

If you have another valid, signed agreement with Information Builders, Inc. and its affiliates (“IBI” or “Licensor”) or authorized reseller which applies to the specific products or services you are downloading, accessing, or otherwise receiving, that other agreement controls; otherwise, by using, downloading, installing, copying, or accessing Software, InfoResponse Maintenance or by clicking on “I accept” on or adjacent to the screen where this IBI End User Master Software License Agreement (“IBI Master Terms”) may be displayed, you hereby agree to be bound by and accept these Master Terms. These IBI Master Terms also apply to any InfoResponse / Maintenance you later acquire from Licensor relating to the Software. Any references on a Rider or Order Form to “Master Software License Agreement” or “MSLA” shall mean these IBI Master Terms.

## **1. Definitions**

- 1.1. “Affiliate” means an entity which is either: (a) at least fifty one percent (51%) owned by Licensee or; (b) controlled by Licensee by virtue of direct or indirect ownership of fifty one percent (51%) or more of its voting stock.
- 1.2. “Authorized Personnel” shall include Licensee employees and may include certain non-employees that Licensee has engaged to use the Software and documentation on Licensee’s behalf during the term of such engagement. Licensee shall be responsible for any breach of these IBI Master Terms by any Authorized Personnel.
- 1.3. “Computer” means the actual, designated computer or virtual server that Licensee either owns or leases and operates, and upon which the Licensee is authorized to install the Software.
- 1.4. “Cores” some Windows / Intel, UNIX or Linux based servers have a multicore chip set. A multicore server has one or more chips each containing multiple processors referred to as “Cores”.
- 1.5. “Delivery Date” means the date the Software shall be made available by IBI for Licensee to download.
- 1.6. “Enhancements” means any enhancements (improvements), new versions, new editions, of the Software which are designated as such by IBI and made generally available without additional charge by IBI to all of its customers who are current subscribers to InfoResponse Services for the applicable Software.
- 1.7. “InfoResponse Fee” means the fee paid by Licensee, which entitles Licensee to InfoResponse for a One-Time License as set forth in Section 6.
- 1.8. “Image” is defined as a single instance, installation or copy of the licensed Software, operating on an authorized Computer. In the event Licensee desires to run multiple “Images” of the licensed Software on the Computer then Licensee must acquire the applicable License for each additional Image.
- 1.9. “Installation Location” means the actual location of the Computer upon which the Software is installed. In the absence of a physical location, the Installation shall be deemed the location to which the software is initially downloaded.
- 1.10. “License” means the specific right to install and use the Software granted by IBI to Licensee for either production or non-production purposes for the specified Term.
- 1.11. “License Fee” means the fee payable for the right to use the Software as licensed.
- 1.12. “Rider” or “Order Form” means an order placed by Licensee and accepted by IBI which refers to and incorporates the general terms and conditions of these IBI Master Terms, designates the type of License being granted to Licensee (“One-Time License”, “Subscription License”, etc.), the Software being licensed, the applicable licensing metrics, the Delivery Date, Computer, Installation Location, and such other provisions as the parties deem appropriate and mutually agree to incorporate.
- 1.13. “Software” means the specific IBI software items being licensed.
- 1.14. “User” means an individual Authorized Personnel who is granted the right to access and use the Software on a Computer regardless of whether the individual is actively using the Software at any time.
- 1.15. “Term” means the duration that the Licensee is entitled to use the Software pursuant to a Rider or Order Form in accordance with Section 4 below, including any renewal terms, if any.

## **2. Delivery**

- 2.1. The Software specified shall be made available for download by Licensee and delivery is deemed complete when such Software is made available to Licensee. All Software shall be delivered solely via electronic download to the Ship to or Installation Location identified by Licensee on the Rider or Order Form.
- 2.2. IBI shall bear all risk of loss until delivery; and thereafter Licensee shall bear all risk of loss.

