

FLINTFOX TERMS OF SERVICE

Last Updated: 23 March 2026

These Flintfox Terms of Service (the "**Agreement**") are entered into between Flintfox (see Section 13 for this and other capitalized defined terms) and the entity or person accessing or using the Services ("**Customer**"), which may be named or set forth in an Order Form or SOW. This Agreement governs Customer's access to and use of the Services and takes effect when Customer first accesses the Services or enters into such Order Form or SOW with Flintfox (the "**Effective Date**"). Capitalized terms used in this Agreement are set forth in Section 13 below or are otherwise defined in the text of this Agreement.

This Agreement only applies if Customer and Flintfox have entered into an Order Form or SOW that specifically attaches, links to, incorporates or cross-references this Agreement. If Customer and Flintfox have previously entered into a different or negotiated agreement for use of the Services, that agreement will continue to apply unless a later Order Form provides that this Agreement applies or supersedes such prior agreement in whole or in part.

BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR ACCESSING OR USING ANY SERVICES, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING THE BINDING ARBITRATION TERMS SET FORTH IN SECTION 12.7. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, YOU MAY NOT USE ANY SERVICES. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

IF YOU ARE USING ANY SERVICES AS AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP OR OTHER ENTITY, THEN YOU MUST BE AUTHORIZED TO SIGN FOR AND BIND SUCH ENTITY IN ORDER TO ACCEPT THIS AGREEMENT, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO DO SO. THE RIGHTS GRANTED UNDER THIS AGREEMENT ARE EXPRESSLY CONDITIONED UPON ACCEPTANCE BY SUCH AUTHORIZED PERSONNEL. ANY INDIVIDUAL WHO DOES NOT HAVE THE AUTHORITY TO ACCEPT THIS AGREEMENT ON BEHALF OF AN ENTITY, OR WHO DOES NOT AGREE WITH THIS AGREEMENT, MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT ACCESS OR USE ANY OF THE SERVICES.

1. Access to and Use of Services

- 1.1. **Use of the Services.** Subject to the terms of this Agreement and each applicable Order Form and/or SOW, Flintfox grants Customer a non-exclusive, non-transferable, non-sublicensable right to access, use and receive the applicable Services mutually agreed upon by the Parties in an Order Form and/or SOW. Customer's rights to access, use and receive the Services shall only apply during the applicable Order Term or other time period specified in the corresponding Order Form and/or SOW governing those Services, and in each case Customer may only access, use and receive the Services for Customer's internal business purposes in accordance with all applicable Documentation. All Services are provided subject to Customer's compliance with this Agreement, the corresponding Service-Specific Terms and Conditions, each applicable Order Form and each applicable SOW entered into by the Parties with respect to those Services.
- 1.2. **Service-Specific Terms and Conditions.** This Agreement sets forth general terms and conditions applicable to all of the Services. In addition to the requirements and obligations set forth in this Agreement, the individual Services are also subject to the corresponding service-specific terms and conditions that govern and apply to just those specific Services (the "**Service-Specific Terms and Conditions**"). Flintfox's Service-Specific Terms and Conditions form a part of this Agreement and are attached hereto and incorporated herein as the following Exhibits:
 - For Application Services, Service-Specific Terms and Conditions are attached hereto as **Exhibit A**;
 - For Base Support Services, Service-Specific Terms and Conditions are attached hereto as **Exhibit B**;
 - For Professional Services, Service-Specific Terms and Conditions are attached hereto as **Exhibit C**; and
 - For Managed Support Services, Service-Specific Terms and Conditions are attached hereto as **Exhibit D**.

Customer hereby agrees to all Service-Specific Terms and Conditions governing the individual Services as applicable to Customer.

- 1.3. **Customer Responsibilities.** Customer is solely responsible for its Environment and Third-Party Technology and for selecting, implementing, and configuring connections between its Environment and Third-Party Technology (on the one hand) and the Services (on the other hand), unless Professional Services for the foregoing have been mutually agreed upon by the Parties in an Order Form or SOW. Customer is responsible and liable for its Authorized Users' actions and omissions and must ensure they comply with this Agreement. Customer shall promptly notify Flintfox of any actual suspected unauthorized access to the Services.
- 1.4. **Customer Data.** Customer retains control over the types and amounts of data that are submitted to the Services. Customer is solely responsible (and Flintfox is not responsible for) the collection, accuracy, integrity, quality, legality or usefulness of all Customer Data.
- 1.5. **Use of Customer Data.** When Customer provides Customer Data to the Services, Customer grants Flintfox and its Affiliates permission to use it as necessary to provide and support the Services and as otherwise provided by this Agreement. Use of Customer Data includes use and processing of Customer Data as Customer directs through the Services, and Flintfox will not otherwise disclose Customer Data to third parties except as permitted in this Agreement; provided that Customer acknowledges that the Services will disclose and transfer customer data to Connected Applications and Third-Party Technology as part of the intended use of the Services.
- 1.6. **Use of Anonymized Data.** Customer agrees that Flintfox may collect and use Anonymized Data during or after the term of this Agreement to develop, administer, and improve Flintfox products and services and create and distribute insights, reports and other materials.
- 1.7. **IP Ownership.** As between the parties: (a) Customer owns all right, title and interest in Customer Data, including all associated Intellectual Property Rights, and (b) Flintfox owns all right, title and interest in Flintfox IP, including all associated Intellectual Property Rights. Customer hereby assigns to Flintfox all right, title and interest in and to Feedback, including all Intellectual Property Rights therein.
- 1.8. **License to Deliverables.** The Professional Services Flintfox performs, and the resulting Deliverables are generally applicable to Flintfox's business and are proprietary to Flintfox and are part of the Flintfox IP. Flintfox retains all ownership rights in and to the Deliverables, including, without limitation, all Intellectual Property Rights therein, unless otherwise mutually agreed in an Order Form or SOW that expressly cross references this Section (by Section name and number) and states that it is the mutual intent of the parties for Customer to own the applicable Deliverables. Subject to the terms of this Agreement, Flintfox hereby grants Customer a limited, non-exclusive, royalty-free, non-transferable license to use the Deliverables internally solely in connection with Customer's use of the Services consistent with their intended purpose during the applicable Order Term. Notwithstanding the foregoing, any of the Customer Materials or Customer's pre-existing Intellectual Property Rights incorporated into Deliverables shall remain owned by Customer, and Customer grants to Flintfox a limited, non-exclusive, royalty-free, non-transferrable license to use such Customer Materials and Customer's Intellectual Property Rights in connection with providing Services to Customer.
- 1.9. **Usage Data.** Customer authorizes Flintfox to collect and use Usage Data, Customer Data, Customer Materials and Account Data to: (a) manage Customer's account, including to calculate Fees; (b) provide and improve the Services for Customer; (c) monitor Customer's compliance with this Agreement; and (d) provide Customer with insights, service and feature announcements, and other reporting.
- 1.10. **Services Modifications.** Customer only has the right to access, use and receive the specific Services set forth in an Order Form. Customer acknowledges and agrees that, from time-to-time, portions of, or functionality included in, the Services may be added to or modified by Flintfox and that the Services may change over time, subject to the warranty in Section 7.1. Flintfox may also offer additional premium features to the Services which may be separately licensed or purchased by Customer.

2. Customer Responsibilities

- 2.1. **Restrictions.** Customer will not, directly or indirectly: (a) permit any person other than Authorized Users to access the Services; (b) modify, copy or create derivative works based upon the Services; (c) resell, distribute or make available any Services to third parties; (d) reverse engineer, disassemble or decompile the Services; (e) use the Services to build a competitive product or service; (f) use the Services in violation of any laws or for fraudulent purposes; (g) use the Services to send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, spyware or malicious code, including material that violates third party rights (including privacy rights and Intellectual Property Rights); (h) interfere with security-related features of the Services, including by disabling or circumventing features that detect, prevent or limit use or copying of any content; (i) create, market, distribute add-ons or enhancements for, or incorporate into another product, the Application Services or Software without the prior written agreement of Flintfox; (j) alter, circumvent or access the Services (in whole or part) in a way that circumvents the contractual usage limits, technical limits or recurring fees; or (k) otherwise use the Services other than as described in the applicable Order Form, Service-Specific Terms and Conditions, Documentation, and this Agreement.
- 2.2. **Third-Party Technology.** Customer is responsible for obtaining and maintaining any Third-Party Technology related to Customer's use of the Services, maintaining security of Third-Party Technology, and all use of Third-Party Technology, including compliance with all terms, contracts, policies or agreements applicable to such Third-Party Technology. Customer grants Flintfox all necessary rights to access Customer Data and Customer Materials hosted on Third-Party Technology and integrate with third party APIs to provide the Services. Customer acknowledges that certain Third-Party Technology (e.g. ERPs) is required for use of the Services.
- 2.3. **Outputs.** Customer acknowledges that: (i) Outputs may be generated as part of the Services; (ii) Outputs may be generated using artificial intelligence ("AI"), machine learning, algorithmic processes, Customer Data and/or Customer's Connected Applications; (iii) Flintfox is not responsible for the accuracy, integrity, quality, completeness, legality, reliability or usefulness of the Customer Data or Outputs based thereon, including any AI-generated content; (iv) Outputs, including any AI-generated content, are not intended as a replacement for Customer's own actions, obligations, professional judgment or decision-making; (v) Customer is solely responsible for reviewing, validating and confirming the accuracy and appropriateness of all Outputs before use, including any AI-generated content; and (vi) Customer shall not use Outputs, including AI-generated content, for any purpose that requires professional licensure, certification or specialized expertise without independent verification by appropriately qualified personnel. Customer is solely responsible for its business decisions, including any finance, tax, payment or accounting matters, that may be related to the Customer Data or the Outputs. Customer further acknowledges that AI-generated Outputs may produce results that are unexpected, inaccurate, incomplete or unsuitable for Customer's intended purpose, and Flintfox disclaims all liability for any reliance on such Outputs.

