

End User License Agreement

- A. This End User License Agreement is entered into by and between Ant (Hong Kong) Holding Limited (“**Company**”) and you or the entity or organization that you represent (“**Customer**”) (this “**EULA**”). Company and Customer are referred to individually as a “**Party**” and collectively as the “**Parties**”.
- B. If you are entering into this EULA as an individual: (1) all references to “Customer” are to you and (2) you represent and warrant that you are at least 18 years of age, or have otherwise reached the age of “majority” where you reside, and that you have the right, power and authority to enter into this EULA.
- C. If you are entering into this EULA on behalf of an entity or organization that you represent: (1) all references to “Customer” are to that entity or organization and (2) you represent and warrant that you are at least 18 years of age, or have otherwise reached the age of “majority” where you reside, and that you have the right, power and authority to enter into this EULA on behalf of Customer.
- D. This EULA governs Customer’s download, installation, access to and/or use of Solutions. This document also incorporates the relevant Solution Specific Terms that apply to the specific Solution that Customer has purchased or used.
- E. Customer agrees to be bound by this EULA through Customer’s download, installation, access to and/or use of any Solutions, Customer’s express agreement to the same, or through Customer’s click of a “Subscribe”, “Create Contract”, “I Agree” or similar button or check a box referencing this EULA, or through Customer’s entering into an Order (defined below).
- F. Company reserves the right to alter, modify, add to or otherwise vary this EULA by notice in writing to Customer at any time. Customer shall be bound by this EULA so amended, and such other terms as may be incorporated by reference. In any event, if Customer continues to download, install, access and/or use Solution after such notice, Customer shall be deemed to have accepted the amendment.
- G. The rights and protections conferred on Company under this EULA and the terms incorporated herein, shall be in addition to the rights and protections conferred on Company under any other contracts that Company has been conferred rights and protections as a third-party beneficiary.

1. **Definitions**

“**Affiliate**” means in relation to a party any person directly or indirectly Controlling, Controlled by, or under common Control with that party. For the purposes of this definition, “**Control**,” “**Controlling**,” and “**Controlled**” mean having the right to elect a majority of the board of directors or other comparable body responsible for management and direction of a person by contract, by virtue of share ownership or otherwise.

“**API**” means any application programming interface provided by Company to Customer from time to time for accessing Solution.

“**Authorised Personnel**” means an employee, agent, contractor, consultant, supplier or other personnel, who is authorised by Customer to use Solution for facilitating the provision of Customer Services.

“**Alibaba Cloud**” means Alibaba Cloud (Singapore) Private Limited and its Affiliates.

“**Alibaba Cloud Marketplace**” means the website currently located at the URL: <https://marketplace.alibabacloud.com/> which facilitates the sale and purchase of pre-loaded XaaS images and third party cloud solution.

“**AWS**” means Amazon Web Services, Inc. and its Affiliates.

“**AWS Marketplace**” means the online software and service catalog operated by AWS, currently available at <https://aws.amazon.com/marketplace>.

“Business Day” means a day other than a Saturday, Sunday or public holiday in the Territory, People’s Republic of China, or Singapore.

“Company Developed Material” means any material solely developed by Company or its Affiliates, including any software, systems, data, processes, test plans, test results and know-how used in connection with Solution. For the avoidance of doubt, any modification, feedback or ideas (in any form whatsoever) provided by Customers, or its Affiliates related to Company Developed Material (including all IP Rights in Solution) shall be considered as part and parcel of Company Developed Material.

“Company IP” means all IP Rights subsisting in Solutions (including Updates, if any), the Foreground IP, the Documentation (and any portion reproduced or incorporated in the User Reference Materials), Company’s trademarks, Company’s Pre-Existing Material, Company Developed Material, and Company Systems. For clarity, Company IP does not include any Customer Data.

“Company Systems” means the software, hardware, systems and network infrastructure used by Company and its Affiliates in their respective businesses.

“Company Website” means <https://www.opentrs.com/smartunit>.