### 3. License and Permitted Use

- 3.1. Subject to Licensee's compliance with the terms of these IBI Master Terms, including payment of fees, for any Software delivered to Licensee, these IBI Master Terms grants to Licensee the non-exclusive, non-transferable right to use the object code form of the specified Software on the designated Computer for the designated Term. Except for the rights specifically granted, Licensee is granted no other rights in or to the Software
- 3.2. The Software shall be used solely for Licensee's and its Affiliate's internal business purposes by its Authorized Personnel only on designated Computer(s). Unless otherwise expressly stated on the Rider, each Software item licensed shall be for a single "Image" for production use. Non-production Images, if provided, shall be noted separately. Non-Production environments are solely for internal development, testing and quality assurance purposes in a technical environment. With the exception of the back-up copies granted under Section 3.3, any other use shall require a Production License.
- 3.3. Licensee shall not copy or otherwise reproduce, or permit any third party to manage, operate, use, copy or otherwise reproduce, all or any part of the Software (including, without limitation, any user manuals), except Licensee is authorized to make and retain a reasonable number of copies of the Software in non-printed, machine-readable form, solely for back-up, archival and disaster recovery purposes. All proprietary notices, logos, copyright notices, and similar markings shall be retained on such copies. Hot-failover, active mirroring and load balancing copies require the purchase of an additional license.
- 3.4. Licensee shall not and shall not allow any third party to manage or use all or any part of the Software as part of any of the following type of operations: (a) service bureau; (b) time share; (c) facilities management; (d) testing facility; (e) outsourcing; or (f) other operation of similar purposes as (a) through (e), whether or not for monetary or other consideration without IBI's express written consent and subject to any applicable IBI fees, terms and conditions.
- 3.5. Provided Licensee is a current subscriber to InfoResponse Services for the applicable Software and Licensee is not in breach of the provisions of these IBI Master Terms, IBI may grant to Licensee the ability to install and use the Software in a Cloud environment within the same licensed configuration and operating system as identified in the original Rider upon the execution of IBI's Cloud Services Rider Addendum. Licensee agrees to continue to subscribe to InfoResponse service for the entire period the Software is deployed in the cloud environment.
- 3.6. Licensee shall not to make alterations to or modify any Software; attempt to assign, transfer, grant sub-licenses, leases or other rights in or to any Software; or make any use of the Software, user manuals, or other documentation except as expressly authorized by these IBI Master Terms. Licensee shall not publish the result of any benchmark tests run on or with the Software and shall not cause or permit the reverse engineering, disassembly or decompilation of the Software.
- 3.7. Installation of the Software on a different operating system is not permitted.
- 3.8. Permitted Third Party Browser Access to Licensee's WebFOCUS Applications. The parties acknowledge that Licensee may elect to provide unaffiliated third parties who are outside of Licensee's firewall (such as customers, vendors, contractors or business partners) with limited permitted access to outward facing WebFOCUS applications written by, or on behalf of Licensee. Licensee shall be permitted to allow such access via a web browser communicating with Licensee's WebFOCUS Reporting Server (which may be bundled with another product). Such usage shall not constitute a breach of these IBI Master Terms, as long as: (a) said access is in furtherance of Licensee's core internal business; (b) the WebFOCUS software is installed only on duly authorized and licensed Computers in accordance with these IBI Master Terms; (c) any unaffiliated third party access shall be limited to requests for output from Licensee's WebFOCUS application(s) which may include delivery of reports, charts, and analysis (in a format determined by Licensee) for the benefit of Licensee's business; (d) said third parties shall not be permitted to develop applications or dashboards of its own, or for other third parties; (e) Licensee is not providing such access to act as either an application service provider ("ASP") or Software-as-a-Service ("SaaS") provider to any such unaffiliated third party.

### 4. Term of License

- 4.1. Any License that is designated as a Trial License shall be for the Term set forth on the Rider commencing on the Delivery Date. If no Trial Term is specified, the Term shall be thirty (30) days. The Trial License shall terminate at the conclusion of the Term. Licensee may terminate a Trial License at any time prior to the conclusion of the Term.
- 4.2. Any License that is designated as a One-Time License shall be for a Term of ninety-nine (99) years, commencing on the Delivery Date.