3. Services

- 3.1. **Application Services.** Flintfox will provide the Application Services for Customer as set forth in each applicable Order Form or SOW mutually agreed upon by the Parties, subject to the terms and conditions of this Agreement and the Service-Specific Terms and Conditions for Flintfox Application Services attached hereto as **Exhibit A**.
- 3.2. **Base Support Services.** Flintfox will provide Base Support Services for Customer in connection with Flintfox's provision of the Application Services. The Base Support Services are provided on a time and materials basis as a baseline support service offering together with the Application Services; additional terms and conditions covering the Base Support Services may be included in the Order Form or SOW covering the Application Services, and a separate Order Form or SOW covering Flintfox's provision of the Base Support Services is not required. The Base Support Services are provided subject to the terms and conditions of this Agreement and the Service-Specific Terms and Conditions for Base Support Services attached hereto as **Exhibit B**.

- 3.3. **Professional Services.** Flintfox will perform Professional Services for Customer as set forth in each applicable Order Form or SOW mutually agreed upon by the Parties covering Professional Services, subject to the terms and conditions of this Agreement and the Service-Specific Terms and Conditions for Professional Services attached hereto as **Exhibit C**.
- 3.4. **Managed Support Services.** Flintfox will perform Managed Support Services for Customer as set forth in each applicable Order Form or SOW mutually agreed upon by the Parties covering Managed Support Services, subject to the terms and conditions of this Agreement and the Service-Specific Terms and Conditions for Managed Support Services attached hereto as **Exhibit D**.
- 3.5. **Customer Cooperation.** Customer acknowledges that timely access to applicable Customer Materials, personnel, equipment, server infrastructure (whether via a cloud service provider or on premises), Operating System Environments, Third-Party Technology (e.g. ERPs) and other resources is necessary for the provision of the Services. Customer agrees to provide such access and to otherwise reasonably cooperate with Flintfox during Flintfox's provision of the Services. Flintfox will have no liability for any delay or deficiency to the extent resulting from Customer's breach of its obligations under this Section.
- 3.6. **Customer Materials.** Customer hereby grants Flintfox a limited right to use any Customer Materials solely for the purpose of providing the Services to Customer. Customer retains all of its rights in and to the Customer Materials. Customer Materials that are Confidential Information will be subject to the confidentiality provisions of this Agreement. Customer warrants that it has sufficient rights in the Customer Materials to grant the rights to Flintfox under this Agreement.

4. Pricing and Fees

- 4.1. **Payment.** Customer agrees to pay all fees specified in applicable Order Forms and SOWs ("**Fees**"). Unless otherwise agreed to by Flintfox, Fees are payable within 30 days of invoice and are non-refundable, except as specified in this Agreement. Customer must assert any good faith payment dispute in accordance with Section 4.4.
- 4.2. **Taxes.** All Fees are exclusive of taxes. Customer is responsible for all sales, service, value-added, use, and other taxes on amounts payable under this Agreement, excluding taxes on Flintfox's income. Customer shall promptly pay all such fees when due or requested, including if set forth on an invoice from Flintfox.
- 4.3. **Costs of Collection.** Where Customer fails to pay an invoice by the due date and the invoice has not been disputed under Section 4.4, Flintfox may take action to recover part or the whole of the debt owed by Customer under that invoice including without limitation commencing legal proceedings or engaging a debt collection agency to recover the debt. Any costs incurred by Flintfox in seeking to recover the debt are to be paid by Customer, including any debt collection agency costs, credit agency costs, filing and court fees, costs for enforcing any judgment delivered by a court of competent jurisdiction, legal fees incurred by Flintfox in relation to recovering the debt, and any other costs incurred by Flintfox relating to recovery of the debt.
- 4.4. **Dispute of invoice; Offsets:** If Customer disputes any invoice, Customer must notify Flintfox in writing of this dispute within twenty (20) calendar days of receipt of the invoice. Following this notice, the parties shall work together reasonably and in good faith to promptly resolve the dispute. Until resolution of the dispute or up to ninety (90) days following Customer's notice of the dispute (whichever occurs first), the Customer may withhold payment of the disputed amount, but the Customer shall pay Flintfox the balance of the amount then due and payable under the invoice and not in dispute. Customer must at all times pay all invoices in full without set off or deduction of any kind, other than as set out above or as otherwise agreed in advance between the Parties.

5. Security and Privacy

- 5.1. **Security.** Flintfox will implement and maintain appropriate technical and organizational security measures designed to protect Customer Data and Customer Materials from accidental loss and unauthorized access,

use, alteration, or disclosure. Customer is responsible for properly configuring its Environment and Third-Party Technology and the deployment of the Services thereon (unless Professional Services covering such deployment are mutually agreed upon in an Order Form or SOW) and securing access passwords, keys, and other credentials used by Customer and its Authorized Users in connection with the Services (“**Customer Credentials**”).

- 5.2. **Privacy.** Customer will use reasonable efforts to restrict inclusion of Sensitive Information and personal data in Customer Materials.

6. Confidentiality

- 6.1. **Confidential Information.** “**Confidential Information**” means information disclosed by one party (the “**Disclosing Party**”) to the other party (the “**Receiving Party**”) that is designated as confidential or reasonably should be understood to be confidential, including technology, information, business plans, pricing, and the terms of an Order Form and/or SOW. Flintfox IP is Confidential Information of Flintfox, and Customer Data and Customer Materials are Confidential Information of Customer.
- 6.2. **Restrictions on Use and Disclosure.** Each party must: (a) use at least the same degree of care to protect the other party’s Confidential Information as it uses for its own similar information (but not less than reasonable care); (b) use Confidential Information only as permitted under this Agreement; and (c) only disclose Confidential Information to its Representatives who are bound by confidentiality obligations and have a need to know in order to exercise its rights or perform its obligations under this Agreement, or as otherwise required by Applicable Law. For purposes of the foregoing, “**Representatives**” means employees, partners, contractors (including legal counsel and accountants), and service providers of a party. Each party shall be fully responsible for its Representatives and for their acts and omissions involving the Confidential Information of the other party (including any acts or omissions that, if performed by the receiving party, would constitute a breach of this Section 6).

7. Disclaimers and Warranties

- 7.1. **Flintfox Representations and Warranties.** Flintfox represents and warrants that: (a) at the time of delivery to Customer, the Flintfox Base Software will operate in substantial conformity with the applicable Documentation; and (b) Flintfox will render the Professional Services in a professional and workmanlike manner consistent with generally accepted industry standards.
- 7.2. **Customer Representations and Warranties.** Customer represents and warrants that: (a) providing Customer Data and/or Customer Materials to Flintfox violates no Applicable Law or third party restrictions; (b) Customer will comply with Applicable Law in its use of the Services; and (c) Customer is solely responsible for compliance with Applicable Laws related to Customer’s business operations (“**Customer Business**”).
- 7.3. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, AND EACH PARTY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, THE SERVICES ARE PROVIDED “AS IS” AND “AS AVAILABLE.” FLINTFOX SPECIFICALLY DISCLAIMS ANY RESPONSIBILITY FOR THE ACCURACY OR QUALITY OF THE OUTPUTS OBTAINED THROUGH THE SERVICES, AND FLINTFOX RECOMMENDS THAT CUSTOMER CHECK AND CONFIRM THE ACCURACY OF ANY OUTPUTS IT OBTAINS FROM THE SERVICES PRIOR TO USING SUCH OUTPUTS OR RELYING ON THEM IN WHATEVER FORM.

