breach of this clause 6.1.
- 6.2 Continuum will use commercially reasonable efforts to ensure the Software is available during the License Period, but Continuum does not warrant or represent that access to the Software will be uninterrupted or error free.

6.3 Continuum may immediately suspend Customer's or any Authorized User's access to the Software if Continuum reasonably determines that:

- a) Customer is in breach of the terms of the Agreement and such breach has had (or is reasonably likely to have) a material impact on:
 - i. the performance of Continuum's IT systems;
 - ii. the security of Continuum's IT systems and the security of Continuum's other customers and their data; and
 - iii. Continuum's Intellectual Property Rights.

6.4 Continuum shall notify Customer of any such suspension pursuant to clause 6.3, and the suspension shall continue only until the factors giving rise to the suspension have been remedied to Continuum's reasonable satisfaction. Such suspension shall not place Continuum in breach of its obligations to provide the Software in accordance with the Agreement and shall not relieve Customer from paying the Fees in accordance with the terms of the Agreement. Continuum shall use reasonable efforts to provide Customer with such information it is aware of to expedite the remedy of the factors giving rise to the suspension.

6.5 Continuum does not warrant or represent that the Software will be compatible or interoperable with any software, hardware, or service other than as expressly set out in the Order Form.

7. PROVISION OF THE SERVICES

7.1 Continuum shall provide all Professional Services with reasonable care and skill. For the avoidance of doubt, in no circumstances shall any Professional Services provided by Continuum to the Customer include any professional recommendations. Such Professional Services shall be limited to the operation of the Software by the Customer.

7.2 Customer:

- a) shall cooperate with Continuum in all matters relating to the Professional Services;
- b) shall appoint a manager for the Professional Services, such person as identified in the Order Form;
- c) shall provide to Continuum in a timely manner all documents, information, items, and materials in any form as may be reasonably required by Continuum in connection with the Professional Services and ensure that they are accurate and complete; and
- d) Customer is not relying on the results of the Professional Services or any communication (written or oral) of Continuum; it being understood that information and explanations related to the use of the Software shall not be considered advice or a recommendation to make any specific business decisions.

7.3 If Continuum's performance of the Professional Services is prevented or delayed by any act or omission of Customer, its Affiliates, agents, subcontractors, consultants, or employees, then, without prejudice to any other right or remedy it may have, Continuum may at its option:

- a) extend the time to perform its obligations equal to the delay caused by Customer; or
- b) charge additional Fees in accordance with Continuum's then-current rates (as notified by Continuum to the Customer from time to time) equal to the duration of the delay or for the additional Professional Services that need to be performed as a result of such delay caused by Customer.

8. FEES

8.1 Customer shall pay the Fees to Continuum for the Software and any Professional Services as set out in the Fees section of the Order Form.

- 8.2 Any and all expenses, costs, and charges incurred by Customer in the performance of its obligations under the Agreement shall be paid by Customer unless Continuum has expressly agreed beforehand in writing to pay such expenses, costs, or charges.
- 8.3 The invoicing frequency and billing arrangements will be set out in each Order Form.
- 8.4 Customer shall pay the full amount invoiced to it by Continuum in U.S. dollars or as otherwise agreed within 14 days of the date of invoice.
- 8.5 All amounts due under the Agreement shall be paid by Customer to Continuum in full without any set-off, counterclaim, deduction, or withholding. To the extent amounts are subject to withholding tax as required by law, Customer will reimburse Continuum in full for any such withheld amounts. Continuum shall provide Customer with reasonable assistance as it may require to recover the same.
- 8.6 The Fees are exclusive of all taxes, which shall be payable by Customer in addition to the Fees.
- 8.7 Customer shall be responsible for the collection, remittance, and payment of any and all taxes, charges, levies, assessments, and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, resale, or other distribution of the Software.
- 8.8 If Customer fails to make any payment due to Continuum under the Agreement by the due date for payment, then, without limiting Continuum's other remedies under this Agreement, Customer shall pay interest on the overdue amount at the rate of 1.5% per month or the highest rate permissible by law, whichever is less. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgement. Customer shall pay the interest together with the overdue amount; and subject to applicable legal requirements, Continuum may, in its ultimate discretion, suspend the Customer's use of the Software and provision of the Professional Services until such time as Continuum is paid in full for such overdue amounts plus interest as applicable.