- 4.3. Any License that is designated as a Subscription License shall be for the non-cancelable Term set forth above (minimum term twelve months) commencing on the Delivery Date. If no Subscription License Term is specified, the Term shall be twelve (12) months. Unless renewed, a Subscription License shall terminate.
- 4.4. Upon the conclusion of the Term, Licensee's right to use or possess the Software shall end.

## 5. License Fees and Taxes

- 5.1. The License Fee for a One-Time License shall be the single sum specified in the applicable Rider or Order Form.
- 5.2. The License Fees for any Subscription License or Trial License shall be specified and payable in advance, unless otherwise expressly provided on the Rider or Order Form.
- 5.3. After thirty (30) days, all unpaid invoices are subject to a late payment charge of one and one half percent (1.5%) per month, or the highest legal rate, if less. Late payment charges shall also apply to any upgrade which is effective retroactively due to Licensee's breach of the terms of these IBI Master Terms and or notice requirements.
- 5.4. All License Fees, InfoResponse Fees, and other charges referred to in these IBI Master Terms Agreement and payable under any Rider or Order Form are net of any applicable sales, use, property, and other taxes and import or other duties, however designated or levied. Payment of all such taxes and duties (excluding taxes assessed upon the profit or gain of IBI), shall be the sole responsibility of Licensee.

## 6. InfoResponse Annual Enhancement, Maintenance, and Support Service

- 6.1. InfoResponse is IBI's annual enhancement, maintenance and support program. InfoResponse service is provided at the InfoResponse Basic service support level unless otherwise specified on the Rider or Order Form in accordance with the following: (a) InfoResponse is included as part of any Subscription License subject to payment of the applicable Subscription License Fees; (b) In the case of a One-Time License for periods of one year by payment of the applicable InfoResponse Fee. The initial InfoResponse Fee is payable in accordance with IBI's then current pricing policy. Unless otherwise provided in the Rider or Order Form, InfoResponse service for a One-Time License is an optional service after the conclusion of the initial InfoResponse term. Unless Licensee cancels the InfoResponse service annual renewal by providing at least thirty (30) days prior written notice to IBI, InfoResponse Fees for the InfoResponse service renewal will be billed automatically on each anniversary of the Delivery Date.
- 6.2. InfoResponse Basic customers are entitled to technical support seven days a week, 24 hours a day, and 365 days a year. Additional Information on the program may be found at [https://techsupport.informationbuilders.com/global\\_support\\_guide.pdf](https://techsupport.informationbuilders.com/global_support_guide.pdf). InfoResponse Basic services may be modified by IBI from time to time.
- 6.3. Enhancements and updates to the licensed Software, which are designated as such by IBI are provided as part of InfoResponse Basic. Features, software items, new products, or Software which are separately licensed by IBI are not included in InfoResponse.
- 6.4. InfoResponse Premium service includes IBI's highest level of support including: (a) all the features of InfoResponse Basic; (b) a dedicated Account Support Team to professionally manage and coordinate Licensee's support cases regarding IBI's products; (c) regularly scheduled conference calls; (d) priority queuing; etc.. InfoResponse Premium service is an optional service and requires a separate agreement.
- 6.5. InfoResponse service is available for the latest Software release made generally available by IBI to its customers and for the two (2) releases immediately preceding the latest generally available release.
- 6.6. IBI may terminate InfoResponse Service in the event Licensee is in breach of any of the provisions of these IBI Master Terms and has failed to cure such breach within thirty (30) days from receipt of IBI's written notice of such breach.