8. Term and Termination

- 8.1. **Agreement Term.** This Agreement terminates upon termination or expiration of the last Order Form or SOW between the parties, or the earlier termination pursuant to Section 8.3.

- 8.2. **Order Form and SOW Term.** Unless otherwise stated in the applicable Order Form, the term of each Order Form or SOW covering Flintfox's provision of the Application Services and/or Managed Support Services shall consist of an initial term of one year and shall automatically renew for successive one year periods thereafter at the then current list price unless either party provides at least 30 days' written notice of non-renewal before expiration. Unless otherwise stated in the applicable Order Form or SOW, the term of each Order Form and/or SOW covering Flintfox's provision of Professional Services or Managed Support shall last until performance thereunder is completed consistent with the terms of such Order Form and/or SOW. Unless otherwise mutually agreed by the parties in writing, (i) the termination or expiration of an Order Form or SOW covering Services other than the Application Services shall not impact or result in the termination of any other Order Form or SOW, and/or (ii) the termination or expiration of an Order Form covering Flintfox's provision of the Application Services shall result in the simultaneous termination of each other Order Form and SOW between the parties covering Services hereunder.
- 8.3. **Termination for Cause.** Either party may terminate this Agreement and/or any SOW or Order Form hereunder upon written notice if the other party materially breaches this Agreement or such SOW or Order Form and fails to cure within 15 days of written notice. Flintfox may terminate for non-payment of undisputed amounts continuing more than 15 days after written notice. Additionally, either party may terminate this Agreement if the other party terminates its business activities or becomes insolvent, files for bankruptcy, admits in writing its inability to pay debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority. For any termination of this Agreement, an Order Form or an SOW by Customer for cause in accordance with this Section 8 due to Flintfox's uncured material breach, Customer shall be entitled to a refund of any prepaid unused Fees for the Services purchased hereunder.
- 8.4. **Effect of Termination.** Upon termination of this Agreement: (a) all rights granted to Customer terminate and Customer must cease all use of the Services; (b) Customer must uninstall and permanently delete any copies of the Software and all Customized Software Deliverables that have been installed or stored on any Customer Environment or any Customer Devices; (c) Flintfox has no obligation to provide any Services after termination; (d) Customer must fulfill all payment obligations owing for the period of time prior to such termination; (e) each party shall return or destroy all Confidential information of the other party (as instructed by such other party); and (f) Flintfox shall have no obligation to maintain or retain Customer Materials and upon written request from the Customer, Flintfox shall delete all Customer Materials. The terms and conditions of this Agreement that by their nature are intended to survive termination of this Agreement shall survive consistent with their terms. Upon termination or expiration of a particular Order Form or SOW, all rights granted to Customer thereunder terminate and Customer must cease all use of the applicable Services, and this Agreement and the other in effect SOWs and Order Forms shall continue to survive consistent with their terms. Notwithstanding the foregoing, if the Order Form or SOW being terminated covers Flintfox's provision of the Application Services, then each of the other in effect Orders forms and SOWs shall also terminate simultaneously therewith.
- 8.5. **Suspension of Services.** Without limiting Flintfox's rights to terminate as set forth above, Flintfox may suspend Services immediately and without notice if: (a) applicable Fees are more than thirty (30) days overdue and a notice of invoice dispute has not been received; (b) Customer breaches access or other restrictions herein, in applicable Service-Specific Terms and Conditions; (c) suspension is necessary to avoid material harm to Flintfox or its other customers, including if the Service is experiencing denial of service attacks, mail flooding, or other attacks or disruptions outside of Flintfox's control; (d) required by Applicable Law; or (e) the actions of Customer or its Authorized Users threatens the security, integrity or availability of the Services. In such event, Flintfox shall not be liable for any loss or damage arising from the suspension of the Services, and Customer shall remain liable for all fees due with respect to the Services during the period of any suspension. Following resolution of the issues that gave rise to the suspension, Flintfox shall as soon as reasonably practicable reinstate provision of the Services. A suspension of the Services under this Section will be without prejudice to other remedies available to Flintfox.

9. Indemnification

- 9.1. **By Flintfox.** Flintfox will defend Customer against third-party claims alleging that the Services or Deliverables infringe such third party's Intellectual Property Rights and will indemnify Customer from resulting Losses. If the Services or Deliverables become the subject of a claim under this Section, Flintfox may in its discretion: (a) obtain for Customer the right to continue using the Services or Deliverables; (b) modify the Services or Deliverables so that they no longer infringe; or, if neither (a) nor (b) are commercially reasonable, (c) terminate the Order Form covering the affected Services or Deliverables and issue a pro-rata refund. Notwithstanding the foregoing, Flintfox will have no obligation to defend or indemnify Customer pursuant to this Section 9.1 to the extent the infringement claim arises from any of the following (collectively, "**Customer-Controlled Matters**"): (i) Customer's Environment or Third-Party Technology; (ii) Account Data, Customer Data, Customer Materials, or Customer Credentials (including activities conducted with Customer Credentials), subject to Flintfox's obligations under this Agreement; (iii) use of the Services or Deliverables by Customer or an Authorized User in a manner that violates the terms of or breaches an Order Form, SOW, applicable Documentation, or this Agreement; or (iv) modification of the Services or Deliverables by any person other than Flintfox or third parties authorized by Flintfox in writing. FLINTFOX'S FOREGOING OBLIGATIONS IN THIS SECTION STATE CUSTOMER'S EXCLUSIVE REMEDIES AND FLINTFOX'S ENTIRE LIABILITY FOR ANY CLAIM OF INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT OR MISAPPROPRIATION.
- 9.2. **By Customer.** Customer will defend Flintfox against third-party claims arising from or related to: Customer Data, Customer Materials, Customer-Controlled Matters, the Customer Business, Customer's breach or violation of any Connected Application Contracts, Customer's breach of Sections 2 and/or 7.2 of this Agreement, or any Authorized User's use of the Services in violation of this Agreement, and will indemnify Flintfox from all resulting or related Losses.
- 9.3. **Indemnification Procedure.** The indemnified party must promptly notify the indemnifying party and reasonably cooperate. The indemnifying party will control defense and may not settle without the indemnified party's consent if settlement requires action by the indemnified party.

10. Limitations of Liability.

NEITHER PARTY WILL BE LIABLE FOR SPECIAL, INDIRECT, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF LEGAL THEORY, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.

EXCEPT FOR (i) INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 OF THIS AGREEMENT, (ii) ACTS OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (iii) CUSTOMER'S PAYMENT OBLIGATIONS, EACH PARTY'S TOTAL AND CUMULATIVE LIABILITY WILL NOT EXCEED THE FEES PAID OR PAYABLE FOR THE SERVICES GIVING RISE TO LIABILITY IN THE 12 MONTHS PRECEDING THE EVENT.

ANY CAUSE OF ACTION MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. ADDITIONALLY, FLINTFOX SHALL NOT BE LIABLE FOR CLAIMS IN RELATION TO THE SERVICES IT PERFORMS OR DELIVERS FOR CUSTOMER IN RELIANCE ON WRITTEN PLANS, INSTRUCTIONS OR INFORMATION THAT FLINTFOX DID NOT PREPARE.

11. **Free and Beta Services.** Flintfox may from time to time offer Customer the opportunity to access, use and receive Free Services and/or Beta Services. For any such Free Services and Beta Services: (a) Flintfox may discontinue or modify its provision thereof at any time; (b) such services are for evaluation only and not considered "Services" under this Agreement; (c) the security measures contemplated by Section 5.1 do not include or encompass such services except as they apply to underlying Services; (d) Flintfox's warranties do not apply; and (e) Flintfox's indemnity with respect to the services (if any) is capped at \$1,000. FLINTFOX PROVIDES BETA SERVICES AND FREE SERVICES "AS IS" WITHOUT WARRANTY OR INDEMNIFICATION AND WILL HAVE NO LIABILITY FOR ANY HARM OR DAMAGE ARISING OUT OF OR IN CONNECTION WITH A BETA SERVICE OR FREE SERVICE EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 11.

12. General Provisions

- 12.1. **Entire Agreement.** This Agreement, the Service-Specific Terms and Conditions applicable to the Services being provided to Customer, the Order Forms, the SOWs (if any) entered into in connection herewith, and

any Additional Terms, collectively constitute the complete agreement between the parties. In the event of any conflict or inconsistency between the terms of this Agreement and the terms of an Order Form or SOW, the terms of the Order Form or SOW shall take precedence, but only to the extent of such conflict or inconsistency. Certain other agreements or policies that may also be presented to Customer or its Authorized Users when accessing or using the Services (“**Additional Terms**”). This Agreement incorporates by reference all such Additional Terms as set out on the Services or as provided to Customer and its Authorized Users from time to time (whether via email, click-wrap acceptance or via public posting on the Services) and Customer shall ensure that it and its Authorized Users comply with such Additional Terms.

