

## **Carswell Master Litigation Software Subscriber Agreement**

MASTER AGREEMENT (the "Agreement") entered into between \_\_\_\_\_ ("Subscriber") and Carswell, division of Thomson Reuters Canada Limited regarding Carswell's Software (as described in paragraph 1):

### **1. Designation of Licensed Products.**

**1.1** The terms and conditions of this Agreement are applicable to various Carswell Litigation software products as identified in the Order Form ("the Software"). Subscriber is obtaining a license (as set out herein) for the Software product(s) specified in the Order Form attached hereto and incorporated herein. In the event of a conflict between the terms and conditions of this Carswell Master Litigation Software Agreement ("the Agreement") and the terms and conditions of the Order Form, the terms and conditions of the Order Form shall control.

#### **1.2 Westlaw Litigation Software to be provided, if indicated in the Order Form, is as follows:**

- CaseLogistix Litigation Suite (includes 1 Case Production Server license)
- CaseLogistix Litigation Suite with Publisher (includes 1 Case Production Server license)
- CaseLogistix Litigation Suite with Analytics (includes 1 Case Production Server license)
- CaseLogistix Litigation Suite with Analytics and Publisher (includes 1 Case Production Server license)
- Case Notebook
- Case Notebook with Publisher
- Case Timeline
- Case Production
- Professional Services

### **2. Software License.**

#### **2.1. Grant.**

A) Carswell grants Subscriber a non-exclusive, non-transferable, limited license to use for the number of lawyers (as defined below) at its licensed site identified in the Order Form, the Software listed in the Order Form, in object code only, in Subscriber's normal course of business (including all currently installed versions and any prepaid Updates, as defined below, included in the initial license, but excluding any new software feature or substantial additional functionality for which Carswell, in its sole discretion, generally charges subscribers of the Software additional software subscription charges) ("Software"). A "Site" means all personal computers, servers or minicomputers (including networked systems) with the same operating system platform at a single location or at different locations which are connected by a single networked system (i.e., any combination of two or more terminals that are electronically linked and capable of sharing the use of a single software product). In addition, Subscriber's personnel who work at or are assigned to the licensed Site may use the Software on personal computers or laptops located off-site. The Software is protected by copyright and various U.S. and international patent applications.

B) Proof of Concept (if applicable). In the event Subscriber is accessing and using certain Software for purposes of evaluation only and has not executed a separate Proof of Concept Agreement, the following terms and conditions apply in addition to the above, unless otherwise noted:

- a) Carswell grants Subscriber a non-exclusive, non-transferable, limited license, for a certain number of Subscriber's personnel to use the Software, at no charge, in object code only, for the limited purpose of evaluating the Software, in a test environment only, to determine whether it wishes to enter a full production use license for the Software (the "Proof of Concept" or "POC"). The number of Subscriber's personnel participating in the POC and the specific Software to be tested during the POC will be mutually agreed upon by the parties prior to the start of the POC.

- b) Notwithstanding anything in this Agreement set forth herein, the POC will continue in effect for 30 calendar days (unless a different POC term is agreed to by the parties) following the first day of training for the test group, unless earlier terminated as provided herein or unless further extended by oral or written agreement of the parties. Carswell may terminate the POC immediately upon giving written notice of termination to Subscriber. Subscriber may terminate the POC without cause immediately upon giving written notice of termination to Carswell.

Immediately upon termination by either party or expiration of the POC, Carswell shall have the right to terminate Subscriber's access to the Software unless the parties shall have entered into a full production use license agreement for the Software. Subscriber's right to access and use the Software shall terminate, Subscriber shall return all Documentation or other documents supplied by Carswell hereunder, and Subscriber shall:

1. delete the Software from all Subscriber computers; and
2. certify to Carswell in writing that the Software has been deleted from all Subscriber computers.

Prior to the start of the POC, Subscriber shall provide to Carswell the names of individuals to whom access to the Software is to be provided during the POC.