## 7. Replacement Computers and Alternative Locations

- 7.1. The License granted pursuant to these IBI Master Terms is specific to the Computer(s) at the Installation Location. Provided that License is current on all fees owed, IBI shall grant to Licensee the right to replace the licensed Computer with a computer within the same operating system and licensing parameters providing Licensee is not in breach of any of the provisions of these IBI Master Terms .
- 7.2. During the Term of any License granted under these IBI Master Terms and for a period of one year following termination of any Rider or Order Form, Licensee shall within ten (10) days of IBI's request, confirm in writing, the Computer including model (including if applicable the number of Cores), Users, Images, operating system, any other licensing parameter information. location of the computer on which the Software is currently installed and if a replacement computer is or has been in operation or copies of the Software otherwise installed. Licensee shall provide any other information reasonably requested by IBI to allow IBI to confirm that Licensee's installation and use of the Software is consistent with the License(s) granted under these

IBI Master Terms. Licensee shall permit representatives of IBI to inspect any location at which the Software is being used at reasonable times and on reasonable notice for the purpose of verifying that Licensee is not in default of these IBI Master Term.

- 7.3. If Licensee fails to comply with the reporting obligations, and the Software is installed on a computer that exceeds the licensing parameters for the license, then Licensee shall pay retroactive to the date of such installation all applicable fees.

## **8. Warranties; Limitation of Liability**

- 8.1. IBI warrants that the Software provided shall function substantially as described in the applicable user manual, as modified from time to time. The "Warranty Period" shall commence on the Delivery Date and shall continue for the period during which IBI makes available and Licensee subscribes to InfoResponse Service for the affected License. During the Warranty Period the above warranty shall apply to Enhancements, updates, and other items provided under InfoResponse Service.
- 8.2. IBI uses reasonable commercial efforts to protect its Software from computer viruses or other contaminants. IBI warrants that to the best of its knowledge that the Software does not contain any viruses or programming codes or instructions that are constructed to damage, interfere with, or otherwise adversely affect the Software as licensed, data files, or hardware. IBI does include mechanisms in its Software which help prevent illegal or unauthorized use.
- 8.3. IBI's sole obligation under the above warranties shall be to remedy or repair using commercially reasonable efforts, as soon as reasonably practicable, all substantial and demonstrable errors and malfunctions in the Software. IBI may, in its sole discretion, provide either an update of the affected item, or an alternative method which has substantially the same functionality. Errors and malfunctions shall be considered to be "substantial" when they result in the impairment of one or more essential functions, features, or capabilities of the Software. IBI's warranty obligation during the Warranty Period is conditioned upon: (a) Licensee giving IBI written notice of any substantial malfunction promptly and in any event within ninety (90) days after it has become apparent; (b) the malfunction being repeatedly demonstrable; (c) the Software having been properly maintained; (d) the Software being at IBI's most current available release level or no more than two releases immediately preceding the most currently available release; and (e) no addition to or modification of the Software having been undertaken by Licensee, Authorized Personnel or a third party whether or not said third party is acting on behalf of Licensee.
- 8.4. Licensee acknowledges and accepts that the role of IBI is solely that of a supplier of software and related items and that it is Licensee's responsibility to determine its own data processing requirements and to satisfy itself that the Software meets such requirements. Licensee recognizes it is responsible for the selection, use of, and results obtained from any Software or equipment used in conjunction with the Software.
- 8.5. During the Warranty Period, IBI shall use reasonable commercial efforts to provide prompt and correct responses to telephone inquiries from Licensee. IBI shall take all steps reasonably required to correct any response which is not correct. IBI, however, shall have no liability for delays, errors, or omissions.
- 8.6. EXCEPT AS SPECIFIED HEREIN, NO OTHER WARRANTIES OR REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE MADE BY IBI.
- 8.7. IBI'S SOLE RESPONSIBILITY FOR BREACH OF WARRANTY, ERRORS, OR OMISSIONS SHALL BE AS SET FORTH IN THIS SECTION. IN NO EVENT WILL IBI BE LIABLE TO LICENSEE OR ANY OTHER PARTY FOR ANY REASON, WHETHER IN CONTRACT OR TORT, FOR ANY FORM OF PUNITIVE, INDIRECT, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL LOSS, DAMAGE, OR EXPENSE (INCLUDING, BUT NOT LIMITED TO, LOSS DUE TO INABILITY TO OBTAIN DATA, LOSS OF BUSINESS, OR LOSS OF ANTICIPATED PROFITS) IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING, FUNCTIONING, OR USE OF ANY SOFTWARE OR INFORESPONSE SERVICES PROVIDED UNDER THIS IBI Master Terms, EVEN IF IBI HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.
- 8.8. IBI'S MAXIMUM LIABILITY FOR ANY DAMAGES, REGARDLESS OF FORM OF ACTION, SHALL IN NO EVENT EXCEED THE LICENSE FEES ACTUALLY PAID TO IBI FOR THE RELEVANT SOFTWARE LICENSED ON A ONE-TIME LICENSE BASIS GIVING RISE TO THE LIABILITY, PRORATED OVER A THREE (3) YEAR TERM FROM THE DELIVERY DATE OF THE APPLICABLE SOFTWARE. IBI'S MAXIMUM LIABILITY FOR DAMAGES RELATED TO THE RELEVANT SOFTWARE LICENSED ON A SUBSCRIPTION OR FOR INFORESPONSE SERVICES SHALL BE LIMITED TO THE SUBSCRIPTION LICENSE FEES OR INFORESPONSE FEES ACTUALLY PAID TO IBI FOR THE RELEVANT SUBSCRIPTION LICENSED SOFTWARE OR INFORESPONSE SERVICES GIVING RISE TO THE LIABILITY FOR THE MOST RECENT ANNUAL TERM.