“Confidential Information” means all information (whether oral, written or in another form) disclosed by the Disclosing Entity to the Receiving Entity, directly or indirectly, that is:

- a. by its nature or by the circumstances of the disclosure, or could reasonably be expected to be, regarded as confidential;
- b. marked as or instructed to be confidential at the time of disclosure to the Receiving Entity, or if disclosed in oral form, is identified as confidential at the time of disclosure to the Receiving Entity; or
- c. proprietary (whether owned by the Disclosing Entity or a third party to whom the Disclosing Entity owes a non-disclosure obligation),

including, to the extent that it is confidential:

- a. the fact and content of the negotiations between the Parties in relation to the EULA;
- b. Personal Data of Customers;
- c. information comprised in or relating to any of the Disclosing Entity’s IP Rights; and
- d. any information agreed between the Parties in writing to be ‘Confidential Information’,

but does not include information which:

- a. the Disclosing Entity specifies in writing is not confidential;
- b. has been duly received by the Receiving Entity from a third party which, to the knowledge of the Receiving Entity, is not subject to a confidentiality obligation to the Disclosing Entity;
- c. is or becomes part of the public domain (other than through breach of either the EULA); or
- d. was independently developed by the Receiving Entity, without reliance on any Confidential Information of the Disclosing Entity.

“Customer” means the individual or legal entity that has been approved by Company to purchase Company’s Solution through a Third Party Marketplace or through Company Website for download, installation, access to and/or use.

“Customer Data” means any and all data entered or stored in, generated by or processed by Customer in connection with Solution. For the avoidance of doubt, such Customer Data shall not include any Personal Data, and Company will not Process any Personal Data of Customer.

“Customer Service” means each product or service developed, distributed or provided by Customer that uses or relies on Solution.

“Customer Systems” means the software, hardware, systems and network infrastructure used by Customer to provide Customer Services, and otherwise used in its respective businesses, which for the avoidance of doubt excludes the Company Systems.

“Data” means all data which is stored, processed or created, by or on behalf of an entity in the course of the performance of obligations under this EULA, or otherwise under or in connection with this EULA.

“Disclosing Entity” means the entity disclosing Confidential Information, and includes that entity’s Representatives and Affiliates.

“Documentation” means documentation provided by Company to Customer, which describes the functions and use of Solutions.

“Foreground IP” means all IP Rights developed, created, arising from, conceived or invented by or on behalf of the Parties (including any modifications, customizations or enhancements that may be created by third parties, such as independent software vendors) during or after the Usage Term.

“Government Agency” means any government, semi-governmental, statutory, administrative, or judicial or quasi-judicial body having jurisdiction in connection with the activities contemplated by this EULA, and includes anybody having regulatory or supervisory authority over any part of the business or affairs of Customer, Company or their respective Affiliates.

“IP Rights” means any of the following rights in any jurisdiction anywhere in the world: (a) all patents and patent disclosures, utility model, design patents and rights in inventions; (b) trademarks, service marks, logos, tradenames, trade dress and domain names, together with all goodwill associated therewith; (c) copyrights, copyrightable rights, moral rights and database rights; (d) rights in know-how, confidential information, trade secrets, and proprietary rights and processes; and (e) all other intellectual property rights or forms of protection, subsisting now or in the future, having equivalent or similar effect to the rights referred to in any of the foregoing items (a) to (d), subject matter of any of the foregoing, tangible embodiments of any of the foregoing, in each case, whether unregistered or registered (including all applications, rights to apply and rights to claim priority), including all divisionals, continuations, continuations-in-part, reissues, extensions, re-examinations, renewals and extensions thereof, as applicable.

“Loss” means all claims, judgments, awards, damages, losses, liabilities or costs of any kind and however arising, including legal costs (on a full indemnity basis), penalties, fines and interest.

“Marketplace Listing” means the packaged plan and associated features, as detailed on the applicable page on the Third Party Marketplace, for Solution to which Customer subscribes through a Marketplace Order.

“Marketplace Order” means each separate subscription, contract or order for Solution pursuant to this EULA that is completed and submitted by Customer through the Third Party Marketplace and accepted by Company.

“Military End Use” / “Military End User” has the meaning given to it in **clause 1.1(m)** of this EULA.

“Order” means either a Marketplace Order or a Website Order, as the case may be.

“Person” includes any natural person, individual, firm, company, partnership, joint venture, an unincorporated body or association, trust, corporation or other body corporate and any Government Agency (whether or not having a separate legal personality).

“Personal Data” means: (a) information, whether true or not, about an individual who can be identified from that piece of data or from other data to which the data recipient has or is likely to have access; or; (b) considered to be personal data, personal information, personally identifiable information or equivalent under Relevant Privacy Laws.

