

# Unigy® 360 Terms and Conditions

Version 2.0, Issued August 3, 2018

These Terms and Conditions (the “**Terms and Conditions**”) shall govern the Services and is entered into between IPC and the Customer and shall take effect upon execution of an Order. Capitalized terms not otherwise defined by these Terms and Conditions shall have the meanings given to them in the Order.

## 1. Interpretation

1.1. **Definitions.** In these Terms and Conditions, the following definitions will apply:

“**Affiliate**” as applied to any entity, means an entity controlled directly or indirectly by such entity, or under common control with such entity. “**Control**” means ownership of more than a majority of shares of stock or other equity interest eligible to vote for members of the board of directors or the power to control by contract the management and policies.

“**Agreement**” means an Order together with these Terms and Conditions and any exhibits, schedules or other documents attached to and/or incorporated into the Order and/or these Terms and Conditions.

“**Business Day**” means the standard hours of coverage at the local IPC Branch Office, which are 8:00 A.M. to 5:00 P.M. local time on weekdays that are not local bank holidays, unless otherwise published in the IPC Cloud Services Portal.

“**Cloud Services**” means the monthly recurring services identified as such in the Order or a subsequent MACD pursuant to the Agreement. For the avoidance of doubt, where applicable, the Cloud Services shall include the provision of Equipment and Software.

“**Confidential Information**” means data and/or information, in any form, disclosed by the disclosing Party (the “**Disclosing Party**”) to the receiving Party (the “**Receiving Party**”), which relates to proposals, transactions, studies, projects or otherwise, for general or specific, present or future, product(s), services, methodologies, plans, designs, costs, prices, computer source and object code, customer names and addresses, finances or financial information (including budgets), marketing plans or strategies, business matters or opportunities or offerings, equipment and other purchase matters, strategic matters, research, development, know-how and/or personnel, information from its nature, content or circumstances might reasonably be supposed to be confidential, including, any such information of third parties that may be disclosed by the Disclosing Party to the Receiving Party. Without limiting the generality of the foregoing, the Proprietary Software and Documentation are the Confidential Information of IPC. Confidential Information does not include Customer Data.

“**Controller**” means the natural or legal person which alone or jointly with others, determines the purposes and means of the processing of Personal Data.

“**Customer**” shall have the meaning given to it in the Order.

“**Customer Content**” means any software, data, text, audio, video or images transmitted or transferred by Customer’s employees, User’s, independent contractors, agents and clients through the Cloud Services, other than Personal Data.

“**Customer Data**” means Customer Content and Personal Data that is collected, received, stored or maintained by IPC in connection with the Cloud Services.

**“Customer Furnished Materials”** means any information, materials and items requested or required by IPC as necessary to provide the Services and provided or made accessible by Customer to IPC pursuant to the Agreement, other than Customer Data.

**“Documentation,”** with respect to any Equipment or Service, refers to the user and product manuals, including the then current service description relating to Cloud Services, whether in printed or electronic form, that IPC provides to Customer, all of which may be revised by IPC from time to time.

**“Downloaded Software”** means any Software provided by IPC or made available by IPC for download by Customer onto a desktop computer, laptop computer, tablet computer or mobile device for use with the Services.

**“End User Locations”** means the locations identified as such in the Order and as amended by a MACD.

**“Equipment”** means the turrets or other hardware or equipment supplied by IPC to Customer for Customer’s use in connection with the Services.

**“Force Majeure Event”** shall have the meaning given to it in Section 15.4.

**“Governmental Authority”** means a court, administrative agency, regulatory body or commission or other national, federal, provincial, state, county, local or other governmental authority, instrumentality, agency or commission.

**“Initial Term”** means (i) in respect of Unigy 360 standard Customers (as set out in the Order Form), the period beginning on the Subscription Commencement Date and continuing until the end of the Subscription Period specified in the Order; and (ii) in respect of phased billing for Unigy 360 Flex Customers (as set out in the Order Form), the period beginning upon the last User going live and continuing until the end of the Subscription Period. Notwithstanding the foregoing, IPC shall be entitled to charge the Cloud Services Fees for all Users no later than ninety (90) days’ from the Subscription Commencement Date.