**2.1.1 This paragraph 2.1.1 applies only if the Software includes CaseLogistix. This paragraph 2.1.1 applies only to Westlaw CaseLogistix:**

- a) **Implementation and Consulting.** The following Implementation and Consulting Services are included in Subscriber's Monthly Software Subscription Charges ("Included Services"):

- Project Launch and Management
- Project Documentation
- Software Installation & Technical Assistance During Installation
- Software Configuration and Testing
- Basic Library Design & Assistance with Data Ingestion
- Basic End-User and Administrator Training
- Transition to Support
- Call Center & Email Support

All other implementation and consulting services, including but not limited to the following are not included in Subscriber's Monthly Software Subscription Charges ("Excluded Services"):

- Data Conversion
- Advanced Library Design
- Custom Search Queries and Reports
- Microsoft SQL Server Configuration & Administration
- Additional or Customized Training for Litigation Support & Administrators
- Best Practices & Case Strategy Consultation
- Other Customer-Requested Onsite Visits by the Professional Services Team

- b) Additional Professional Services and/or Training (including Excluded Services) may be recommended in addition to those which are included in the Software Subscription Charges and may be purchased at an additional charge. Subscriber may, at its option and upon prior written notice to Carswell, request that the parties enter into good faith negotiations regarding an agreement to be signed by both parties to cover any applicable additional Professional Services and/or Training and charges that might apply

**2.1.2 Updates and Versions.** Carswell shall provide periodic point releases (e.g., minor enhancements and/or improvements, patches, fixes, or the like to the Software) (“Updates”), if any, to Subscriber as part of the charges set out in the Order Form. During the Term, new Versions of the Software (e.g., major enhancements and/or improvements to the Software) will be included in charges. However, Carswell will provide technical support for only the most current Version and the immediately preceding Version of the Software.

**2.1.3 Other Restrictions.** Outside the United States and Canada, Carswell LiveNote and Carswell Case Notebook software products may not be used for the purpose of providing court reporting and associated training services or similar transcription services, except as expressly authorized by Carswell.

**2.1.4 Subscriber Locations.** The Carswell Master Litigation Software Subscriber Agreement shall be effective for the Subscriber locations set forth in the Order Form.

**2.1.5 Audit.** Subscriber grants Carswell, upon prior written notice, the right, which Carswell will exercise at its own expense and no more than once per year, to examine, on Subscriber’s premises during normal business hours, Subscriber’s records and other information relating to Subscriber’s use of the Software licensed hereunder.

**2.1.6 Third Party Beneficiary.** Any third party contributor of technology to the Software licensed under this Agreement is an intended third party beneficiary of the disclaimers of warranty, limitation of liability and remedies, and other similar provisions contained in the Carswell Master Litigation Software Subscriber Agreement.

**2.1.7 Carswell Telephone Support.** Carswell will provide telephone support for purposes of handling Subscriber questions relating to the operation of the Software at 1-800-364-9853.

**2.1.8 Order of Precedence.** In the event of a conflict between the terms and conditions in paragraphs 2.1.1 to 2.1.7, and the other provisions of the Carswell Master Litigation Software Subscriber Agreement, the terms and conditions of paragraphs 2.1.1 to 2.1.7 shall control.

**2.2. Copying.** Subscriber may make copies of the Software for backup purposes only. Each copy made by Subscriber must include the copyright/proprietary rights notice(s) embedded in and affixed to the Software. All other copying is prohibited.

**2.3. Other Restrictions.** Subscriber may not publish, transmit, retransmit, disseminate, broadcast, circulate, sell, resell, loan, lease, distribute or transfer Software or copies to third parties, nor reverse engineer, decompile, disassemble or otherwise attempt to discern the source code of the components of the Software. Subscriber may not use Software, nor allow Software to be used, to provide data management or processing services for third parties. Subscriber may not reproduce all or any portion of the Software (except as expressly permitted in this Agreement) or any accompanying user documentation (“Documentation”), or modify, translate or otherwise create derivative works of the Software. Subscriber agrees to notify its employees and agents who may have access to Software of the restrictions contained in this Agreement and to ensure their compliance with these restrictions.