“Pre-Existing Material” means any material or know-how that is developed or owned by a Party (or its licensor or Affiliate as the case may be) before the date that this EULA is entered into.

“Process” (including its correlative meanings, **“Processing”** and **“Processed”**) means: (a) the receipt, access, acquisition, collection, compilation, use, modification, storage, processing, safeguarding, security, disposal, destruction, disclosure, or transfer of Data; or (b) such other activities that may be considered to be processing of Data under Relevant Laws.

“Prohibited Activities” means activities that may disrupt international peace and security, including: (a) the design, development, production, handling, operation, maintenance, storage, detection, identification, dissemination or use of weapons of mass destruction, including nuclear, chemical or biological weapons; (b) the development, production, maintenance or storage of missiles which are capable of delivering any such weapon; (c) the transportation of any such or similar weapons; or (d) the involvement in any military activities.

“Receiving Entity” means the entity receiving the Confidential Information, including its Representatives and Affiliates.

“Regulatory Approvals” means all permits, certificates, certifications, approvals, registrations, authorizations, and licenses which are required now or in the future for Customer and its Affiliates to use the Solution in accordance with this EULA and Relevant Laws, and to meet its obligations under this EULA including where applicable the provision by Customer of the Customer Services.

“Relevant Laws” means any applicable law, statute, rule, regulation, directive, treaty, judgement, order, guidelines, decree, interpretation, permit, injunction of any Government Agency, whether or not of the Territory, and in each case, as amended from time to time.

“Relevant Privacy Laws” means Relevant Laws relating to privacy and data protection, including those relating to the Processing of Data and other information.

“Representative” of a Person means an officer, director, employee, agent, auditor, adviser, consultant, joint venturer, contractor or sub-contractor of the Person or of an Affiliate of that Person, or any other Person solely when acting at the direction of or on behalf of that Person in connection with the performance of that Person’s obligations under this EULA and/or use of the Solution.

“Rules” has the meaning given to it in **clause 17** of this EULA.

“Sanctioned Person” has the meaning given to it in **clause 4(t)** of this EULA.

“SIAC” has the meaning given to it in **clause 17** of this EULA.

“Solution” means Company’s products and services purchased or used by Customer.

“Solution Specific Terms” means the terms and conditions between Company and Customer, governing Customer’s download, installation, access to and/or use of the relevant Solution, as updated by notice in writing from Company from time to time.

“Technological Change” means any development that customises, enhances, or changes existing functionality of Solutions, including the creation of any new application programme interfaces, alternative user interfaces or extension to existing data structure.

“Territory” means the territory within which, Company has approved, for Customer to purchase (from Company or a Third Party) and thereafter, download, install, access to and/or use of any of the Solutions.

“Third Party” means, either AWS or Alibaba Cloud, as the case may be.

“Third Party Marketplace” means, either the AWS Marketplace or the Alibaba Cloud Marketplace, as the case may be.

“Trademark” includes registered and unregistered trademarks, brand identifiers and service marks, any and all variations, modifications or enhancements to each of them, whether created before or after the effective date of this EULA.

“Updates” means modifications to Solution provided by Company from time to time.

“**Usage Term**” means the period commencing on delivery of Solution to Customer and continuing until expiration or termination of Customer’s entitlement to use Solution, pursuant to an Order.

“**User Reference Materials**” means the user guides and materials in relation to the use of Solution.

“**Website Order**” means each separate subscription, contract or order for Solution pursuant to this EULA that is completed and submitted by Customer through the Company Website and accepted by Company.

2. Marketplace Orders and Website Orders This EULA governs Customer’s access and use of Solution in connection with a Marketplace Order placed with a Third Party by Customer or a Website Order placed directly with Company by Customer.

3. Licence and Solution Specific Terms

- (a) Subject to the terms and conditions set forth in the Solution Specific Terms, an Order and this EULA, Company hereby grants Customer during the Usage Term and within the Territory specified, a non-exclusive, revocable, non-transferable, non-sublicensable licence to use Solution in the Territory, solely for the purpose of Customer developing the Customer Services.
- (b) Customer agrees to comply with: (i) the applicable Solution Specific Terms (as may be updated by Company from time to time) that governs Customer’s use of the relevant Solutions; (b) this EULA; and (c) any other terms or requirements as may be required and notified by Company to Customer from time to time.
- (c) Depending on Solution purchased by Customer, Company may release Updates to Solution from time to time. Such Updates shall form part of Solution and be subject to the Order and this EULA. Customer further acknowledges and agrees that Company shall have the right to add, suspend, substitute, replace, remove or discontinue any component, feature or function of Solutions through such Updates for any reason or no reason without any liability towards Customer.
- (d) Customer acknowledges and agrees that Company shall have the right to process any Customer Data that it has access to (including transfer of any such Customer Data to third parties for processing) for the purposes of this agreement and development and maintenance of the Solutions.