9. WARRANTIES AND REPRESENTATIONS

- 9.1 Each party represents and warrants to the other party that:
- a) it has obtained and shall continue to maintain in effect all rights, licenses, approvals, consents, and authorizations to enter into, and comply with the terms of, the Agreement; and
 - b) without affecting its other obligations under the Agreement, it shall comply with all Applicable Law in the performance of its obligations under the Agreement.
- 9.2 Customer represents and warrants that in using or making any business decisions based on Output from the Software, whether following the provision of Professional Services or otherwise, Customer is acting for its own account, and Customer has made its own independent assessment with regard to such decisions and as to whether those decisions are appropriate or proper for Customer based upon Customer's own judgment and upon advice from such advisers as Customer has deemed necessary.
- 9.3 ALL WARRANTIES, CONDITIONS, AND OTHER TERMS IMPLIED BY STATUTE OR COMMON LAW ARE EXCLUDED FROM THE AGREEMENT TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT AS EXPRESSLY SET FORTH IN CLAUSES 6.1 OR 9.1, CONTINUUM HEREBY DISCLAIMS ALL WARRANTIES IN RELATION TO THE SOFTWARE, OUTPUT, AND PROFESSIONAL SERVICES, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND MERCHANTABILITY, AND THAT THE SOFTWARE, OUTPUT, OR PROFESSIONAL SERVICES WILL BE ERROR FREE, ACCURATE, OR COMPLETE. CONTINUUM DOES NOT GUARANTEE OR WARRANT ANY COST SAVINGS OR EFFICIENCY TO BE OBTAINED FROM THE SOFTWARE OR OUTPUT.

10. CONFIDENTIALITY

- 10.1 Each party may have access to Confidential Information of the other party under the Agreement. A party's Confidential Information shall not include information that:
- a) is or becomes publicly known through no act or omission of the receiving party;
 - b) was in the other party's lawful possession prior to the disclosure;
 - c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
 - d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
 - e) is required to be disclosed by law, by any court of competent jurisdiction, or by any regulatory or administrative body.
- 10.2 Each party shall hold the other party's Confidential Information in confidence and, unless required by law, not make the other party's Confidential Information available to any third party or use the other party's Confidential Information for any purpose other than as permitted by the Agreement.
- 10.3 Each party agrees to take all reasonable steps to ensure that the other party's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of the Agreement. Each party agrees to protect the Confidential Information of the other party as it would protect its own Confidential Information of a similar nature, and in no event with less than reasonable care.
- 10.4 Except as otherwise expressly provided in this Agreement, each party will return to the other party, or destroy or erase, Confidential Information of the other party in its possession upon the termination of this Agreement; provided that: (i) each party may retain a copy of Confidential Information solely for the purposes of tracking the other party's rights and obligations hereunder with respect thereto; (ii) each Party may retain copies of Confidential Information solely to the extent required by law or by applicable professional standards which require such party to retain copies of its working papers; and (iii) each party may retain Confidential Information solely to the extent reasonably necessary for each party to exercise rights or perform obligations under this Agreement that survive such termination.
- 10.5 This clause 10 shall survive termination of the Agreement for any reason.

11. LIMITATION OF LIABILITY

- 11.1 Nothing in the Agreement excludes or limits the liability of:
- a) either party for fraud or fraudulent misrepresentation, or in respect of any other liability which cannot by law be limited or excluded; or
 - b) Customer for any breach of clause 3 or clause 8.
- 11.2 Subject to clause 11.1, neither party shall be liable to the other party for any loss, whether direct, indirect, or incidental, of business, profits, revenue, anticipated savings, loss of or depletion of goodwill, loss of or corruption of data, compensatory or restitutionary payments to any third party (other than in respect of third-party claims referenced in clause 12), any indirect, consequential, incidental, special, exemplary, or punitive loss or damage arising out of or related to the Software, Professional Services, or this Agreement, or, in each case, however arising, whether in contract, tort (including negligence), breach of statutory duty or otherwise, and whether or not either party was aware of the possibility of such loss arising even if each party has been advised of the possibility of such losses.
- 11.3 Subject to clause 11.1, clause 11.2, and clause 11.4, each party's total aggregate liability to the other party under or in connection with the Agreement whether under contract, tort (including negligence), breach of statutory duty, or otherwise, shall not exceed the greater of a) the Fees paid by Customer to Continuum pursuant to the Order Form related to the liability in the 12 months prior to the event giving rise to the liability, or b) \$1,000. If no Order Form is then in effect or if multiple Order Forms are

related to the liability, the Fees referenced in the prior sentence refers to the most recent Order Form executed between the parties.