12.2. **Assignment.** Neither party may assign this Agreement without prior written consent, except to an Affiliate or in connection with a merger, acquisition, or sale of substantially all assets.

12.3. **Force Majeure.** Neither party will be liable for delays or failures resulting from causes beyond reasonable control, provided that the foregoing shall not limit or restrict Customer’s responsibility for its payment obligations hereunder.

12.4. **Severability.** If any provision is held invalid, the remainder of the Agreement continues in full force.

12.5. **Amendment.** Flintfox may, from time to time, update or change any portion of this Agreement at its sole and absolute discretion. Please check this Agreement periodically for changes. Updates will be effective immediately except that, for existing Customers, material revisions will be effective the earlier of (a) Customer’s assent to the updated Agreement or (b) 30 days after the earlier of (i) the posting of the revised Agreement on the Flintfox website or in the Services, or (ii) notice of such updated Agreement (e.g. email notice to the email account on file for Customer). In certain situations, Flintfox may require that Customer accept the updated Agreement in order to continue to use the Services. Customer’s continued access to or use of the Services after Flintfox provides such notice, if applicable, or after Flintfox posts such updated Agreement, constitutes Customer’s acceptance of the changes and consent to be bound by the Agreement, as amended. Except as otherwise permitted in this Section, as between Customer and Flintfox, this Agreement may be amended only by a written agreement signed by authorized representatives of each of Customer and Flintfox.

12.6. **Contracting Entity and Notices.** The applicable Flintfox contracting entity and notice addresses for purposes of this Agreement shall be as specified in Exhibit E.

12.7. **Governing Law, Dispute Resolution and Arbitration**

12.7.1. The laws of the State of California govern this Agreement and any action arising out of or relating to this Agreement, without reference to conflict of law rules.

12.7.2. If Customer is located in the United States of America, in the event of any controversy or claim arising out of or relating to these terms, or any breach thereof, such controversy or claim shall be determined and finally settled by confidential, binding arbitration, conducted in English, held in San Francisco, California, administered by the American Arbitration Association (“AAA”) before a sole arbitrator in accordance with the then-current AAA Commercial Arbitration Rules.

12.7.3. If Customer is not located in the United States of America, all disputes arising out of or in connection with this Agreement shall be finally settled, using the English language, under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules, in San Francisco, California.

12.7.4. The award rendered by the arbitrator under this Section shall be final and binding on the parties thereto, and judgment thereon may be entered in any court of competent jurisdiction. Any claimants must file an individual request for arbitration, specifying such claimant’s identity, such claimant’s counsel, and a detailed description of the claims being asserted and the requested relief, including a good faith calculation of the specific amount in dispute. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief

pending a final decision by the arbitrator, provided that a permanent injunction and damages shall only be awarded by the arbitrator.

12.8. **Waiver of Class Arbitration or Actions.** ANY CLAIMS THAT YOU OR ENABLE ASSERT UNDER THIS AGREEMENT WILL BE BROUGHT ON AN INDIVIDUAL BASIS ONLY AND NOT ON A CLASS, CONSOLIDATED, REPRESENTATIVE, OR COLLECTIVE BASIS. ONLY INDIVIDUAL RELIEF IS AVAILABLE FOR CONTROVERSIES AND CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT, OR ANY BREACH THEREOF, AND YOU AND FLINTFOX AGREE THAT CLASS ARBITRATIONS AND CLASS ACTIONS ARE NOT PERMITTED UNDER ANY CIRCUMSTANCES. YOU UNDERSTAND THAT, BY AGREEING TO THESE TERMS, YOU AND ENABLE ARE WAIVING THE RIGHT TO PARTICIPATE IN ANY FORM OF CLASS ARBITRATION AND/OR CLASS ACTION.

13. Definitions

"Account Data" means information about Customer provided in connection with account creation or administration.

"Affiliate" means an entity that directly or indirectly owns, controls, is owned by, or is under common control with a party.

"Anonymized Data" means data in aggregated or anonymized form that cannot be linked to Customer or any natural person.

"Application Services" means (i) the right to install, access and use the Software, and (ii) the related application services provided by Flintfox in connection with the Software as set forth in an Order Form.

"Applicable Law" means applicable governmental laws, rules, directives, regulations or orders.

"Authorized User" means an individual employee, agent, contractor or other representative supplied user credentials for the Services by Customer.

"Base Support Services" means services for the ongoing support of Customer in its utilization of the Application Services as described in and more fully defined in the Service-Specific Terms and Conditions attached hereto as Exhibit B. Base Support Services do not include the Managed Support Services.

"Beta Services" means Flintfox services not generally available commercially and designated as beta, pilot, or limited release.

"Business Day" means Monday to Friday in Customer's primary business location but excludes public holidays in the primary business location.

"Business Hours" means 9am to 5pm Monday to Friday in the time zone of Customer's primary business location but excludes public holidays in the primary business location.

"Connected Applications" means with other third-party systems, platforms or applications, which include, without limitation, any ERPs integrated with the Application Services (e.g. SAP, Oracle, Microsoft Dynamics).

"Connected Application Contracts" means direct contracts a Customer has with the provider, licensor or host of any Connected Application in relation to the use rights, cloud services, infrastructure, software support and/ or maintenance services for the Connected Applications.

"Customer Data" means all electronic data, content, and information submitted by or for Customer to the Services, including data or information provided by Customer for processing by the Software from Third-Party Technology.

"Customer Materials" means materials provided to Flintfox by or on behalf of Customer in connection with the Services (but excluding Customer Data).

"Customized Software Deliverables" means plug-ins, extensions or other software customizations developed by Flintfox for Customer and that in each case have been expressly identified and agreed upon in an Order Form or SOW.

"Defect" means any material deviation or non-conformance of the Flintfox Base Software code from the way Flintfox designed or intended, which causes the Flintfox Base Software to behave in unintended ways or produce incorrect results.

"Deliverables" means custom guides, documentation, software, materials or other customized deliverables or materials that Flintfox provides in connection with Professional Services and that in each case have been expressly identified and agreed upon in an Order Form or SOW. Deliverables include any Customized Software Deliverables.

"Design Documents" means the mutually approved functional design document and technical design document (or equivalent named document(s)) as set out in a mutually agreed upon Order Form or SOW for Flintfox's provision of Professional Services involving the development of Customized Software Deliverables.

"Device" means (whether physical or virtual) a server, system, workstation, computer, mobile device or end point upon which, or, through the Application Services are installed and/or used.

"Documentation" means Flintfox's standard user documentation for the Services.

"Flintfox" means unless otherwise specified in the Order Form or this Agreement, the Flintfox entity as set forth in **Exhibit E**.

"Flintfox IP" means the Software, Services, Deliverables, Documentation, Usage Data, Anonymized Data and Feedback.

"Environment" means systems, platforms, components, and services Customer uses for operations. The Environment includes, without limitation, Customer's Operating System Environment.

"ERP" means a third-party enterprise resource planning or customer relationship management software platform, such as Microsoft Dynamics 365.

"Feedback" means feedback from Customer or Authorized Users related to access and use of the Services.

"Flintfox Base Software" means the base Software functionality made available by Flintfox to all clients pursuant to Flintfox Application Services but excluding functionality which is Customized Software Deliverables.

"Free Services" means Services Flintfox makes available without charging a Fee.

"Implemented Solution" means the completed set of business processes, Software, Flintfox Applications Services, Customized Software Deliverables, related Professional Services, and Documentation provided to Customer by Flintfox under this Agreement and related Order Forms and SOWs.

"Intellectual Property Rights" means registered and unregistered rights under patent, copyright, trademark, trade secret, database protection, and other intellectual property laws.

"Losses" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees) or liabilities.

"Managed Support Services" means enhanced technical and operational support services provided by Flintfox in excess of standard Base Support Services as mutually agreed from time to time in an Order Form or SOW and as described in and more fully defined in the Service-Specific Terms and Conditions attached hereto as **Exhibit D**.

"Operating System Environment" means the Customer's hosted cloud environment.

"Order Form" means an order form executed by Flintfox and Customer specifying particular Services to be provided by Flintfox (Application Services, Professional Services, Managed Support Services, etc.), as well as Fees, Order Term, and other terms.

"Order Term" means the term for Services specified in the applicable Order Form or SOW or other applicable time period during which Services will be performed or provided.

"Outputs" means data, results, reports, summaries, content, information, recommendations, predictions or other outputs generated by the Services, including through the use of artificial intelligence, machine learning or algorithmic processes, based on Customer Data and/or Customer Materials. Outputs do not and will not include any Flintfox IP

"Professional Services" means implementation, configuration, deployment, consulting, account management, custom development or other professional services provided by Flintfox as mutually agreed from time to time in an Order Form or SOW.