4. Customer Requirements – Customers must:

- (a) in using any Solution offered by Company, comply with the relevant Solution Specific Terms (as may be updated by Company from time to time) that governs use of that relevant Solution. Customer shall also comply with security procedures, technical standards, system and data security requirements, policies and rules, as notified by Company from time to time;
- (b) at Company’s request, provide Company with information about its security procedures and other measures sufficient to demonstrate to Company the adequacy of those procedures and measures;
- (c) ensure that only Authorised Personnel may access and use Solutions or Customer Services, as applicable, and not access or use any modules that are not expressly included and identified in the Order;
- (d) ensure that access to and use of Solutions by all Authorised Personnel comply with all usage metrics or other requirements provided by Company from time to time;
- (e) only use an API specified and permitted by Company to access and use Solutions;
- (f) act promptly in the resolution of any such complaint, investigation or circumstances;
- (g) back up Data in accordance with good information technology practices, and Relevant Laws, including that backup copies on transportable device or other data media must be marked as backup copies and bear the same IP Rights and authorship notice as the original device or other data media, unless technically unfeasible;
- (h) comply and shall procure that any of its Affiliates, and its Authorised Personnel comply with all Relevant Laws;

- (i) conduct screening checks on its Affiliates, and Authorised Personnel (as the case may be), to ensure that they are not designated as a Sanctioned Person or located, incorporated or ordinarily resident in any country that is the subject of sanctions, or that they intend to or are likely to use the Solutions for any Prohibited Activities;
- (j) ensure that neither itself, nor any of its Affiliates, and its Authorised Personnel is not a Military End User pursuant to EAR § 744.17 (or the equivalent laws of other countries and jurisdictions in the Territory); and
- (k) comply with any other vetting or screening procedures reasonably imposed by Company from time to time.
- (l) For the purposes of this clause, “**Sanctioned Person**” shall mean:
 - (i) a person or entity who appears on the list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of the Treasury, Office of Foreign Assets Control, or any other list of persons or entities with whom dealings are restricted or prohibited by any relevant jurisdiction;
 - (ii) the government, including any political subdivision, agency, or instrumentality thereof, of any country against which any Relevant Jurisdiction maintains comprehensive economic sanctions or embargos;
 - (iii) a national or resident of any country against which any Relevant Jurisdiction maintains comprehensive economic sanctions or an embargo; or
 - (iv) a person acting or purporting to act, directly or indirectly, on behalf of, or a person owned or controlled by, any of the persons listed in **clauses 4(t)(i) to 4(t)(iii)** above.
- (m) For the purpose of this EULA, “**Military End Use**” has the meaning defined under § 744.17 and § 744.21 of the EAR (or the equivalent laws of other countries and jurisdictions in the Territory); and “**Military End User**” has the meaning defined under § 744.17 of the EAR (or the equivalent laws of other countries and jurisdictions in the Territory).

5. Customer Prohibitions – Customer must not, unless expressly permitted by Company in writing:

- (a) incorporate or grant any other person the right to incorporate Solutions into another product to form a new product;
- (b) use, distribute or permit access to any Solution that has been recalled, or that does not comply with the Documentation;
- (c) lease, loan, resell, transfer, sublicense or otherwise make available Solutions or Documentation, other than to its Affiliates, and Authorised Personnel as permitted in writing;
- (d) copy (except for installation and backup of Solutions as permitted in writing and the applicable Documentation), translate, disassemble, decompile, attempt to recreate, reverse engineer Solutions or any source code contained therein, or extract ideas, algorithms, procedures, workflows or hierarchies from the Solutions or otherwise use the Solutions for the purpose of creating any other product or service;
- (e) change or remove any IP Rights and authorship notices from Solutions or Documentation;
- (f) access or use or attempt to access or use Solution in any way that causes, or may cause, damage to Solution or other Company Systems or impairment of the availability or accessibility of Solution or other Company Systems;
- (g) breach, tamper with, compromise or circumvent any security measures included in system and data security requirements, policies and/or rules notified by Company from time to time;
- (h) circumvent or disclose the user authentication or security of Solution or Company Systems, or any related host, network, or account;