**“Intellectual Property Rights”** means copyrights, patent rights, trade secret rights, trade or service marks, design rights, rights in or relating to databases, or any other intellectual property rights (registered or unregistered) throughout the world.

**“IPC”** shall have the meaning given to it in the Order.

**“IPC Branch Office”** means an office of IPC or one of its Affiliates from which IPC provides Services.

**“IPC Cloud Services Portal”** means the portion of the website at [www.ipc.com](http://www.ipc.com), or such other address notified to Customer from time to time, designated by IPC for access and use only by customers.

**“IPC Customer Portal”** means the portion of IPC’s web site at [www.ipc.com](http://www.ipc.com), or such other address that IPC may notify Customer of from time to time, that IPC designates for access and use by Customers.

**“Labor Rates”** means IPC’s then-current time and materials rates applicable to Professional Services and certain other services as specified in the Agreement. Such rates may include standard rates applicable during the Business Day, overtime rates outside the Business Day, reasonable travel and lodging expenses, minimum charges, and IPC suppliers’ and subcontractors’ costs on labor and materials relating to the performance of such services.

**“Law”** means any applicable and mandatory national, federal, provincial, state, local or other law, statute, ordinance, rule, regulation, or principle of common law, that is issued, enacted, adopted, promulgated, implemented or otherwise put into legal effect by or under the authority of any Governmental Authority, including any court order.

**“MACD”** means a scope change to the Equipment or Services, such as the addition or deletion of a user, move of a physical device or addition or deletion of a retention period, mutually agreed from time to time by Customer and IPC through the IPC Cloud Services Portal or otherwise.

**“Order”** means an IPC standard order form (which, depending on the Service in question may be called an Order, Site Schedule, MACD or by another name), a purchase order issued by Customer or another similar document that has been duly executed by the parties and which at a minimum contains (a) a reference to Products and/or Services then-available from IPC, (b) a sufficient level of specificity with respect to the description, pricing, quantity, version and other material elements of the Services that IPC will supply to Customer.

**“Open Source Software”** means third party software that IPC (a) obtains in accordance with a license, allowing or requiring that the applicable source code be shared with IPC customers and (b) delivers to Customer as part of or in conjunction with a Product. IPC will identify Open Source Software on the IPC Customer Portal or on Customer’s request.

**“Personal Data”** means data which relates to an identified or identifiable Customer employee or Customer client (the **“Data Subject”**); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

**“Professional Services”** means the initial setup services, MACD services and all other services specified in an Order or MACD, excluding the Cloud Services.

**“Processing”** means any operation or set of operations which is performed on Personal Data or on sets of personal Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

**“Processor”** means a natural or legal person which processes Personal Data on behalf of the Controller.

**“Project Plan”** means the project plan formulated after the parties’ execution of an Order and set forth in writing between the parties containing details regarding the Equipment and/or Services under that Order.

**“Proprietary Software”** means Software other than Open Source Software (whether proprietary to IPC or third party licensors).

**“Renewal Term”** has the meaning given by Section 7.1.

**“Representative”** has the meaning given by Section 3.1.

**“Services”** means the Professional Services and Cloud Services.

**“SLA”** has the meaning given by Section 8.1.

**“Software”** means any software and firmware IPC provides to Customer in connection with the Services or used by IPC in the performance of the Services, including Downloaded Software.

**“Subscription Commencement Date”** means the date that IPC starts billing for the Cloud Services, which shall be the earliest of the date specified in the Order, the date specified in the Project Plan or the date on which the Cloud Services are made available for Client’s use in a live production environment.

**“Subscription Fee”** means the recurring monthly fee for the Services.

**“Subscription Period”** means the duration specified as such in the Order.

**“Term”** has the meaning given by Section 7.1.

**“User”** means a unique individual authorized by Customer to use the Services pursuant to the Agreement by issuance by Customer, through the IPC Cloud Services Portal, of a unique login ID applicable only to that individual.