"Sensitive Information" means government-issued identification numbers, financial information, protected health information, and other information subject to specific legal requirements.

"Services" means any and all (a) use of the Software and any Software-related services provided to Customer by Flintfox pursuant to, or in connection with, an Order Form, along with any related applications, software, hardware or documentation provided by Flintfox in connection therewith, including: Application Services; (b) Base Support Services; (c) Professional Services; (d) Managed Support Services; (e) any other services that Flintfox may provide to Customer under this Agreement; and (f) any implementation of the foregoing.

"Software" means Flintfox's proprietary Flintfox software (being Flintfox for Dynamics 365 and/or Flintfox for another ERP) or third party software provided in connection therewith that enables the access to and use of certain Software functionality (but excluding, for the avoidance of doubt where applicable, Microsoft or other third party branded software functionality) which is set forth in an Order Form.

"SOW" means a statement of work or work order for Professional Services, Managed Support Services or other Services governed by this Agreement.

"Support Portal" means the Flintfox support web portal where the Client may log Support Requests or view existing Support Requests.

"Support Request" means a request for support from Flintfox made by the Customer in respect of Basic Support Services or Managed Support Services (as applicable), where the Customer enters the details of an incident in the Support Portal including the nature and details of the incident being reported, and where appropriate the attempted remediation action taken by the Customer and the expected result of the Customer's request.

"Supported Version" means any version of the Flintfox Base Software released not longer than two (2) years prior to the date the Support Request is logged.

"Third-Party Technology" means third party technology or services required to access the Services and third-party platforms or offerings that may integrate with the Services. Third Party-Technology includes, without limitation, the Connected Applications.

"Usage Data" means data and information about Customer's configuration and use of the Services.

BY USING FLINTFOX'S SERVICES AND/OR ACCEPTING THIS AGREEMENT (OR OTHERWISE BEING BOUND AS DESCRIBED ABOVE), CUSTOMER AGREES TO BE BOUND BY THIS AGREEMENT. IF CUSTOMER DOES NOT WISH TO BE BOUND BY THE THIS AGREEMENT, PLEASE CEASE ALL FURTHER USE OF THE SERVICES.

Exhibit A

Application Services - Service-Specific Terms and Conditions

The following additional terms and conditions apply to the Application Services being provided to Customer pursuant to an Order Form. All terms of the main body of the Agreement shall also apply.

1. **Subscription:** During the Order Term and subject to the terms of the Agreement, this Exhibit and applicable Order Forms, Customer hereby receives:
 - (a) the right and license to access and use Application Services on a non-exclusive, non-transferable, non-sublicensable, term-limited basis and in each case solely for its internal business purposes in connection with Customer's Connected Applications;
 - (b) the right and license to access and use any Customized Software Deliverables mutually agreed upon by the parties in separate Order Form or SOW for Professional Services on a non-exclusive, non-transferable, non-sublicensable basis and in each case solely for its internal business purposes in connection with Customer's Connected Applications;
 - (c) the right to receive Base Support Services charged on a time and materials basis and as more fully set forth in the Service-Specific Terms and Conditions for the Base Support Services (unless Customer has a Managed Support Order Form in place for the Application Services covered by the Order Form),Flintfox reserves all other rights in and to the Software and Application Services.
2. **Fees:** During the initial term of Customer's subscription, the Fees for the Application Services being provided by Flintfox are as set out in Customer's Order Form.
3. **User restrictions:** Customer may only use the Application Services:
 - (a) for Customer's internal business purposes; and
 - (b) as expressly permitted in these Service-Specific Terms and Conditions, the Agreement, applicable Documentation, and Customer's applicable Order Form(s) and SOW(s) covering Flintfox's provision of the Application Services. In doing so, Customer must comply with any technical and functional limitations in the Software.
4. **Additional detail of authorized use:** Customer may:
 - (a) copy and use Outputs that it generates through use of the Application Services, for internal business purposes only;
 - (b) retain, create or store backup copies of Customer Data generated through the use of the Application Services on the Operating System Environment for redundancy and archival purposes only;
 - (c) utilize a reasonable number of copies of the Software provided pursuant to the Application Services for its internal development, backup, archival, training and testing purposes provided that such copies are not used in any production environment; and
 - (d) run multiple passive and/or active fail-over or clustered instances of Customer's system database on the Operating System Environment for the Application Services redundancy or scalability purposes provided the system database instances must all be copies of the same Customer Data.

Any Authorized User of Application Services may only copy and use the Documentation for the Application Services for Customer's internal business purposes.

5. **Multiplexing:** Customer acknowledges and agrees that hardware or software that Customer uses to pool connections, reroute information, reduce the number of Devices or Authorized Users that directly access or use the Application Services (or its related software), or reduce the number of Operating System Environments, or Devices or Authorized Users the Application Service directly manages, will not reduce the scope of the license and access and use rights for the Application Services being purchased by Customer pursuant to its applicable Order Form. Customer also acknowledges and agrees that the Application Services may send telemetry and other Usage Data and Account Data back to Flintfox and Flintfox may use such data as set forth in the Agreement.
6. **Additional functionality:** If during the Order Term for Application Services, Customer requires additional Customized software functionality (i.e. Customized Software Deliverables) to be developed as part of the Application Services, Flintfox's delivery of this functionality (including the design, development and testing of this functionality) shall be governed by a supplemental Order Form for Professional Services mutually agreed upon by the parties at such time.
7. **User rights and Dynamics 365 instances:** Where Customer subscribes for Flintfox for Dynamics 365, Customer may use Flintfox for Dynamics 365 as defined by Customer's subscribed Dynamics 365 instances with Microsoft. Customer's Application Services subscription is matched with the default Dynamics 365 production instance included in Customer's Microsoft online services subscriptions, and every additional Dynamics 365 sandbox or Dev/Test instance associated with the same Microsoft subscription account. Customer may only access and use the Application Services for the number of Authorized Users specified in Customer's applicable Order Form and may access Application Services on a hosted basis or via the on-premises equivalent in accordance with Customer's subscribed Dynamics 365 instances with Microsoft. Where these Authorized Users are designated as being "Named Users", each Authorized User requires a separate subscription use right and such subscription use right may not be shared between Authorized Users. The parties agree that the Authorized User subscription rights number required by Customer for Flintfox for Dynamics 365 must be equivalent to Customer's corresponding Microsoft subscription licenses held by Customer with Microsoft. Customer agrees to disclose to Flintfox the number of Microsoft online services subscription licenses held by Customer with Microsoft not less than sixty (60) calendar days prior to the expiry of the initial Order Term for Customer's subscription or any subscription renewal term.
8. **Customer production environment:** Customer may access and use the Application Services per the applicable rights in Customer's Order Form for Customer's production environment provided that if Customer is using the Application Services for more than one production environment, Customer must obtain separate rights for each production environment.
9. **Installation of third-party software:** Customer acknowledges they may need to obtain a license for, install and use certain third-party software (i.e. Third-Party Technology) to use certain functionalities of the Application Services. A list of such software can be provided on request as part of the implementation project deliverables.
10. **Connected Applications.**
 - (a) **General.** Customer acknowledges that the Application Services connect to or integrate with Connected Applications. Customer is responsible for its Connected Application Contracts, and Customer is responsible and liable for its compliance with all such Connected Application Contracts. Customer acknowledges that Flintfox is not responsible for any performance issues or errors in relation to Connected Applications that impact performance or availability of Application Services or any other Services provided by Flintfox pursuant to this Agreement. Where such issues arise, any Flintfox effort to resolve such issues will be undertaken as Professional Services and additional Fees may apply

(which shall be mutually agreed upon in advance in writing at such time). Customer's rights and obligations hereunder are subject to and conditional upon Customer's continued compliance with its obligations with respect to any Connected Application, including as set forth in any Connected Application Contracts.

- (b) **Updates; Responsibility for Connected Applications.** Updates or upgrades to Connected Applications may from time to time include changes in the underlying Connected Application code that impacts the operation or performance of Application Services and/or Customized Software Deliverables. Such update or version release of a Connected Application may contain changes that adversely affect the functioning of the Application Services and/or Customized Software Deliverables. In such situations, Flintfox may offer Professional Services to Customer for additional Fees, which shall be mutually agreed upon in advance in writing at such time. Additionally, Flintfox assumes no responsibility for compliance with any Connected Application Contracts as related to the Services, and Customer is solely responsible therefor and for obtaining all third-party permissions and consents required by all Connected Applications to link, integrate and use the Services in connection with any Connected Applications. If Customer is unable to access all or part of the Services because it does not have access to any necessary Connected Applications or because use of the Services in connection with a particular Connected Application violates certain Connected Application Contracts, this shall not constitute a breach of this Agreement by Flintfox and Flintfox shall not be liable for any loss, damage or expense which may result from such inability to access the Services. Additionally, Flintfox shall not be responsible for possible errors, faults, interruptions or discontinued services caused by particular Connected Applications.