- 11.4 Subject to clause 11.1, the parties agree that the limitations described in clause 11.3 shall not apply to:
- a) Customer's obligation to pay all amounts due hereunder;
 - b) a breach by either party of clause 10 (*Confidentiality*);
 - c) Continuum's indemnification obligations in clause 12 (*Indemnities*); or
 - d) either party's violation of the other party's Intellectual Property Rights.
- 11.5 Customer assumes sole responsibility for the outputs or data Customer obtains from the use of the Software, and for any interpretation, decisions, or conclusions drawn from such use. Continuum shall not be liable for any design, business decision, or system resulting from the use of the Software. You also assume sole responsibility for the accuracy and completeness of the GIS data used by the Software. If Continuum provides GIS data to You, then Continuum shall not be liable for any errors, inaccuracies, or other mistakes in that GIS data. You hereby accept all such data "as-is" and "with all faults" and agree that Continuum shall have no liability for Customer's use of the data and the results of the Software or Professional Services.
- 11.6 The parties agree that the foregoing limitations on each party's liability form the basis of the bargain in relation to this Agreement, are necessary for Continuum to provide the Software and Professional Services and to enter into this Agreement, and that without such limitations the parties would not enter into this Agreement.

12. INDEMNITY

- 12.1 Continuum shall defend You, Your officers, directors, and employees against any claim brought by a third party against You to the extent resulting from such a claim that the Software infringes, misappropriates, or otherwise violates any patent effective as of the Effective Date, copyright, or trademark of such third party, and shall indemnify You for any amounts awarded against You in judgement or settlement of such claims that are specifically attributable to You, provided that:
- a) Continuum is given prompt notice of any such claim;
 - b) You provide reasonable cooperation to Continuum in the defense and settlement of such claim, at Continuum's expense; and
 - c) Continuum is given sole authority to defend or settle the claim.
- 12.2 In no event shall Continuum, its employees, agents, and subcontractors be liable to You to the extent that the alleged infringement is based on: (i) a modification, alteration, or conversion of the Software by anyone other than Continuum; (ii) Your use of the Software in a manner contrary to the instructions given to You by Continuum or this Agreement; (iii) Your use of the Software after notice of the alleged or actual infringement from Continuum or any appropriate authority; or (iv) use of the Software in combination with any technology not expected to be necessary for the operation of the Software, if a claim would not have otherwise been made.

13. TERM AND TERMINATION

- 13.1 Customer's initial License Period for the Software commences on the Effective Date and, unless sooner terminated as set forth herein, will continue for the period specified in the Order Form. The License Period will terminate at the end of the Order Form's License Period.
- 13.2 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

- a) the other party commits any material breach of this Agreement that is not remedied within 30 days from receipt of a written notice from the innocent party specifying the material breach in reasonable detail; or
- b) (i) the other party files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law; (ii) the other party makes or seeks to make a general assignment for the benefit of its creditors; (iii) the other party applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property or business; (iv) a court of competent jurisdiction appoints, or the other party makes an assignment of all or substantially all of its assets to, a custodian (as defined in the U.S. Bankruptcy Code or any successor laws or related laws of proper jurisdiction over such party) for all or substantially all of the party's assets; or (v) the other party fails generally to pay its debts as they become due (unless those debts are subject to a good-faith dispute as to liability or amount) or acknowledges in writing that it is unable to do so.

13.3 Without prejudice to any other rights or remedies to which Continuum may be entitled, Continuum may terminate this Agreement with immediate effect by giving written notice to Customer if:

- a) Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
- b) there is a change in control of Customer involving an entity that Continuum regards as a competitor; or
- c) Customer breaches clause 3.

13.4 On termination of this Agreement for any reason:

- a) except as otherwise set out in the Agreement, each party shall return and make no further use of any Confidential Information, equipment, property, documentation, and other items (and all copies of them) belonging to the other party;
- b) Customer will not have the right to use or access the Software;
- c) Continuum shall return or delete any personally identifiable data of Authorized Users processed by Continuum pursuant to this Agreement;
- d) Customer shall immediately pay all Fees incurred prior to the date of termination; and
- e) the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

14. FORCE MAJEURE

14.1 Notwithstanding any other provision of the Agreement, neither party shall have any liability to the other party for the performance of its obligations under the Agreement if it is prevented from or delayed in performing its obligations under the Agreement due to the existence of an event or series of events beyond such party's reasonable control, such as acts of God, natural disasters, strike, war, terrorism, pandemic, unavailability of telecommunications systems generally not due to a party's failure to pay for or procure such services, or similar events (in each case a "Force Majeure Event").