1.2. **Rules of Construction.** In these Terms and Conditions: (a) any terms defined in these Terms and Conditions may, unless the context otherwise requires, be used in the singular or the plural; (b) the words “includes” or “including” will be construed as followed by the words “without limitation”; and (c) references to section numbers, exhibits, or schedules refer to sections in or exhibits or schedules to these Terms and Conditions unless otherwise stated.

1.3. **Order of Precedence.** These Terms and Conditions, the Order, the Project Plan and the Documentation, to the extent reasonably possible, will be construed to be consistent with each other. If, however, these documents cannot reasonably be construed as consistent with each other, then the documents will have the following decreasing order of precedence regarding their respective subject matters: (a) these Terms and Conditions except to the extent expressly overruled (by section number or heading) by another of the documents; (b) all exhibits, schedules and other documents attached to and/or incorporated into these Terms and Conditions; (c) the Order, including all exhibits, schedules and other documents attached to and/or incorporated into the Order; (d) the Project Plan; and (e) the Documentation.

1.4. **Separate Agreements.** Each Order, together with these Terms and Conditions and their respective exhibits, schedules and other documents attached to or incorporated therein will be deemed a separate Agreement.

## 2. IPC Obligations; Commencement of Cloud Services

2.1. **Scope.** IPC, subject to the terms and conditions of the Agreement, will provide Customer with: (a) the Cloud Services; (b) the Equipment for use in connection with the Cloud Services; (c) a license to use the Downloaded Software in connection with the Cloud Services; and (d) the Professional Services.

2.2. **MACD Requests.** Customer from time to time during the Term may submit a request (each, a **“MACD Request”**) for certain MACDs. Customer shall submit all MACD Requests through the IPC Cloud Services Portal. The estimate of the time schedule and fee associated with the requested MACD in the MACD Request shall be as set forth in the IPC Cloud Services Portal or otherwise provided to Customer by IPC and the MACD shall be subject to the current applicable Labor Rates. Notwithstanding the foregoing, should Customer make a MACD Request outside of the IPC Cloud Services Portal, IPC shall be entitled to charge the Customer the applicable Labor Rate for processing the MACD Request (except where the MACD Request is not available to be requested through the IPC Cloud Services Portal).

2.3. **IPC Changes.** IPC may, from time to time in its discretion, add, remove, or modify features or functions, change underlying technology and/or provide fixes, updates and/or upgrades to the Cloud Services to the extent IPC makes such changes generally for its customers using the same or substantially similar Cloud Services, provided that IPC does not materially reduce any functionality during the Term other than by reason of a change in Law. IPC will provide reasonable prior notification to Customer when such changes are reasonably expected to be material to Customer’s use of the Cloud Services.

### 3. Customer's Responsibilities

3.1. **Representatives.** Customer, in the Order or by written notice referencing the Order, will identify at least one Customer employee as Customer's technical representative for the purposes of the Order (each, a "**Representative**"). Customer will ensure that each Representative is knowledgeable in Customer's relevant operations and is authorized to coordinate Customer's activities and to represent Customer in connection with the Order. IPC may rely on all oral and written orders and instructions issued by any Representative pursuant to that Order including instructions to initiate work and incur expenses for Customer's account. Customer may select and reassign any Representative provided that Customer provides IPC with advance written notice of any change in Representatives.

3.2. **Account Administration.** The Representative will have rights to set or modify the settings or preferences of Users through the IPC Cloud Services Portal. Customer will be required to provide certain information in order to begin using the Cloud Services and to activate features, change settings, update preferences, add Users or provision Equipment ("**Registration Information**"). Customer, at all times during the Term, will ensure that all Registration Information will be true, accurate, current and complete, and Customer promptly will confirm, update, or supplement Registration Information on file upon IPC's request or in the event that such Registration Information changes. Customer is solely responsible for all activities that occur under Customer's account.