## **9. Confidentiality and IBI Proprietary Rights**

Licensee acquires no right in or to any IBI trademarks, copyrights, patents, trade secrets, or any other intellectual property rights belonging to IBI, or its licensors, by virtue of entering into these IBI Master Terms including but not limited to those intellectual property rights associated with any derivatives, data models or application products. Licensee shall take all reasonable precautions to maintain the confidentiality of the Software and the intellectual property described above, which precautions shall

be at least equivalent to those Licensee takes to protect its own confidential information of a similar nature. All rights to the Software (including all related manuals, educational and training materials), and including, but not limited to, intellectual property rights, trade secrets, patents, trademarks, and copyrights are and shall remain the sole and exclusive property of IBI. Without limiting the generality of the foregoing, Licensee acquires no rights in or to any source codes and shall not reverse engineer, disassemble, or take any other steps to discover such source codes. Licensee acknowledges that the licensed Software and documentation are deemed confidential and that Licensee will not make use of nor disclose the Software except as set forth in these IBI Master Terms.

## 10. Default and Termination

- 10.1. IBI may terminate these IBI Master Terms and all license rights granted pursuant to them upon thirty (30) days written notice if Licensee: (a) breaches the provisions of these IBI Master Terms, Rider or Order Form; or (b) fails to pay any License Fee when due. Such termination shall not take effect, and these IBI Master Terms shall remain in full force and effect, if Licensee makes such payment prior to the expiration of the notice period; or Licensee cures such default prior to the expiration of the notice period.
- 10.2. InfoResponse shall automatically terminate if Licensee does not pay the applicable InfoResponse Fee when due with respect to any One-Time License or for a Subscription License upon failure to renew it.
- 10.3. Termination shall be without prejudice to the right of IBI to retain any fees paid before termination, to demand payment of any fees, charges or reimbursable expenses that were due and unpaid at the effective date of termination, or to seek equitable relief, damages, or both for breach of any provision hereof.
- 10.4. If Licensee's right to use any Software terminates for any reason, whether with or without cause, or due to the expiration or non-renewal thereof, Licensee shall: (a) immediately cease using such Software and delete same, and all associated items from its library; (b) return to IBI all copies of any materials associated therewith or which are a part thereof; (c) confirm in writing to IBI that such deletion and return has occurred in accordance with the Notices provision or if requested by IBI, Licensee shall complete and return IBI's software removal certification form.