- (i) share, distribute or publish log-in credentials assigned to it except as permitted by Company (as the case may be);
- (j) interfere with or disrupt Solutions or Company Systems or other equipment or networks connected to Solutions;
- (k) knowingly do or permit anything to be done which could infringe, invalidate, cancel, harm, challenge, deny, question or contest Company IP;
- (l) allow any Company IP to become the subject matter of any charge, lien or encumbrance;
- (m) publish or disclose any results of benchmark tests run on any Solution;
- (n) disclose, provide or otherwise make available trade secrets in connection with Company IP in any form to any third party;
- (o) use Solutions to transmit any content, data or information that is unlawful, defamatory, obscene, invasive of another's privacy or otherwise objectionable;
- (p) solicit for employment any employee or consultant of Company or its Affiliates thereof with whom Customer had contact or who became known to it;
- (q) permit access to or use of the Solutions, in violation of any Relevant Laws;
- (r) permit access to or use of the Solutions to disrupt international peace and security, including not permitting access to or use of the Solutions for any Prohibited Activities;
- (s) use the Solution to tamper with, hack, attack or otherwise disrupt any third party's infrastructure, software or services; or
- (t) permit access to or use of the Solutions to exploit for Military End Use or to be resold or transferred to any Military End User.

Customer acknowledges and agrees that Company may implement certain technology or software including data loss prevention software, to monitor, analyse and report on Customer's activities in relation to its usage of and access to the Solutions, as well as to ensure information security of Customer's Systems. Customer shall not grant access to the Solutions to any Representative who does not have, or refuse to have, such software implemented on his/her computers.

6. Customer Responsibility

- (a) Customer agrees to be responsible for the acts and omissions of all its Authorised Personnel, Affiliates or Representatives as if they were the acts and omissions of Customer.
- (b) Customer agrees to be responsible for complying with all Third Parties', and other applicable third-party's terms, policies and licenses governing its access and use of Customer Services and associated data.

7. Pricing and Charges

- (a) Customer agrees to the pricing for, and to pay all charges incurred for the use of, Solution in accordance with the Order, Marketplace Listing and this EULA (collectively, "**Charges**").
- (b) Company reserves the right to terminate any Order with no penalty or liability to Customer where the relevant Third Party fails to timely pay amounts due respect of the Charges or where Customer exceeds any aggregate, predetermined maximum use of Solution.
- (c) All Charges are exclusive of taxes, levies, duties or charges imposed by government authorities (collectively, "**Taxes**") and, as between the Parties, Customer shall be responsible for all sales, service, value-added, use, excise, consumption and any other Taxes on amounts payable by Customer under the Orders (other than any Taxes on Company's income, revenues, gross receipts, personnel or assets).

8. Use of Trademarks

Customer shall comply with (i) branding and marketing guidelines as may be notified by Company in writing, and (ii) the standards of quality and design as notified to Customer by Company from time to time, in relation to the use of Company trademarks. Before each new use of any Trademark, Customer shall obtain prior written approval from Company (which shall not be unreasonably withheld or delayed). If required by Relevant Laws, Customer shall not send any communications to any individuals regarding the Customer Services to anyone unless appropriate approvals have been obtained under Relevant Laws. Company may, from time to time, and on reasonable prior written notice, audit Customer's compliance with the terms in this EULA (including compliance with this **clause 7** and Solution Specific Terms as incorporated herein). Where an audit reveals Customer is, or is likely to be, in non-compliance with the aforesaid terms, Customer will bear the full costs of any such audits conducted by Company, and further, Customer shall also use all reasonable efforts to rectify any actual or potential non-compliance.