3.3. **User Training.** Customer will be responsible for training and supporting Users unless otherwise specified in the Order. Customer will ensure that all Users are proficient with the use of the Cloud Services in accordance with the Documentation and, without limiting the generality of the foregoing, have been appropriately trained by Customer regarding the restrictions set forth in Section 4, including the limitation on emergency services availability set forth in Section 4.5 (if applicable).

3.4. **Information and Assistance.** Customer will provide IPC with all information and assistance reasonably required to provide, troubleshoot and/or replace the Equipment and/or Services, and will ensure all information provided by Customer to IPC in connection with the Agreement is accurate and complete.

3.5. **Delays, Disruptions and Additional Charges.** Customer's failure to perform its obligations under the Agreement, including its obligations under this Section 3: (a) may result in (i) a delay in the commencement of the Services; (ii) a disruption in the Services (iii) IPC being unable to provide the service levels set forth in the SLA; and/or (iv) additional consequences for which IPC shall not be responsible; (b) may result in additional charges at the Labor Rates that Customer will be obligated to pay due to additional callouts, assignment of resource or additional services being provided by IPC; and (c) shall not relieve Customer of its other obligations under the Agreement, including its obligation to pay for the Services in accordance with the Agreement. For the avoidance of doubt, IPC shall not be liable for a breach of the Agreement caused, in whole or part, by the failure of Customer to perform its obligations under the Agreement, including its obligations under this Section 3.

### 4. Restrictions and Limitations

4.1. **General.** Customer will use the Services solely for Customer's internal business purposes at the End User Locations only. Customer will not, and will permit any of its employees, independent contractors or any third parties to: (i) change, modify, or otherwise alter any Services; (ii) use any Service (a) for the benefit of any party other than Customer or grant any third party access to or use of the Services whether on a service bureau, timesharing, subscription service, rental, application service provider basis or otherwise; (b) to make telemarketing calls or other unsolicited marketing communications to any third party; (c) to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates of third party privacy rights; (d) to store or transmit material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; or (e) in violation of applicable Laws or agreements with Customer's clients; (iii) allow anyone other than the Users to use the Cloud Services or

Downloaded Software; or (iv) misuse or abuse the Services, or interfere with or disrupt the integrity or performance of the Services or any related data.

#### 4.2. **Equipment**

(a) **Title.** As between IPC and Customer, IPC will retain sole title to and ownership of the Equipment. So long as Customer possesses any Equipment, Customer will hold Equipment as IPC's fiduciary agent and bailee and will: (i) maintain all necessary insurance, including fire and extended coverage insurance, for the value of the Equipment naming IPC as an additional insured (and provide certificates to IPC upon request); (ii) not remove, obscure or deface any label IPC places on the Equipment that identifies it as the property of IPC or its lessor; (iii) not move the Equipment without IPC's advance written consent; (iv) keep the Equipment free and clear of all levies, liens and encumbrances; and (v) take all necessary precautions and security measures to safeguard the Equipment from any and all damage, destruction or loss.

(b) **Lost, Damaged or Stolen Equipment.** Risk shall transfer to the Customer upon delivery of the Equipment & revert back to IPC upon IPC's acceptance of the delivery of the Equipment. Customer will be solely responsible for all defects or damage resulting from alteration, misuse, mishandling, tampering, accident, abuse or unauthorized attachment, storage, operation or installation of the Equipment by Customer or a third party. If IPC repairs or replaces any Equipment because of defects or damage as described in the foregoing, IPC may charge for such Services on a time and materials basis under the Labor Rates. If any Equipment is lost, stolen or damaged beyond economic repair at a customer location, Customer will promptly notify IPC and pay IPC the replacement cost, at the then current IPC list price, for the lost, stolen or damaged Equipment.

(c) **Replacement & Return of defective Equipment.** In the event that IPC provides the Customer with Equipment in replacement of defective Equipment, the Customer will promptly return the defective Equipment through the pre-paid postage provided by IPC (or as expressly instructed by IPC from time to time, at IPC's expense). If IPC has not received the Equipment within 30 days of the replacement Equipment being delivered, Customer will pay IPC the replacement cost, at the then current IPC list price for the unreturned Equipment. Notwithstanding the foregoing, Customer will return all Equipment upon termination of the Services for whatever reason.