14.2 As soon as reasonably practicable after becoming aware of a Force Majeure Event, the party affected by the Force Majeure Event shall notify the other party, providing reasonable details of the Force Majeure Event, its impact on that party's obligations under the Agreement and its anticipated duration. If the period of delay or non-performance continues for six consecutive months or longer, the party not affected may terminate the Agreement by giving 30 days' written notice to the other party.

14.3 Nothing in this clause 14 shall relieve Customer from its obligations to pay the Fees as described in the Agreement.

15. COMPLIANCE

15.1 Each party shall comply with all Applicable Law relating to anti-bribery and anti-corruption from time to time, including but not limited to the Bribery Act 2010 as in effect from time to time in the United Kingdom, the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C §§ 78dd-1 et seq., and any export control regulations applicable to the subject matter of this Agreement (“Relevant Requirements”).

15.2 Each party shall:

- a) not commit any act or omission which causes or could cause the other party and its Affiliates to breach, or commit an offense under, any Relevant Requirements;
- b) have and maintain in place throughout the License Period its own policies and procedures, including adequate procedures under the Relevant Requirements, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and
- c) keep accurate and up to date records showing all payments made and received and all other advantages given and received by it in connection with the Agreement and the steps it takes to comply with this clause.

15.3 Each party shall ensure that any person associated with it who is performing activities in connection with the Agreement (“Associated Person”) is required to abide by terms equivalent to those agreed to by it in this clause (“Anti-Bribery Commitment”). Each party shall be responsible for the observance and performance by such Associated Persons of the Anti-Bribery Commitment and shall be directly liable to the other party for any breach by Associated Persons of that commitment.

16. ASSIGNMENT

16.1 Except as set forth in clause 16.2, neither party shall, without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), assign, transfer, charge, sub-contract, or deal in any other manner with all or any of its rights or obligations under the Agreement.

16.2 Continuum shall have the right to subcontract the exercise of its rights and performance of its obligations under the Agreement to third parties, and to also assign, novate, or otherwise transfer any of its rights and obligations under the Agreement to:

- a) an Affiliate, as part of a bona fide reconstruction, reorganization, or amalgamation; or
- b) any person as part of a sale of its business or a substantial part thereof.

16.3 Any attempted assignment in violation of this clause 16 is void and of no force or effect.

17. NO PARTNERSHIP OR AGENCY

17.1 Nothing in the Agreement is intended to or shall operate to create a partnership between the parties, nor authorize either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

18. THIRD PARTY RIGHTS

18.1 The Agreement does not confer any rights on any person or party (other than the parties to the Agreement and, where applicable, their successors and permitted assigns).

19. ENTIRE AGREEMENT

- 19.1 The Agreement contains the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter.
- 19.2 Each party acknowledges that, in entering into the Agreement, it does not rely on any statement, representation, assurance or warranty (whether it was made negligently or innocently) of any person (whether a party to the Agreement or not) ("Representation") other than as expressly set out in the Agreement.
- 19.3 Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.

20. NOTICES

- 20.1 Subject to clause 20.2, any notice required to be given under the Agreement shall be in writing and shall be delivered by hand, sent by pre-paid first-class post, recorded delivery post or by email to the other party at its address set out in the Order Form (or such other address as may have been notified by that party for such purposes).
- 20.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not during business hours, at 9:00 am ET on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. Notices sent by email pursuant to clause 20.1 shall be deemed to have been received at the time the email enters the information system of the intended recipient provided that no error message indicating failure to deliver has been received by the sender.

21. FURTHER ASSURANCE

- 21.1 Each party will at its own cost upon the request of the other party take such actions as necessary to give the other the full benefit of the Agreement as intended between the parties hereto.

22. GOVERNING LAW AND JURISDICTION

- 22.1 The Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are exclusively governed by, and construed in accordance with, the law of the State of Delaware.
- 22.2 The parties irrevocably agree that the courts located within the State of Delaware have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Agreement or its subject matter or formation (including non-contractual disputes or claims), without regard to any conflicts of law provisions of the State of Delaware or other jurisdiction.