9. IP Rights

- (a) Company owns and will retain, or licenses and will retain their rights under licences for, all Company IP. All rights in Company IP not expressly granted to Customer under this EULA are reserved by Company. Nothing in the Order or this EULA transfers from Company any proprietary right or interest in any Company IP.
- (b) Customer must: (i) promptly notify Company in writing of any actual, attempted, threatened or suspected infringement of any of Company IP; and (ii) at the request and expense of Company, provide all reasonable assistance as Company may require in conducting enforcement proceedings or defending proceedings in respect of Company IP.
- (c) All rights, title to and interests in, all Foreground IP shall vest in and shall be the sole and exclusive property of Company, unless otherwise agreed in writing by Company or otherwise set forth in the Solution Specific Terms. For clarity, if Customer (through itself, or other third parties) perform customizations, or create developments, derivatives, enhancements, improvements or additional products, functions or modules relating to Solutions, the Documentation and/or other matters using Company IP, all Foreground IP created as a result of the foregoing work shall vest solely and absolutely in Company upon their creation or development, and Company shall have the sole and exclusive right, at its discretion, to file, prosecute and maintain any patent or other registrable IP Rights in and to the Foreground IP.
- (d) Customer (including its Affiliates) shall do all acts and things and execute any further documents reasonably required by Company to give effect to and/or perfection of the ownership by Company of all Company IP.

10. Technological Changes

To the extent that, a Customer wishes to request for a Technological Change:

- (a) Customer shall promptly discuss such request with Company in good faith. Customer acknowledges that it is the sole discretion of Company whether or not it wishes to proceed with the Technological Change requested by Customer; and
- (b) Any agreed Technological Change shall be documented by Company and Customer to be discussed and agreed between the Parties setting out the agreed revised fees, deliverable, timetable, and other relevant aspects of such Technological Change.

11. Customer Regulatory Requirements

Customer agrees that it is solely responsible for: (a) determining whether or not Relevant Laws impose any restrictions or requirements on any of its activities in connection with this EULA or an Order, Customer Services or any Solution; (b) determining what Regulatory Approvals are required for Customer to use any Solution (if any); and (c) if applicable, obtain from the appropriate Government Agencies all applicable Regulatory Approvals.

12. Warranty

TO THE EXTENT PERMITTED BY RELEVANT LAWS, COMPANY: (A) EXCEPT AS EXPRESSLY SET OUT IN THIS EULA, DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING SOLUTIONS AND PROVIDES SOLUTIONS 'AS IS' AND HEREBY EXPRESSLY EXCLUDES ALL WARRANTIES OTHER THAN THOSE SET OUT HEREIN; (B) DISCLAIMS ANY AND ALL WARRANTIES, AND SHALL NOT BE RESPONSIBLE FOR: (I) MERCHANTABILITY, FITNESS FOR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, ACCURACY, QUALITY, COMPLETENESS, TIMELINESS, RESPONSIVENESS, OR PRODUCTIVITY OF ANY SOLUTION; AND (II) WHETHER CUSTOMER'S USE OF SOLUTION FOR WHATEVER PURPOSE, OR WHETHER ANY SUCH USE WOULD INFRINGE ANY RELEVANT LAWS; AND (C) EXCLUDES ANY WARRANTY THAT ANY SOLUTION WILL BE UNINTERRUPTED, ERROR FREE, FREE OF SECURITY DEFECTS OR HARMFUL COMPONENTS, OR THAT ANY DATA WILL NOT BE LOST OR CORRUPTED.

COMPANY SHALL NOT BE RESPONSIBLE FOR ANY REPRESENTATIONS MADE BY ANY PERSON REGARDING THE SUFFICIENCY OR SUITABILITY OF SOLUTION IN ANY ACTUAL APPLICATION.

13. Liability

TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, UNDER NO CIRCUMSTANCES SHALL (a) COMPANY, ITS AFFILIATES OR THEIR EMPLOYEES, AGENTS, CONTRACTORS, OFFICERS OR DIRECTORS HAVE ANY LIABILITY TO CUSTOMER FOR ANY LOSSES ARISING OUT OF OR RELATING TO THE THIRD PARTY MARKETPLACE OR CUSTOMER'S AGREEMENT(S) WITH THE THIRD PARTY; AND (b) COMPANY BE LIABLE TO CUSTOMER FOR ANY DIRECT DAMAGES, LOSS OF PROFITS, REVENUE, DATA, REPUTATION OR GOODWILL, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES FOR ANY MATTER RELATING TO THE SOLUTION, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, AND EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING, IF COMPANY IS FOUND LIABLE DIRECTLY TO CUSTOMER FOR ANY DAMAGES, ITS TOTAL LIABILITY RELATED TO, IN CONNECTION WITH AND ARISING FROM ITS PURCHASE AND USE OF THE SOLUTIONS SHALL NOT EXCEED THE LESSER OF (i) THE AMOUNT EQUAL TO THE FEES PAID BY CUSTOMER TO COMPANY UNDER THE APPLICABLE ORDER(S), INCLUDING PRIOR ORDERS FOR THE SAME SOLUTION IN THE PRECEDING SIX (6) MONTHS PRIOR TO THE MONTH IN WHICH THE RELEVANT CLAIM IS FIRST MADE GIVING RISE TO LIABILITY OR (ii) USD 500,000. THE EXISTENCE OF MORE THAN ONE CLAIM OR CAUSE OF ACTION WILL NOT ENLARGE THE FOREGOING LIMIT.