**2.4 Server Code (if applicable).** The server code portion of the Software (“Server Code”) may be used on the server(s) specified in the Order Form. Subscriber may use the Server Code on other servers in addition to the Specified Server(s) upon payment of the applicable additional license fees to Carswell; provided, however, that if the Specified Server(s) is/are temporarily incapable of operating, the Server Code may be temporarily installed on another server or servers pending repair of the Specified Server(s). “Specified Server” shall mean the application server, or related application servers, in support of the production database utilized by the Software and any equivalent replacement(s) for such server(s). The Specified Server(s) does/do not include any training, testing, backup or other non-production servers.

**3. Other Licenses.** If permitted by the Order Form, the Software may be used to access and use various Carswell products and services, including Westlaw Canada (“Carswell Services”). All access to

and use of such Carswell Services by means of the Software, including any charges for such access and use, will be governed by the terms of the Order Form.

**4. Title.** Subscriber hereby acknowledges and agrees that all right, title and interest in and to the Software, the Documentation and any other related materials are, and shall remain, vested solely in Carswell and other software owners, if any, and Subscriber shall not hold itself out as having any ownership or other rights with respect thereto, except as specifically granted hereunder. Except as expressly permitted herein, Subscriber covenants and agrees that it shall make no use of the Software, the Documentation or any other related materials without Carswell's prior written consent. Any and all goodwill associated with such rights shall inure directly and exclusively to the benefit of Carswell.

## **5. Confidential Information.**

**5.1** Carswell acknowledges that any documents, the contents thereof, or other proprietary or confidential materials expressly designated as confidential that are provided to Carswell by Subscriber during the Term of this Agreement ("Subscriber Confidential Information") are valuable assets of Subscriber. Carswell will take reasonable steps to ensure that the Subscriber Confidential Information is not used or disclosed except as expressly permitted by this Agreement. Carswell will not permit any unaffiliated third party access to, in any manner, the Subscriber Confidential Information, except as provided in this Agreement. Subscriber Confidential Information shall not include information that consists of ideas, concepts, know-how or techniques relating to the enhancement, customization, installation or implementation of the Software. Carswell may access Subscriber's Software server to provide services as provided in this Agreement.

**5.2** Subscriber acknowledges and agrees that the Software constitutes a valuable proprietary product of Carswell and that the Software, together with the terms of this Agreement, shall be referred to as the "Carswell Confidential Information." Subscriber will take reasonable steps to ensure that the Carswell Confidential Information is not used or disclosed except as expressly permitted by this Agreement. Subscriber will not permit any third party access to, in any manner, the Carswell Confidential Information, except as provided in this Agreement. Subscriber may permit its independent contractors access to the Carswell Confidential Information to the extent necessary for such contractor's provision of services to Subscriber if such contractor executes a confidentiality agreement with Subscriber or Carswell which prohibits the contractor from using or disclosing the Carswell Confidential Information; provided, however, that such independent contractors may not include any Competitor. A "Competitor" shall mean a third party that is regularly engaged in the business of developing or marketing software that performs the same or similar functions as one or more of the modules of the Carswell software implemented by Subscriber.

**6. Charges and Modification of Charges.** "Software Subscription Charges" payable by Subscriber for use of the Software will consist of charges for the software license, and initial implementation, consulting, maintenance, and support services as provided in paragraphs 11 and 12 herein. During the Term as set out in the Order Form, Software Subscription Charges shall be billed to Subscriber as set forth in this paragraph 6 and in the Order Form, or as otherwise agreed to by the parties in writing. Software Subscription Charges may be modified upon at least 30 days prior notice to Subscriber in writing or online; provided, however, that Subscriber's Software Subscription Charges set forth in the Order Form shall not be modified during the applicable Term set forth in the Order Form following the date Carswell processes Subscriber's order ("Effective Date"). Upon conclusion of the Term, this Agreement will automatically renew for consecutive twelve (12) month periods (each also a "Term"), unless either party gives notice of non-renewal to the other party at least thirty (30) days in advance of any renewal Term, including the first renewal Term. In the event of a change in rates for any renewal Term, Carswell will provide Subscriber with thirty (30) days written or online notice prior to the end of any renewal Term. In the event a change in rates is unacceptable to Subscriber, Subscriber may terminate this Agreement upon prior written notice to Carswell any time up to the start of the upcoming renewal Term. Carswell Software Subscription Charges are exclusive of sales, use, value added tax, HST or equivalent, ad valorem, personal property and other taxes, which are the sole responsibility of Subscriber. Subscriber will pay all invoices in full within thirty (30) days of date of invoice. If full payment is not made, Subscriber

may be charged up to the maximum legal interest on any unpaid balance. Carswell may withhold and or delay delivery of Software or services if Subscriber fails to comply with this Paragraph 6.