Exhibit B

Base Support Services - Service-Specific Terms and Conditions

The following additional terms and conditions apply to the Base Support Services being provided to Customer in connection with the Application Services purchased by Customer pursuant to an Order Form. All terms of the main body of the Agreement shall also apply.

1. **Support Services provided:** Flintfox offers two kinds of support services to customers:

- (a) Base Support Services, which are offered on a time and materials basis; and

Managed Support Services, which offer committed service levels and a monthly fee and must be purchased pursuant to a Managed Support Services-specific Order Form.

This Exhibit B sets out terms for the provision of Base Support Services. Exhibit D sets out terms for the provision of Managed Support Services.

Base Support Services: “Break/fix” support services in response to Support Requests raised by Customer through Flintfox’s Support Portal (“**Base Support Services**”).

2. **Flintfox’s responsibilities:**

- (a) Flintfox shall provide Base Support Services in accordance with this Exhibit, the Agreement and Customer’s applicable Order Forms.
- (b) Flintfox will not make changes to any environment other than changes pertaining to the Support Request submitted, without the prior knowledge and consent of one or more of Client Support Representatives (defined below), while remotely accessing Customer’s Operating System Environment.
- (c) Flintfox will provide Base Support Services on a reasonable commercial effort basis, meaning:
 - (i) an initial response by the Flintfox support team will be available only during Business Hours;
 - (ii) the Flintfox support team will issue an initial response to a Support Request as quickly as the Flintfox support team are reasonably available to respond;
 - (iii) priority will be assigned to Support Requests at Flintfox’s sole discretion; and
 - (iv) Support Requests will be responded to in order of the priority assigned to the Support Request.

3. **Customer’s responsibilities:** Customer shall:

- (a) complete a Support Request through the Support Portal to initiate Base Support Services. All Support Requests must be submitted through the Support Portal. Customer acknowledges that:
 - (i) notwithstanding the completed requirements which created the Implemented Solution, the Implemented Solution is likely to be the subject of continuous change and variation by way of business practice, resource training, software enhancement or customization; and

- (ii) at the time of making any request for change by way of Support Request, the status of the Implemented Solution shall be as of the most recent documented Support Request closed with Flintfox prior to the Support Request in question;
- (b) reproduce the events of a Support Request, including the documentation of the steps that were reproduced in a suitable Customer hosted cloud non-production environment (refer (d) below) that Flintfox has access to, in order to observe and analyze the behavior before escalation to the Flintfox support team;
- (c) identify their applicable customer support representatives in an Order Form (“**Customer Support Representative(s)**”). It is essential that Customer Support Representatives and/or other trained Customer personnel attempt to resolve any Implemented Solution issues prior to a Support Request being initiated. However, should it not be possible to resolve the issues, then Customer Support Representatives should contact the Flintfox support team with a fully documented description of the Support Request using the Support Portal or other mechanisms from time to time required by Flintfox. To ensure that Customer’s request is handled efficiently and effectively, contact should only be to the Flintfox support team by Customer Support Representatives;
- (d) maintain a dedicated, integrated non-production environment with recently refreshed production data, in Customer’s Operating System Environment, for reproducing the events of a Support Request;
- (e) provide remote and ‘read only’ capabilities for access to Customer’s live production environment when the possible resolution of a Support Request can only be diagnosed and/or produced by observing the Implemented Solution in real time in a live production environment;
- (f) when requested by the Flintfox support team, supply Customer Data for the sole purpose of diagnostics and troubleshooting a data related error; and
- (g) limit the number of Authorized Users or its authorized representatives permitted to initiate a Support Request to Customer Support Representatives.

4. **Fees for the Base Support Services:**

- (a) Flintfox shall perform Base Support Services in accordance with the terms set out in this Agreement and at the rates included in Customer’s Order Form, or, if no rates are included, based on Flintfox’s then applicable rate schedule.

For Basic Support Services that are on a time and material basis, Customer acknowledges and agrees that the logging of a Support Request by a Customer Support Representative constitutes Customer approval for the Flintfox support team to work up to 8 hours on a Support Request at the applicable rates. Prior to the expiry of this approved 8 hours, Flintfox will seek Customer approval for any further time that may be required to respond to or resolve the Support Request. Customer acknowledges that where such approval is not received or Customer does not respond to a request for approval, the Flintfox support team may, at its discretion and without any liability, stop work on the Support Request until a response is received.

5. **Workarounds:**

- (a) In some cases, the best course of action for a Support Request is to provide a temporary workaround if this can be delivered sooner than a permanent resolution. This results in the return of the Application Services to functional or operational status which permits Customer to perform its critical business functions.

6. **Exclusions:** Base Support Services do not include:

- (a) services provided by the Flintfox support team to implement, test or deploy updates/releases in Customer's Operating System Environment. These Services will be charged at the rates mutually agreed in an Order Form or SOW, or, if no rates are included, based on Flintfox's then applicable rate schedule.
- (b) Professional Services for consulting, development or upgrade or version release tasks and other applicable online services. Such Services will be contracted under separate Order Form(s) and/or SOWs between Customer and Flintfox.
- (c) on-site support from Flintfox personnel either by a physical visit, or by remote on-site access to the Implemented Solution to complete services for diagnostic (other than an initial investigation), specification, development or change testing purposes.
- (d) education and training on the use of the Implemented Solution.

The provision of the services under this section will be contracted under an existing or new Order Form or SOW, as applicable.

7. **Defect fixes**

- (a) Where Customer is using a Supported Version of the Application Services and the Support Request is determined, by Flintfox in its sole discretion, to be caused by a Defect in Flintfox Base Software, resolution of Customer's Support Requests shall be performed by Flintfox at no cost to Customer; provided that If Flintfox determines in its sole discretion that (a) no Defect exists, (b) the incident was caused by coding, logic, configuration, or customization implemented by or on behalf of Customer, (c) the incident resulted from Customer's failure to implement Flintfox's previously recommended remediation actions, (d) the incident was caused by any third-party software, Third-Party Technology, or other cause outside of Flintfox's reasonable control, or (e) Customer is not using a Supported Version, Base Support Services will be chargeable on a time and materials basis based on the then applicable rate schedule

- 8. **Reservation of Rights:** Flintfox reserves the right to ensure Customer is implementing Flintfox's recommended actions in order to facilitate ongoing success for the use of Application Services. Flintfox may require additional training for Customer on a fully chargeable basis or potentially decline to provide Base Support Services for repeated similar Support Requests where action(s) by Customer to resolve such incidents is not implemented.

Exhibit C

Professional Services - Service-Specific Terms and Conditions

The following additional terms and conditions apply to any Professional Services being provided to Customer in connection with any Order Forms or SOWs entered into by the parties for Flintfox's provision of Professional Services. All terms of the main body of the Agreement shall also apply.

General. Professional Services shall be detailed in separate Order Forms or SOWs. In each Order Form or SOW, Flintfox shall mutually agree with Customer on the scope of Professional Services and Deliverables to be provided under that Order Form. Any services, customizations, software applications, outputs, products or performance requirements (including, but not limited to, non-functional requirements such as performance and response times) that are not expressly set out in an Order Form or SOW ("**Out of Scope Work**") will be deemed to be excluded from Flintfox's obligations under an Order Form or SOW. Out of Scope Work will not be undertaken until either:

- (a) it is added to the scope of an existing Order Form through a Change Order; or
- (b) it is included in an additional Order Form or SOW, or an amendment to an existing Order Form or SOW.

9. **Order Form preparation:** The preparation of the first Order Form will be undertaken by Flintfox at no charge to Customer. Flintfox shall invoice Customer for personnel time incurred in preparing subsequent Order Forms on a time and materials basis, in accordance with Flintfox's then applicable rates.
10. **Change Order:** Customer or Flintfox may request a modification or variation to an Order Form or SOW. The request must be in writing detailing the change required. Customer and Flintfox agree to give such requests reasonable consideration and respond to the other on its merits within seven (7) calendar days. Mutually agreed variations to an Order Form or SOW will be documented in a change order. Where the request for a variation to an Order Form or SOW is initiated by Customer, Flintfox shall invoice Customer for Flintfox personnel time incurred in preparing the change order on a time and materials basis in accordance with the charge out rates specified in the applicable order form.
11. **Variation to fees and delivery:** Any change order agreed pursuant to section 3 above may result in a variation to Flintfox's fees and/or impact on the timing of delivery of Services. Customer and Flintfox shall agree in writing to the new fees and/or expected impact on delivery timing in the change order.
12. **Fees for Professional Services:** Flintfox will perform the Professional Services in accordance with the fees set forth in the applicable Order Form or SOW, or if no such fees are specified, on a time and materials basis, in accordance with Flintfox's then applicable rates.
13. **Estimate:** The estimated fees set out in an Order Form ("**Estimate**") provide an indication of the fees likely to be incurred by Customer for the delivery of the Services. While every reasonable effort will be made to remain within the Estimate, Services will be billed based on the actual hours expended based on the charge out rates in the applicable rate schedule (unless a different billing and Fee calculation method is mutually agreed in the applicable Order Form or SOW). Customer acknowledges:
 - (a) for Customized Software Deliverables an Estimate is prepared based on Flintfox's documented and mutually approved Design Documents in relation to Customer specific requirements;
 - (b) for other Professional Services, an Estimate is prepared based on Flintfox's reasonable knowledge of Customer requirements and information made available by Customer; and
 - (c) while reasonable care and skill has been used in the preparation of the Estimate, an Estimate cannot foresee every circumstance that could affect an Estimate.