(d) **Return of Equipment.** In the event that a Customer removes Users and associated Equipment in accordance with Clause 5.1 (Flex Allowance), the Customer will promptly return the Equipment at its own expense. If IPC has not received the Equipment within 30 days of the replacement Equipment being delivered, Customer will pay IPC the replacement cost, at the then current IPC list price for the unreturned Equipment. Notwithstanding the foregoing, Customer will return all Equipment upon termination of the Services for whatever reason.

#### 4.3. **Software and Documentation.**

##### (a) **Proprietary Software and Documentation.**

(i) **Downloaded Software and Automatic Updates.** Effective on delivery of Downloaded Software pursuant to an Order and subject to Customer's payment of the applicable Subscription Fees, IPC grants to Customer a personal, non-exclusive, non-transferable license to download and use the Downloaded Software solely on computers and mobile devices owned or leased by Customer and assigned to Users, for use by Users solely for Customer's internal business purposes and receiving of Cloud Services under the Agreement during the Term, and subject to any limitations on features, functions and capabilities channels or lines specified by the applicable Order. IPC may automatically check the version of Downloaded Software or components thereof used by Customer, or Software or components thereof installed on Equipment, and may provide updates to such Software that may be automatically downloaded to User devices or Equipment. Customer will not inhibit or disrupt the automatic updating process.

(ii) **Copying.** Customer may not copy any Software (except to the extent a copy is made of Downloaded Software in the downloading process). Customer may make a reasonable number of copies of the Documentation for use by Users in connection with the Cloud Services.

(iii) **Proprietary Rights Notices.** Customer will ensure that all copies of the Documentation contain the same copyright notices, trademarks and any other proprietary marks of IPC and its suppliers, both in form and location, as the original copies supplied to Customer, and will not remove any copyright notices, trademarks and any other proprietary marks of IPC and its suppliers from any Software or Documentation.

(iv) **No Circumvention.** Customer will not: (i) defeat or circumvent, attempt to defeat or circumvent, or authorize or assist any third party in defeating or circumventing, controls limiting the use of the Proprietary Software to that authorized by the Agreement, or controls limiting use of certain Proprietary Software to certain Equipment; (ii) make any modification, enhancements, adaptations or translations to or of the Proprietary Software or Documentation; (iii) reverse-engineer, disassemble, reverse-translate, decompile or in any other manner decode, or attempt to decode, the Proprietary Software to derive the source code, review data structures or other properties of the Proprietary Software or for any other reason; or (iv) disclose or provide the Proprietary Software or Documentation to any person other than Customer without the prior written consent of IPC.

(b) **Third Party Licensors.** If and to the extent any Equipment or Service comprises or includes Proprietary Software that IPC has licensed from third parties, IPC enters into Section 4.3(a) on its own behalf and for the benefit of its licensors holding any Intellectual Property Rights in the Proprietary Software and any third party owning any Intellectual Property Rights in software from which the Proprietary Software was derived.

(c) **Open Source Software.** If and to the extent any Open Source Software is provided in connection with any Software or Equipment: (i) IPC is providing the Open Source Software on a royalty-free basis; (ii) Customer's rights regarding the Open Source Software, including the right to obtain copies of the source code, will be governed by the licenses therefor as published in the IPC Cloud Services Portal or otherwise provided to Customer upon request; (iii) any obligations IPC undertakes under the Agreement regarding the Open Source Software are the obligations of IPC and not the authors, contributors or licensors of such software; and (iv) except as the parties otherwise expressly agree in writing, IPC's inclusion of Open Source Software in or with the Equipment and/or Services will not give rise to an obligation by Customer to disclose source code for the Proprietary Software of Customer or Customer's other vendors.

4.4. **Third Party Software.** Customer will not install any Customer or third party software on any Equipment or on any computers or other equipment used by IPC to provide Services.