## **7. DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY.**

**7.1** Carswell warrants that for the period ending ninety (90) days after the first date that Subscriber commences production use of the Software (the "Warranty Period") the Software will substantially conform to the Documentation (available at [west.thomson.com](http://west.thomson.com)). THE FOREGOING LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, ANY APPLICABLE SCHEDULE OR LICENSE AGREEMENT, THE SOFTWARE IS PROVIDED "AS IS," WITHOUT WARRANTY OR CONDITION OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES AND CONDITIONS OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OMISSIONS, COMPLETENESS, CURRENTNESS AND DELAYS. SUBSCRIBER'S EXCLUSIVE REMEDY AND CARSWELL'S AND/OR ITS AFFILIATES' ENTIRE LIABILITY UNDER THIS AGREEMENT, IF ANY, FOR ANY CLAIM(S) FOR DAMAGES RELATING TO THE SOFTWARE WHICH ARE MADE AGAINST THEM, INDIVIDUALLY OR JOINTLY, WHETHER BASED IN CONTRACT OR NEGLIGENCE, SHALL BE LIMITED TO THE AGGREGATE AMOUNT OF SOFTWARE SUBSCRIPTION CHARGES PAID BY SUBSCRIBER RELATIVE TO THE SPECIFIC SOFTWARE FEATURE (i.e., THE SPECIFIC FUNCTION BEING PERFORMED) WHICH IS THE BASIS OF THE CLAIM(S) DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL CARSWELL AND/OR ITS AFFILIATES BE LIABLE TO SUBSCRIBER FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES RELATING IN WHOLE OR IN PART TO SUBSCRIBER'S RIGHTS UNDER THIS AGREEMENT OR USE OF, OR INABILITY TO USE, THE SOFTWARE, EVEN IF CARSWELL AND/OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER CARSWELL NOR ITS AFFILIATES MAKE ANY WARRANTY THAT ACCESS TO THE SOFTWARE WILL BE UNINTERRUPTED, SECURE, COMPLETE OR ERROR FREE. SUBSCRIBER ACKNOWLEDGES THAT PROVISION OF THE SOFTWARE ENTAILS THE LIKELIHOOD OF SOME HUMAN AND MACHINE ERRORS, DELAYS, INTERRUPTIONS AND LOSSES, INCLUDING THE INADVERTENT LOSS OF DATA OR DAMAGE TO MEDIA. The performance of the Software varies with various manufacturers' equipment with which it is used. Certain software used by Subscriber may not be capable of supporting the Software. Carswell does not warrant the level of performance of the Software or that earlier versions superseded by new versions (whether or not distributed to Subscriber) will continue to be capable of access to and use with Carswell Services.

**7.2** Failures Not Caused by Carswell. Carswell will not be responsible to the extent that the Software fails to perform due to one or more of the following: (1) the malfunction of software not provided by Carswell (2) the malfunction of hardware, (3) Subscriber's negligence or fault, (4) Subscriber's failure to follow the instructions set forth in the Documentation, (5) material changes in the operating environment not authorized by Carswell, (6) modifications to or changes in the Software not made or suggested by Carswell or (7) Subscriber's failure to implement and maintain a proper and adequate backup and recovery system for the Carswell database or user files. If Carswell discovers that a failure is caused by one of the above, Carswell reserves the right to charge Subscriber for its work in investigating such failure. At Subscriber's request and at a fee to be agreed upon, Carswell will thereafter assist Subscriber in resolving such failure. It is Subscriber's responsibility to develop and implement a proper and adequate backup and recovery system.

**7.3** Exclusive Remedies. The remedies in paragraphs 8.1 (Infringement Claims), 9 (Term and Termination), and 11.5 and 12.4 (Remedies) are Subscriber's exclusive remedies and are in lieu of all other legal or equitable remedies and all liabilities or obligations on the part of Carswell for damages (except for bodily injury) arising out of, relating to, or in connection with this Agreement, including, but not limited to, the licensing, delivery, installation, use or performance of the Software or the integration of the Software with other software or hardware.