Customer agrees to indemnify, defend and hold harmless Company against all Losses arising from (a) the Customer Services, (b) the acts or omissions of Customer and its Affiliates, Authorised Personnel, and Representatives, (c) management of its relationships with any of the foregoing (including alleged breach of agreements between Customer and any of the foregoing), and/or (c) any breach of its obligations under the relevant Order and this EULA (which includes the applicable Solution Specific Terms as incorporated herein) caused by any of the foregoing.

14. Audit

Without prejudice to any other rights that Company may have under this EULA, Company may also audit (no more than once annually) Customer's compliance with the terms in this EULA. Customer must, with reasonable notice from Company, reasonably cooperate with such audits, including the provision of access to relevant records and personnel. Any audit undertaken under this **clause 14** shall be at Company's own cost, except where the audit reveals non-compliance, in which case, Customer must pay Company's reasonable costs of the audit.

15. Termination

Without prejudice to any other rights that Company may have under the relevant Marketplace Order as a third-party beneficiary, Company shall also have the right to terminate or suspend Customer's access to and use of Solutions immediately by notice, and terminate or suspend all licences granted to Customer

immediately by notice, without any liability to Customer if: (a) Customer (including its Authorised Personnel, Affiliates or Representatives) had used or is using Solutions outside the scope of the relevant Order or this EULA (which includes the Solution Specific Terms as incorporated herein); or (b) Customer (including its Authorised Personnel, Affiliates or Representatives) is or had been otherwise in material breach of Relevant Laws (including applicable laws or regulations about personal data, data privacy, anti-money laundering, sanctions, export or import control prohibitions in relation to technology (encrypted or otherwise), or is or had been otherwise in breach of the terms set forth in **clause4(h)** to **clause 4(m)**), or this agreement between Company and Customer.

Upon the effective date of termination, Customer shall (a) immediately stop accessing and using Solution; and (b) where applicable, return to Company or, if required by Company, destroy all information concerning Solution in Customer's possession or control.

16. Confidentiality

Each Party retains all ownership rights in and to its Confidential Information. The Receiving Entity will use the same degree of care that it uses to protect the confidentiality of its own confidential information (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Entity for any purpose outside the scope of this EULA and (ii) except as otherwise authorized by the Disclosing Entity in writing, limit access to Confidential Information of the Disclosing Entity to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this EULA.

The Receiving Entity acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Entity, the Disclosing Entity will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

17. Governing Law & Dispute Resolution

This EULA shall be governed by, and construed in accordance with, the laws of the Republic of Singapore. Any dispute arising out of or in connection with this EULA and the terms incorporated therein, including any question regarding its application, validity or termination, shall be referred to, and exclusively and finally resolved by, arbitration administered by the Singapore International Arbitration Centre ("**SIAC**") in accordance with the SIAC Arbitration Rules for the time being in force ("**Rules**"), which Rules are deemed to be incorporated by reference in this clause. The arbitral tribunal shall consist of three (3) arbitrators, of which one (1) arbitrator shall be appointed by Company, one (1) arbitrator shall be appointed by Customer and the third and presiding arbitrator shall be appointed by the first two (2) arbitrators as agreed between them or failing agreement within thirty (30) days from the appointment of the second arbitrator, by the President of SIAC in accordance with the Rules. The venue and seat of the arbitration must be Singapore, and the arbitration must be conducted in English.

18. Third Party Rights

Customer agrees that: (a) in respect of terms in the relevant Marketplace Order that are intended to be for the benefit of Company, Company shall have the right to enforce directly against Customer, notwithstanding that Company is not a party to the Marketplace Order, under the Contracts (Rights of Third Parties) Act (Cap.53B); and (b) should any dispute arise between Customer and the relevant Third Party under the Marketplace Order, Customer agrees to release Company from all claims, demands and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, foreseeable or unforeseeable, arising out of or in any way connected to such disputes.