4.5. **Emergency Services Liability.** IPC will have no liability if Customer cannot place or complete a call to emergency services, or if emergency responders do not respond, or do not respond to the location at which Customer is physically present or require such services. Under no circumstances will IPC have any liability associated with emergency services, including in the event of: (a) a loss of electrical power at Customer's location; (b) loss of internet connectivity at Customer's location; (c) defective or misconfigured customer premise equipment; (d) network congestion; (e) delays associated with updating the registered service address; (f) restrictions created by Customer's non-voice equipment, such as security systems and medical monitoring equipment; (g) equipment relocated by Customer; (h) the simultaneous use of one line with multiple pieces of equipment; (i) failure of emergency response centers to answer emergency calls; (j) failures of any third parties responsible for routing emergency calls; (k) the use of non-native telephone numbers; or (l) any Force Majeure Event. Customer acknowledges that the limitation of IPC and IPC's liability is a material term to IPC and that it would not otherwise enter into the Agreement without this limitation, and Customer agrees these limitations are reasonable. For US Customers, Customer acknowledges that it has read and understands this Section.

4.6. **Suspension**

(a) **Right to Suspend.** IPC may suspend Customer's or any User's or Customer client's right to access or use any portion or all of the Cloud Services, and IPC's corresponding obligation to deliver such portion or all of the Cloud Services to Customer will be suspended, immediately upon written notice to Customer, if IPC determines that:

(i) Customer's or a User's or Customer client's use of the Cloud Services (a) poses a material security risk to the Cloud Services or any third party; (b) could adversely impact IPC systems, the Cloud Services or Customer Content of any other IPC customer; (c) could subject IPC, IPC's Affiliates, or any third party to liability under Applicable Law; or (d) reasonable suspicion of fraudulent behavior by Users;

(ii) Customer or a User is in breach of the Agreement; or

(iii) Customer is delinquent on Customer's payment obligations for more than thirty (30) days.

IPC will use commercially reasonable efforts to limit the scope of the suspension to the minimum extent reasonably necessary in IPC's determination to address the situation giving rise to the suspension.

(b) **Effect of Suspension.** If IPC suspends Customer's, any User's or any Customer client's right to access or use any portion or all of the Cloud Services: (i) Customer shall remain responsible for all fees and charges as if the suspension had not occurred; (ii) IPC will not erase any Customer Data as a result of Customer's suspension, except as specified elsewhere in the Agreement; and (iii) Customer will not be entitled to any service credits under the SLA for any period of suspension. IPC will use commercially reasonable efforts promptly to resume the affected Cloud Services after IPC determines that the situation giving rise to the suspension has been remedied.

## 5. Charges and Payments

### 5.1. Fees; Invoices

(a) **Subscription Fee.** The Subscription Fee shall be set forth in the initial Order. Any changes shall be set forth in a subsequent Order. Unless otherwise provided in the Order, the Subscription Fee will be invoiced monthly in advance. Notwithstanding the foregoing, the first Subscription Fee will be invoiced on a pro-rata basis running from the Subscription Commencement Date through the end of the calendar month during which the Cloud Service begins. Customer shall pay the Subscription Fees within thirty (30) days of the date of the invoice.

(b) **Flex Allowance.** During the Term, the Customer shall be entitled to add or remove the total number of Users via the IPC Cloud Services Portal (or as otherwise agreed by IPC in writing) as specified in the relevant Order Form. The number of Users shall be calculated (i) as from the Order Effective Date for the Initial Term; and (ii) at the start date of each subsequent Renewal Term. IPC shall amend the Subscription Fee in accordance with any addition or removal made via the IPC Cloud Services Portal (or as otherwise agreed by IPC in writing) (the "Flex Allowance"). The Customer shall have no right to remove a greater number of Users than as specified by the Flex Allowance. The new Subscription Fee shall become effective upon the new User being activated or deactivated (as applicable) and this shall be actioned by IPC within a reasonable period of time from the MACD request being raised. When a User is activated or deactivated during a month, the Subscription Fee shall be pro-rated as appropriate.