## **8. Indemnification.**

**8.1 Infringement Claims.** At its sole expense, Carswell shall defend, indemnify and hold Subscriber harmless from copyright, trade secret and U.S. patent infringement claims based upon the Software in the form delivered by Carswell, including paying any judgment, attorney fees, costs and expenses associated with such claim.

**8.2** Without limiting its obligations under paragraph 8.1, in the event a claim of infringement or misappropriation is made against Carswell or Subscriber with respect to the Software, Carswell, for the purpose of settling such claim, may, at its option, in respect of such allegedly infringing Software:

- (i) substitute fully equivalent non-infringing software; or
- (ii) modify the Software so that it no longer infringes but remains functionally equivalent.

If, as a result of such claim, Subscriber or Carswell is permanently enjoined from using the Software by a final, non-appealable decree from a court of competent jurisdiction, Carswell will take one or both of the actions set forth in (i) and (ii) above or will obtain for Subscriber at Carswell's expense the right to continue to use the Software.

**8.3** Carswell's obligation to indemnify Subscriber pursuant to this paragraph 8 is contingent upon Carswell being given prompt notice and control of, and detailed information with regard to, any such claim, suit or proceeding. Subscriber shall have the right to participate at its own cost in the defense of any such claim or action through legal counsel of its choosing. Subscriber shall not settle any such claim or action without Carswell's prior written consent.

**8.4** This paragraph 8 contains Carswell's entire indemnification obligation and the exclusive remedies of Subscriber with regard to any claimed infringement arising out of or based upon the Software used by Subscriber.

## **9. Term and Termination.**

**9.1** This Agreement will become effective upon approval and acceptance by Carswell, and will continue in effect for the Term as set forth in the Order Form. This Agreement will renew thereafter pursuant to paragraph 6 (Charges and Modification of Charges) herein. Notwithstanding the foregoing, (i) Carswell may terminate this Agreement immediately upon giving written notice of termination to Subscriber if Subscriber commits a material breach of any obligation to Carswell under any other agreement between the parties; (ii) Subscriber may terminate this Agreement immediately upon giving written notice of termination to Carswell after receiving notice of an amendment (as permitted under paragraph 10.1) which contains new terms that materially alter the terms of this Agreement and are unacceptable to Subscriber; (iii) either party may terminate this Agreement immediately upon giving written notice of termination to the other party if the other party commits a material breach of this Agreement; and (iv) either party may terminate this Agreement as provided in paragraph 6 (Charges and Modification of Charges) above.

**9.2** Upon the termination of this Agreement, Subscriber's license and right to use the Software or any part thereof shall end immediately and within thirty (30) days of such termination, Subscriber shall return to Carswell the Software, the Documentation, and any other documents, manuals, data, information or materials furnished by Carswell, as well as any copies thereof and shall destroy any embodiments of these materials stored in or on a reusable electronic or similar medium, including but not limited to memory, disk packs, tape, and other peripheral devices, and certify such destruction in writing to Carswell.

## **10. General Provisions.**

**10.1 Effect of Agreement.** This Agreement (including the Order Form) embodies the entire understanding between the parties with respect to the subject matter of this Agreement and supersedes

any and all prior understandings and agreements, oral or written, relating to the subject matter. Furthermore, this Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Software. Except as otherwise provided in this Agreement, Carswell may amend the terms and conditions of this Agreement by giving Subscriber at least thirty (30) days prior written notice. During the thirty (30) days following such notice, Subscriber may request in writing to Carswell that the parties enter into good faith negotiations regarding the new terms and conditions. If the parties do not reach an understanding and do not execute a mutually agreeable amendment to this Agreement within thirty (30) days thereafter, Subscriber may terminate this Agreement pursuant to paragraph 9.1(ii) herein upon written notice to Carswell. Notwithstanding the foregoing, Subscriber may, at its option and with written notice to Carswell, continue its access to and use of the Software for twelve (12) calendar months from the date of termination pursuant to paragraph 9.1(ii) herein would otherwise be effective ("Transition Period"), under the terms and conditions (including pricing terms set forth in the Order Form hereto) of this Agreement, as modified by the new amendment. During the Transition Period, Carswell shall be relieved of its obligations under paragraphs 11 and 12 of this Agreement. Any other amendment must be in writing and signed by both parties.