## 11. Indemnification

- 11.1. IBI warrants that it has the right to grant the Software licenses granted in these IBI Master Terms and IBI agrees to defend or settle, at its option, any action brought against Licensee arising from a bona fide claim that Licensee's use of the Software under the terms of these IBI Master Terms infringes any patent, copyright, trademark, trade secret, or other proprietary right belonging to a third party ("Third Party Claim") and to hold Licensee harmless from any and all liabilities, losses, costs, damages, expenses, and reasonable attorney fees that result from such Third Party Claim.
- 11.2. IBI's indemnification obligations are conditioned upon: (a) IBI being promptly notified in writing by Licensee of the Third Party Claim; (b) Licensee giving IBI express sole authority to conduct the defense of the Third Party Claim and all negotiations of a settlement or compromise; (c) Licensee allowing its name to be used in proceedings as necessary; (d) Licensee providing IBI with all reasonable assistance in defending or settling the Third Party Claim; and (e) the Third Party Claim shall not have arisen due to unauthorized acts or misconduct of Licensee, Authorized Personnel or a third party acting on behalf of Licensee. IBI shall have no liability for any claim of infringement based on (i) use of a superseded or altered release of Software if the infringement would have been avoided by the use of a current unaltered release of the Software that is made available by IBI or (ii) the combination, operation or use of any Software furnished under these IBI Master Terms with software, hardware or other materials not furnished by IBI if such infringement would have been avoided by the use of the Software without such software, hardware or other materials.
- 11.3. If the Software becomes the subject of a Third Party Claim, IBI may at its option and expense either: (a) obtain an appropriate license for Licensee from the party asserting the Third Party Claim; (b) replace or modify the Software (or parts thereof) that is the subject of the Third Party Claim so that it is functionally equivalent and no longer infringing; (c) provide a non-infringing work-around; (d) refund to Licensee so much of the One-Time License Fee paid to IBI as relates to the infringing Software item(s) based on a straight line three (3) year depreciation schedule or the unused pro-rated portion of any pre-paid Subscription License Fee. Except for its indemnification obligations set forth above, IBI shall have no further liability to Licensee.

## 12. General

- 12.1. Law / Forum. If Licensee is entering into the Agreement from a European Union member country, Norway, Switzerland, Japan, India or Australia, then the Agreement is governed by the laws of Ireland and subject to the exclusive jurisdiction of the courts of Ireland. Otherwise, the Agreement is governed by the laws of the State of California and subject to the exclusive jurisdiction of Federal Court for the Northern District Court of California, without giving effect to its conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply to these IBI Master Terms. .
- 12.2. Government Use. If the Software, documentation, materials and any other IBI services are being or have been acquired with U.S. Federal Government funds, or Licensee is an agency, department, or other entity of the United States Government

("Government"), the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software or any related documentation of any kind, including technical data, manuals or Materials, is restricted in accordance with Federal Acquisition Regulation 12.212 for civilian agencies and Defense Federal Acquisition Regulation Supplement 227.7202 for military agencies. The Software, documentation, materials, and any IBI services are COMMERCIAL ITEMS AS DEFINED BY THE FEDERAL ACQUISITION REGULATION. Use of the Software and documentation, materials, and any IBI services by the Government is further restricted according to these IBI Master Terms and any amendment hereto.

- 12.3. Export. The Software is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of certain foreign governments. Licensee shall not, and shall not allow any third party to, export from the United States or allow the re-export or re-transfer of any part of the Software: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. Government; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern; (iii) to any known end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.
- 12.4. Delegation. IBI may designate any affiliate, agent or subcontractor to perform such tasks and functions to complete any obligations under these IBI Master Terms, provided, however, that IBI shall remain responsible for performance of its duties under the these IBI Master Terms.
- 12.5. Notices. Notices under these IBI Master Terms shall be deemed given when sent registered mail return receipt requested or by a commercially recognized traceable shipper to IBI as set forth below and to the Licensee at the address noted in the Rider or Order Form or such new address as they shall communicate to each other in writing from time to time.