Flintfox shall advise Customer in writing, as soon as practical, if it is likely that the Estimate will be exceeded and, if required by Customer in writing, seek approval from Customer for the incurring of additional costs or, if requested by Customer, the preparation of a new Estimate. The new Estimate would be documented via a change order or Order Form.

14. **Charge-out rates:** Each Order Form will detail the charge-out rate(s) for Flintfox Personnel for the Professional Services being provided in the rate schedule. These charge-out rates may vary depending on the Flintfox personnel required. These charge-out rates are subject to change at 30 Calendar Days prior written notice. Notwithstanding the foregoing, once an Order Form is signed, charge-out rates will remain valid for the duration of that Order Form.

15. **Acceptance of Deliverables:**

- (a) Unless the Deliverables are rejected in accordance with Section 9, Deliverables are deemed accepted:
 - i. twenty-one (21) calendar days following the release of the code to Customer for Customized Software Deliverables; or
 - ii. fourteen (14) Calendar Days following delivery to Customer of all other Deliverables,
- (b) Acceptance of Deliverables shall be final and binding, and Customer shall have no further right to reject any accepted Deliverables. Deliverables that substantially conform to the applicable specifications set forth in the applicable Order Form or SOW shall be deemed to satisfy Flintfox's obligations, and minor defects, variations, or deviations that do not materially impair the functionality or intended use of the Deliverables shall not constitute grounds for rejection.

16. **Rejection of Deliverables:**

- (a) Customer may reject the Deliverables if they do not comply with the specifications for the Deliverables set forth in the applicable Order Form or SOW. Customer may reject the Deliverables by providing notice to Flintfox within:
 - i. twenty-one (21) calendar days following the release of the code to Customer for Customized Software Deliverables; or
 - ii. fourteen (14) calendar days following delivery to Customer of all other Deliverables.
- (b) The notice communicating rejection shall specify the Deliverables that Customer does not accept, the specific reasons for rejection, and detailed information demonstrating non-conformance with the applicable Order Form or SOW specifications; failure to provide such detailed notice shall result in deemed acceptance. Flintfox shall have thirty (30) calendar days to cure identified defects and redeliver. Following redelivery, Customer shall have the review period specified in Section 9(a) above to accept or reject based solely on defects identified in the original notice. There shall be a maximum of two (2) rejection and cure cycles, after which either party may terminate the applicable Order Form or SOW by written notice, with Customer paying for Professional Services performed and accepted Deliverables, and Flintfox refunding prepaid Fees for rejected Deliverables (less amounts owed). Disputes regarding rejection validity or cure adequacy shall be resolved by an independent expert mutually agreed or appointed by the American Arbitration Association, whose determination shall be binding, with costs borne by the non-prevailing party.

17. **Ownership.** Unless otherwise mutually agreed in an Order Form or SOW, the Professional Services and the resulting Deliverables are generally applicable to Flintfox's business and are proprietary to Flintfox. Flintfox retains all ownership rights in and to the Deliverables, including, without limitation, all Intellectual Property Rights therein. Subject to the applicable terms of the Agreement and applicable Order Form or SOW, Flintfox hereby grants Customer a limited, non-exclusive, royalty-free, non-transferable license to use the Deliverables internally solely in connection with Customer's use of the Service consistent with their intended purpose during the applicable Order Term.

Exhibit D

Managed Support Services - Service-Specific Terms and Conditions

The following additional terms and conditions apply to any Managed Support Services being provided to Customer in connection with any Order Forms or SOWs entered into by the parties for Flintfox's provision of Managed Support Services. All terms of the main body of the Agreement shall also apply.

1. **Application:** The parties may enter into a mutually agreeable Order Form or SOW providing for Flintfox's provision of Managed Support Services under the Agreement. Unless the parties have entered into such an Order Form or SOW covering the Managed Support Services, only Base Support Services are available. This Exhibit D only applies to Managed Support Services.
2. **Flintfox responsibilities:** Flintfox agrees to:
 - (a) provide the Managed Support Services requested by Customer pursuant to a Support Request in accordance with this Agreement and the Managed Support Services Order Form or SOW; and
 - (b) not make changes to any environment other than that pertaining to the Support Request submitted without the prior knowledge and consent of one or more of Customer Support Representatives identified in the applicable Managed Support Services Order or SOW or otherwise mutually agreed while remotely accessing a Customer's Operating System Environment.
3. **Customer responsibilities:** Customer agrees to:
 - (a) complete a Support Request through the Flintfox Support Portal to initiate Managed Support Services (all requests for support must be through such portal);
 - (b) identify their Customer Support Representatives in the applicable Managed Support Services Order Form or SOW. It is essential that Client Support Representatives and/or other trained Customer personnel attempt to resolve any Implemented Solution issues prior to a Support Request being initiated. However, should it not be possible to resolve the issues, then Client Support Representatives should contact the Flintfox support team with a fully documented description of the Support Request using the Support Request function in the Support Portal made available by Flintfox or using methods otherwise provided by Flintfox. To ensure that Customer's request is handled efficiently and effectively, contact should only be to the Flintfox support team by Client Support Representatives;
 - (c) maintain a dedicated, integrated non-production environment with recently refreshed production data, in a Customer's Operating System Environment, for reproducing the events of a Support Request;
 - (d) reproduce the events of a Support Request, including the documentation of the steps that were reproduced in a suitable Customer hosted cloud non-production environment (refer (c) above) that Flintfox has access to, and observe and analyze the behavior before escalation to the Flintfox support team;
 - (e) provide remote and 'read only' capabilities for access to Customer's live production environment when the possible resolution of a Support Request can only be diagnosed and/or produced by observing the Implemented Solution in real time in a live production environment;
 - (f) when requested by the Flintfox support team, supply Customer Data for the sole purpose of diagnostics and troubleshooting a data related error; and

- (g) limit the number of Authorized Users or its authorized representatives permitted to initiate a Support Request to mutually agreed Client Support Representatives.

4. Managed Support Services Fees:

- (a) Customer shall be responsible for and shall pay to Flintfox the Fees as described in the Managed Support Services Order Form or SOW for the selected service level, subject to the Agreement and the Managed Support Services Order Form or SOW.
- (b) Flintfox and Customer acknowledge and agree that the monthly fee set out in the Managed Support Services Order Form or SOW is an estimated amount determined by Flintfox and Customer based on Customer's expected use of the Managed Support Services. Where Customer's actual use of the Managed Support Services is greater than estimated hours set out in the Managed Support Services Order Form or SOW, Flintfox and Customer agree that such hours will be billable to Customer by Flintfox on a time and materials basis at the rates specified in Flintfox's then applicable rate schedule at the time the services are provided.

5. Exclusions: Managed Support Services do not include the engagement of Professional Services for consulting, development or upgrade tasks nor do they include online services, subscriptions or maintenance provided under another existing contract with Flintfox. These are to be covered under separate Order Form(s) or SOW. Engagements that are outside of the scope of Managed Support Services provided under a Managed Support Services Order Form or SOW include but are not limited to:

- (a) on-site support from Flintfox personnel, either by a physical visit or by remote on-site access to the Implemented Solution to complete services for diagnostic (other than an initial investigation), specification, development or change testing purposes;
- (b) requests that require customized developments to restore the Implemented Solution to effective order where the Implemented Solution has already been tested and accepted by Customer;
- (c) Customized developments that are subject to a fully specified, existing Order Form and charged separately on an agreed price and terms basis;
- (d) Customized developments resulting from a client-initiated Support Request that becomes an Order Form for authorization by the nominated Client Support Representative;
- (e) requests for customized developments that add functionality to the Implemented Solution and that are not previously reported and signed off on following a functional specification by a Flintfox consultant;
- (f) education and training on the use of the Implemented Solution; and
- (g) Subscriptions and online services, as they are covered by the Application Services.