**10.2 Force Majeure.** Carswell shall not be liable for any delay or failure in performing hereunder if caused by factors beyond its reasonable control, such as acts of God, acts of any government, war or other hostility, civil disorder, the elements, fire, explosion, power failure, equipment failure, industrial or labor dispute, inability to obtain necessary supplies and the like.

**10.3 Notices.** Except as otherwise provided herein, all notices must be in writing to Carswell at One Corporate Plaza, 2075 Kennedy Road, Toronto Ontario, M1T 3V4, Attention: Customer Service, and to Subscriber at the address set forth in Carswell's current records.

**10.4 Governing Law and Assignment.** This Agreement will be governed by and construed under the law of the province of Ontario, Canada without regard to conflicts of law provisions, and all federal laws applicable therein. The parties agree that the provincial courts in Ontario will have exclusive jurisdiction over any claim arising out of this Agreement and each party consents to the exclusive jurisdiction of such courts. Neither this Agreement nor any part or portion may be assigned, sublicensed or otherwise transferred by Subscriber without Carswell's prior written consent. Should any provision of this Agreement be held to be void, invalid, unenforceable or illegal by a court, the validity and enforceability of the other provisions will not be affected thereby. Failure of any party to enforce any provision of this Agreement will not constitute or be construed as a waiver of such provision or of the right to enforce such provision. The headings and captions contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

**10.5 Limitation of Claims.** Except for claims brought by Carswell relating to the Software Subscription Charges or improper use of the Software, no claim, regardless of form, which in any way arises out of this Agreement, may be brought more than one year after the basis for the claim becomes known to the party desiring to assert it.

**10.6 Export Laws.** The Software and its related Documentation may not be exported or reexported in violation of any applicable Canadian laws, or the U.S. Foreign Corrupt Practices Act and its implementing regulations, the U.S. Export Administration Act and its implementing regulations or any other applicable laws, rules and regulations. Subscriber shall bear all expenses relating to any necessary licenses and/or exemptions with respect to the export from Canada or the United States of the Software to any location so as to be in compliance with all applicable laws, rules and regulations.

**10.7 U.S. Government Restricted Rights.** Use, duplication or disclosure by the Government is subject to restrictions set forth in subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 52.227-19 when applicable, or in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Product clause in DFARS 252.227-7013, or in subdivision (c)(1) and (c)(2) of the Commercial Computer Product – Restricted Rights clause at 48 CFR 52.227-19, as applicable, and in similar clauses in the NASA FAR Supplement.

**10.8 Ideas and Concepts.** Any and all title, ownership rights, and intellectual property rights concerning any ideas, concepts, suggestions, materials and the like that Subscriber provides to Carswell regarding the Software shall become the exclusive property of Carswell and may be used for its business purposes in its sole discretion without any payment, accounting, remuneration or attribution to Subscriber.

**10.9. Survival.** Paragraphs 4 (Title), 5 (Confidential Information), 6 (Charges and Modification of Charges), 7 (Disclaimer of Warranties and Limitation of Liability), 8 (Indemnification), 9 (Term and Termination), 10 (General Provisions), 11.5 (Remedies); and 12.4 (Remedies) shall survive any termination of this Agreement.

## **11. Maintenance Terms.**

**11.1 Maintenance Services.** Maintenance Services consist of the following:

**11.1.1 Updates.** Carswell may provide Updates for the Software to Subscriber. Updates shall mean any periodic Software releases, if any, for purposes of 1) providing minor new functionality or features, or 2) resolving technological issues related to Subscriber's then-current Version (as defined below) of the Software. Subscriber will be responsible for installing such Updates.

**11.1.2 Telephone Support.** Carswell will provide telephone support for purposes of handling Subscriber questions relating to the operation of the Software. Telephone support is provided by Carswell Customer and Technical Support Representatives at 1-800-364-9853 or other such telephone number as set forth in the Order Form.