Information Builders, Inc. and its affiliates  
Legal Department  
3307 Hillview Ave.  
Palo Alto, CA 94304

With a copy to:

[Legal@tibco.com](mailto:Legal@tibco.com)

- 12.6. Consent. Whenever IBI's consent is required under these IBI Master Terms, such consent shall rest on IBI's sole reasonable discretion.
- 12.7. Force Majeure. No party to these IBI Master Terms shall be liable for delay or failure in the performance of its contractual obligations arising from any one or more events which are beyond its reasonable control. Upon such delay or failure affecting one party, that party shall notify the other party and use all reasonable endeavors to cure or alleviate the cause of such delay or failure with a view to resuming performance of its contractual obligations as soon as practicable.
- 12.8. Waiver. The failure of any party to enforce or exercise, at any time or for any period of time, any term of or any right arising pursuant to these IBI Master Terms does not constitute, and shall not be construed as a waiver of such term or right and shall in no way affect that party's right to later enforce or exercise it. The waiver by either party of the breach of any provision of these IBI Master Terms shall not constitute a waiver of the breach of any other provision, or of the subsequent breach of the same provision.
- 12.9. Severability. The invalidity or unenforceability of any term of or any right arising pursuant to these IBI Master Terms shall in no way affect the remaining terms or rights.
- 12.10. Binding Effect. This IBI Master Terms shall be binding upon and inure to the benefit of the parties, and their heirs, successors, and assigns.
- 12.11. Amendment. This IBI Master Terms may not be amended, waived, terminated, or superseded except by a written instrument signed by a duly authorized officer of IBI.
- 12.12. Inconsistencies Between IBI Master Terms and other documents issued by IBI. If any terms and conditions of the Master Terms conflict with the Documentation, then such license requirements or notices pertaining to Third Party Software included with the Software will control. Any conflict between the terms of the Agreement will be resolved in the following order for precedence: (i) Order Form; (ii) Exhibits, (iii) Master Terms. .
- 12.13. Independent Contractor. The parties hereto are and shall remain independent contractors. Nothing herein establishes or shall be deemed to establish a partnership, joint venture, or agency relationship between the parties.
- 12.14. Assignment. This IBI Master Terms may not be transferred or assigned, in whole or in part even by operation of law, by Licensee without the prior written consent of IBI, which consent shall not be unreasonably withheld. A spin-off, sale of assets, merger, acquisition, or other transaction which involves a change of control of Licensee shall be deemed to be an assignment hereunder. Licensee shall notify IBI of any such transaction within thirty (30) business days after its occurrence. In the event an entity which was a qualified Affiliate loses such qualification as defined herein then the following shall apply: (i) IBI shall continue to permit said former Affiliate to license the IBI Software under these Master Terms for a period of up to ninety (90) days; or (ii) if the Licensee was using the Software to process an Affiliate's data or support an Affiliates

operations, IBI shall continue to permit Licensee to process the former Affiliate's data or support an Affiliate for a period of up to ninety (90) days; and (iii) by the conclusion of the ninety (90) day period, in the case of item (i) the former Affiliate must license the Software for its own use pursuant to the then current IBI or its affiliates Master Terms or cease its use of the Software in accordance with Section 10; in the case of item (ii) the Licensee must execute the applicable Timesharing Rider, which shall contain the applicable fees terms, and conditions relating to such continued use or Licensee must cease processing the former Affiliate's data and or providing support for the operations with the Software.

- 12.15. **Plural and Singular Usage.** As used herein, the singular of any term includes the plural and the plural means the singular, whenever the context so requires.
- 12.16. **Headings.** The section headings in these IBI Master Terms are inserted for convenience only and are not intended to affect the meaning or interpretation of these IBI Master Terms.
- 12.17. **Entire Agreement.** This IBI Master Terms constitutes the parties' entire agreement relating to its subject matter. It supersedes all prior or contemporaneous oral or written communications, agreements, or understandings between the parties relating to its subject matter. No modification to these IBI Master Terms will be binding unless in writing and signed by each party, except in the case of a Rider or Order Form where IBI's acceptance shall be deemed to have occurred on Licensor's initial delivery of products or services under the Rider or Order Form. All pre-printed or standard terms of any Customer purchase order or other business processing document shall have no effect.