19. Miscellaneous.

This EULA, together with the Solution Specific Term, are the complete and exclusive statement of the agreement between the Parties and supersede all proposals, questionnaires and other communications and agreements between the Parties (oral or written) relating to the subject matter of this EULA. Any terms and conditions of any other instrument issued by Customer in connection with this EULA which are in addition to, inconsistent with or different from the terms and conditions of this EULA shall be of no force or effect. Additionally, this EULA supersedes any confidentiality or non-disclosure previously entered into by

the Parties with respect to Customer's or an Affiliate's evaluation of Solution or otherwise with respect to Solution. The failure of a Party to exercise or enforce any condition, term or provision of this EULA will not operate as a waiver of such condition, term or provision. The Parties expressly understand and agree that their relationship is that of independent contractors. Nothing in this EULA shall constitute one Party as an employee, agent, joint venture partner or servant of another. Customer acknowledges that none of the Third Party Marketplace, or any Third Party is an agent or representative of Company, and that Company accepts no responsibility for the actions or omissions of the foregoing. Any waiver by either Party of any condition, term or provision of this EULA shall not be construed as a waiver of any other condition, term or provision. If any provision of this EULA is held invalid or unenforceable, the remainder of the terms shall continue in full force and effect. The headings in this EULA are for reference only and shall not affect the interpretation of this EULA. For purposes of this EULA, the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; the word "or" is not exclusive; and the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this EULA as a whole.

Annexure A to EULA
Solution Specific Terms for
SmartUnit

This Solution Specific Terms (this “**Solution Specific Terms**”) between Company and Customer contain additional terms and conditions applicable to Customers. If Customer uses this Solutions, Customer will be bound by these terms. Unless otherwise defined in this Solution Specific Terms, capitalised terms used in this Solution Specific Terms have the meaning given to them in the EULA entered into between Company and Customer.

1 Solution

This Solution Specific Terms apply to the following Solutions (which comprises Software-as-a-Service services described in the Documentation).

Module	Sub Modules
System Configurations	Application Management Template Management User Administration Tenant Administration Usage Administration
Task	Task Configurations Task Operations(Start/Stop etc..) Task Views
Output	Test Case management Test Report Test Case Download

1.1 Provision of Solution

- (i) In consideration for Customer’s payment of the fees, Company hereby authorises Customer, on a non-exclusive and non-transferable basis, to access and use:
 - (a) the applicable modules set forth in the relevant Order as made available to Customer over the internet through Solution; and
 - (b) the APIs and the Documentation relevant to the receipt of Solution, throughout the Usage Term, solely for the purposes of Customer developing the Customer Services in the Territory.
- (ii) Customer agrees to use Solution and provide the Customer Services in accordance with the terms of this Solution Specific Terms, the EULA, the applicable Documents, and any other terms or requirements, documentation, policies or guidelines as may be required and notified by Company to Customer from time to time.

1.2 Suspension

- (i) Company may suspend the provision of Solution if:

- (a) any amount due to be paid by Customer is overdue or Customer has breached any term of this Solution Specific Terms or the EULA; and
- (b) Company or the relevant Third Party has given Customer at least thirty (30) days' written notice, following the amount becoming overdue or Customer's breach, of its intention to suspend access to or use of Solution,

in which event such action shall not give rise to any cause of breach of contract or other liability against Company.

1.3 No Support

Customer acknowledges and agrees that Solution may be unavailable from time to time. Company does not guarantee any availability, service levels, incident resolution, or technical support in relation to Customer's use of the Solution, and Company shall not be responsible for any support request made by Customer.

2 Miscellaneous

2.1 Company reserves the right to alter, modify, add to or otherwise vary these Solution Specific Terms by notice to the Customer in such manner as Company deems appropriate. The Customer shall be bound by the terms as amended. In any event, if Customer continues to use Solution after such notice, the Customer shall be deemed to have accepted the amendment.

2.2 Customer shall also be bound by and shall comply with the EULA terms as well as such other terms and conditions as may be agreed or accepted by the Customer. The rights and protections conferred on Company under these Solution Specific Terms shall be in addition to the rights and protections conferred on Company under the EULA terms, any other terms and conditions agreed or accepted by the Customer, and contracts that Company has been conferred rights and protections as a third-party beneficiary (such as, but not limited to, the Marketplace Order between the relevant Third Party and Customer, if applicable).