## **11.2 Carswell Obligations.**

**11.2.1** Carswell's obligations hereunder will extend only to (a) the Updates and Versions of the Software provided to Subscriber by Carswell (see the Order Form); and (b) Software that has not been modified or altered in any way by anyone other than Carswell. As used herein, "Version" means a new release of the Software (outside a point release) that includes a major revision, alteration, improvement, modification, or the like, to the current Software release.

**11.2.2** Maintenance Services will not include services for the items for which Carswell is not responsible set forth in paragraph 7.2 of this Agreement.

## **11.3 Subscriber Obligations.**

**11.3.1 Cooperation.** Subscriber shall insure that Carswell's personnel are provided with such information under Subscriber's control as is reasonably necessary to enable Carswell to comply with its obligations hereunder.

**11.3.2 Updates and New Versions.** In the event that Carswell determines that any of Subscriber's reported maintenance problems cannot be resolved due to Subscriber's failure to install Updates or procure new Versions of the Software, Subscriber will be given a reasonable opportunity to install such Updates or procure a new Version. If, after such opportunity, Subscriber fails or otherwise refuses to install such Updates or procure such new Version, Carswell shall be relieved of its obligations under this paragraph 11.

## **11.4 Exclusions.**

**11.4.1** Except as otherwise set forth in the Order Form, Carswell's obligations hereunder shall extend only to: (a) the latest Update of the Software provided to Subscriber by Carswell; and (b) software that has not been modified or altered in any way by anyone other than Carswell or under Carswell's direction.

**11.4.2** Maintenance Services shall not include services for the items for which Carswell is not responsible as set forth in subparagraph 7.2 of this Agreement.



## **11.5 Remedies.**

**11.5.1 Remedy.** Subscriber's exclusive remedy under this paragraph 11 shall be replacement of any defective CD/DVD-ROM, if any, upon which the Software is provided upon its return to Carswell within sixty (60) days from the date of Subscriber's receipt of the Software.

**11.5.2 Disclaimer.** **In no event will Carswell be liable for any lost profits or other damages, including direct, indirect, incidental, special, consequential or any other type of damages, arising out of this Agreement or the use of the Software licensed hereunder, even if Carswell has been advised of the possibility of such damages.**

## **12. Implementation and Training Services.**

**12.1 Installation of the Software.** Carswell and Subscriber shall cooperate to identify the hardware and related communications equipment necessary for installation of the Software. Installation of all hardware and supporting software so that minimum configuration requirements for installation of the Software are met is the responsibility of Subscriber. Once the configuration of the hardware, including the operating system, conforms to the minimum configuration requirements provided by Carswell, Carswell shall provide instructions for the download and install of the Software ("Installation").

**12.2 Subscriber Obligations.** When Carswell performs any services at Subscriber's facility, Subscriber shall be responsible for providing a safe and appropriate work space and access to all terminals, materials and related resources that may be reasonably required by Carswell for timely performance of its obligations hereunder. Subscriber shall provide to Carswell in a timely manner any information, assistance, review, feedback or approvals that are the responsibility of Subscriber hereunder.

**12.3 Training.** Carswell shall make training available to Subscriber, pursuant to the Order Form, at locations and times to be mutually determined by Carswell and Subscriber.

**12.4 Remedies.** Subscriber's sole remedy for Carswell's material breach of its obligations under this paragraph 12 will be to have Carswell reperform the defective services so that they conform to the specifications provided herein. If Carswell is unable after a reasonable time to provide conforming services, and the services relate to the initial implementation of the Software, Subscriber may terminate the Agreement pursuant to subparagraph 7.3 thereof if such defective services cause the Software to fail to conform to the Documentation provided with the Software.

**SUBSCRIBER**

Signature \_\_\_\_\_

Name (please print) \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Contact \_\_\_\_\_ Telephone \_\_\_\_\_

E-mail Address \_\_\_\_\_

Sales Representative \_\_\_\_\_

**CARSWELL, DIVISION OF THOMSON REUTERS CANADA LIMITED**

Signature \_\_\_\_\_

Name (please print) \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_