6. Defect fixes:

- (a) Where Customer is using a Supported Version of the Application Services and the Support Request is determined, by Flintfox in its sole discretion, to be caused by a Defect in Flintfox Base Software, resolution of Customer's Support Requests shall be performed by Flintfox at no cost to Customer; provided that if Flintfox determines in its sole discretion that (a) no Defect exists, (b) the incident was caused by coding, logic, configuration, or customization implemented by or on behalf of Customer, (c) the incident resulted from Customer's failure to implement Flintfox's previously recommended remediation actions, (d) the incident was

caused by any third-party software, Third-Party Technology, or other cause outside of Flintfox's reasonable control, or (e) Customer is not using a Supported Version, Managed Support Services shall be provided in accordance with the Managed Support Services Order Form or SOW.

7. Severity Levels:

- (a) Incidents for which Support Requests are initiated shall be classified in accordance with the severity level designations below.

Severity Level	Description
1	An error or issue that causes the live production environment to fail to function and/or crash on a extensive or widespread basis.
2	An error or issue that causes a major function in the maintained software to fail to operate in a material manner but does not render the system on which the maintained software is installed inoperable and there is no workaround available.
3	The system does not operate as documented. There is a known workaround but this produces an inconvenient situation.
4	There is an error, which is minor or cosmetic in nature and does not result in reduced performance, or an informational question, or a feature request.

Flintfox reserves the right to downgrade the severity level of a Support Request based on information provided by Customer relating to the urgency and impact of the Support Request.

- (b) If Flintfox downgrades the severity level of a Support Request, the Support Request will be updated in the Support Portal (if applicable) to reflect the downgraded severity level and notice (by electronic message) of that downgrade will be provided to Customer.

8. Initial Response Schedule:

- (a) The Managed Support Services Order Form or SOW shall identify the initial response schedule for a Support Request.
- (b) In some cases, the best course of action for a Support Request is to provide a temporary workaround if this can be delivered sooner than a permanent solution. This results in the return of services to the functional or operational status which permits Customer to perform its critical business functions. The severity level of the Support Request may then be reassessed with a permanent resolution then in accordance with the new severity as per the above resolution schedule.
- (c) If Flintfox determines that no such incident(s) exists, or if the error was caused by coding or logic embedded in the software or online service by Customer or by any cause outside of Flintfox's reasonable control, Customer shall pay Flintfox for its services at the Professional Services rates then applicable. Flintfox shall have no obligation to perform any such out of scope services before the parties' reach agreement on the scope of services to be performed by Flintfox and the fees for such action.
- (d) Should an issue, including performance issues, be the subject of a Support Request to Flintfox that subsequently proves unrelated to Flintfox software/code, then time spent in its Resolution is considered outside the scope of Managed Support Services and Flintfox reserves the right to charge Customer on a time and material basis.

9. Service Credit:

- (a) If Flintfox fails to provide an initial response within the timeframes set forth in the Managed Support Services Order Form or SOW for severities where service credits apply (a “**Service Level Incident**”), Customer will be entitled to receive a service credit equating to 5% of the monthly fees paid by Customer under the Managed Support Services Order Form or SOW for the month in which the Service Level Incident occurs (“Service Credit”), up to a maximum of 15% in any given month.
- (b) Customer may not unilaterally offset its Professional Services or Managed Support Services Fees for any performance or availability issues.
- (c) Service Credits apply only to fees paid for the Support Request for which a service level has not been met.

SERVICE CREDITS ARE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY FOR ANY PERFORMANCE OR AVAILABILITY ISSUES FOR ANY APPLICATION SERVICES AND FOR ANY FAILURE TO MEET SERVICE LEVELS.

10. **Service Credit Claims**

- (a) For Service Credit claim, Customer must submit the claim to the Flintfox support team including all information necessary for Flintfox to validate the claim, including but not limited to:
 - (i) a detailed description of the Service Level Incident;
 - (ii) information regarding the time and duration of the Service Level Incident;
 - (iii) the number and location(s) of affected Authorized Users (if applicable); and
 - (iv) descriptions of Customer’s attempts to resolve the Service Level Incident at the time of occurrence.
- (b) Flintfox must receive the claim by the end of the calendar month following the month in which the Service Level Incident occurred. For example, if the Service Level Incident occurred on February 15th, Flintfox must receive the claim and all required information by March 31st.
- (c) Flintfox will evaluate all information reasonably available to Flintfox and make a good faith determination of whether a service credit is owed. Flintfox will process claims during the subsequent month and within forty-five (45) days of receipt of the claim. Customer must be in compliance with this Agreement, the Managed Support Services Order Form or SOW and the related Application Services Order Form to be eligible for a service credit. If Flintfox determines that a service credit is owed to Customer, Flintfox will apply the service credit to Customer’s Managed Support Services fees.

11. **Limitations:** Flintfox’s obligations under this Agreement and the Managed Support Services Order Form or SOW, and Customer’s right to service credits, do not apply to any performance or availability issues:

- (a) due to factors outside Flintfox’s reasonable control (for example, natural disaster, war, acts of terrorism, riots, government action, or a network or Device failure external to Flintfox’s data centers, including at Customer’s site or between Customer’s site and Flintfox’s data center);
- (b) that result from the use of Third-Party Technology or services, hardware, or software not provided by Flintfox, including, but not limited to, issues caused by a Connected Application and issues resulting from inadequate bandwidth or related to third-party software or services;

- (c) caused by Customer's use of a Application Service in circumstances where Flintfox had advised Customer to modify its use of the Application Service and Customer did not modify its use as advised;
- (d) that result from Customer's unauthorized action or lack of action when required, or from Customer's employees, agents, contractors, or vendors, or anyone gaining access to Flintfox or Connected Application's networks by means of Customer's passwords or equipment, or otherwise resulting from Customer's failure to follow appropriate security practices;
- (e) that result from Customer's failure to adhere to any required configurations, use supported platforms, follow any policies for acceptable use, or that result from Customer's use of the Application Services in a manner inconsistent with the features and functionality of the Application Services (for example, attempts to perform operations that are not supported) or that are inconsistent with Flintfox's published guidance;
- (f) that result from faulty input, instructions, or arguments (for example, requests to access files that do not exist);
- (g) due to Customer's use of Application Services features that are outside of the associated period of time during which the Application Services feature or compatibility with a separate product or service is supported; or
- (h) for any Application Services reserved, but not paid for, at the time of the Service Level Incident.

12. Reservation of rights in relation to 'fair use': Flintfox reserves the right to:

- (a) ensure Customer is implementing Flintfox's recommended actions in order to facilitate ongoing success for the use of Application Services;
- (b) if necessary, require additional training for Customer personnel, on a chargeable basis, under an Order Form authorized by Client Support Representative; and
- (c) decline to provide any Managed Support Services to Customer, at Flintfox's reasonable discretion, where:
 - (i) Flintfox recommends that Customer implement certain action(s) to resolve such or similar incidents; but
 - (ii) Customer fails to implement such recommendations; and
 - (iii) failure to implement such recommendations (in Flintfox's reasonable opinion) leads to repeated, similar requests for assistance by Customer.

Exhibit E - Flintfox Contracting Entity and Notices

For Customers domiciled in the Americas

Customer Location	Enable Entity	Registered Address	Notices Address
United States	Enable International Inc., a Delaware corporation	535 Mission Street, 14th Fl, San Francisco, CA 94105	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)
Canada	Enable Canada Inc., an Ontario corporation	545 King Street West, Toronto, ON M5V 1M1, CANADA	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)
Other Americas	Enable International Limited, an England corporation	10-12 The Courtyard, Timothy's Bridge Road, Stratford-upon-Avon, CV37 9NP, UNITED KINGDOM	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)

For Customers domiciled in Europe, the Middle East, or Africa

Customer Location	Enable Entity	Registered Address	Notices Address
Any country	Enable International Limited, an England corporation	10-12 The Courtyard, Timothy's Bridge Road, Stratford-upon-Avon, CV37 9NP, UNITED KINGDOM	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)

For Customers domiciled in Asia or the Pacific Region

Customer Location	Enable Entity	Registered Address	Notices Address
Australia or New Zealand	Enable ANZ Pty. Ltd., an Australia corporation	C/o King & Wood Malleson, Level 61, Governor Philip Tower, 1 Farrer Place, Sydney, NSW 2000, AUSTRALIA	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)
Other Asia/Pacific	Enable International Limited, an England corporation	10-12 The Courtyard, Timothy's Bridge Road, Stratford-upon-Avon, CV37 9NP, UNITED KINGDOM	535 Mission Street, 14th Fl, San Francisco, CA 94105, Attention: Sales Operations (copy to Sales.Ops@enable.com)