(c) **Subscription Fee Increase.** After the expiration of the Initial Term, IPC may (i) increase the Subscription Fee, not more than once in a 12-month period, by a maximum of 5% of the Subscription Fee, such increase to take effect at the beginning of the Renewal Term (or subsequent Renewal Term as applicable); and (ii) notwithstanding the foregoing, remove the benefit of any multi-term discount and increase the Subscription Fee accordingly. IPC shall base its 5% calculation on a monthly Subscription Fee charged to the Customer in the 6 months prior to the beginning of the Renewal Term.

(d) **Professional Services.** Unless otherwise provided in the applicable Order, all Professional Services will be provided on a time and materials basis in accordance with the Labor Rates. Unless otherwise set out in an Order, IPC shall invoice for Professional Services upon IPC's acceptance of an Order and will be paid in full within ten (10) Business Days' of the date of the invoice.

(e) **Other Charges.** Any other payments due by Customer under the Agreement will be payable within 30 days of the date of the invoice.

(f) **Regulatory Fees.** All regulatory fees, surcharges, assessments or other similar charges imposed by any Governmental Authority, regulatory body, stock exchange or any other body authorized to impose penalties or charges, other than any such charges included in the Subscription Fee as expressly described in the Order, shall be the sole responsibility of Customer. If any such charges are assessed upon IPC, Customer will pay the charge or fee directly or reimburse IPC for the amount thereof and indemnify and hold IPC harmless from and against all losses, costs, liabilities and expenses arising out any failure to pay such charge or fee, including any penalties assessed by any Governmental Authority.

(g) **Delays.** IPC will begin invoicing Customer for the Subscription Fee as of the Subscription Commencement Date set forth in the Order notwithstanding any Customer acts or omissions that cause a delay in implementation of the Cloud Services. In addition, if Customer's acts or omissions result in unnecessary or multiple dispatches of IPC personnel to End User Locations, IPC may bill and Customer will pay the cost of labor, travel and other expenses associated with those dispatches at the Labor Rates. Notwithstanding the foregoing, In the event that IPC is solely responsible for a failure to make the Cloud Services available at the Subscription Commencement Date, IPC shall apply a credit equal to the number of days between the Subscription Commencement Date and the actual implementation of the Cloud Services. The parties agree that a failure to meet the Subscription Commencement Date will not be deemed to be a breach of this Agreement.

5.2. **Taxes.** All amounts payable under the Agreement, unless otherwise specified, are exclusive of all sales, use and value added tax or any other duties or taxes that may be chargeable on any Equipment or Services and will be paid by Customer at the rate prescribed by applicable Law in addition to the amount due for the Services under the Agreement. All amounts payable by Customer under the Agreement will be paid in full without reduction for any deduction or withholding for any tax, duty or other charge (collectively referred to as "**WHT**"). If Customer is required by Law to account for or pay any WHT, Customer will: (i) gross up the amount payable under the invoice to apply the rate of WHT so that, after payment of any WHT, the net amount received by IPC from Customer will be equal to the actual amount payable under the invoice; (ii) pay the WHT to the relevant taxing or other governmental authority; and (iii) promptly provide evidence of such payment.

5.3. **Late Fees.** In addition to any other remedy IPC may have under the Agreement, if Customer does not make a payment by its due date, IPC may charge interest on the sum outstanding at a rate of 1.5% per month or, if less, the maximum amount permitted by applicable Law, calculated on a day-to-day basis (before and on or after any judgment) from the due date until payment is received.

5.4. **No Set-Off.** Customer may not withhold payment of any undisputed amount due for any perceived right of set-off or any claim or dispute relating to IPC's performance under the Agreement.

5.5. **Remedies.** If Customer fails to pay any sum when due, IPC may, at its option and in addition to all other remedies available to IPC under the Agreement or otherwise, suspend the Services pursuant to Section 4.6 and/or repossess the Equipment until payment in full has been made.

5.6. **Disputes.** Customer may withhold payment of invoices it disputes in good faith, provided that Customer: (a) timely pays the undisputed amount; (b) on or before the payment due date, provides IPC written notice identifying the invoice numbers at issue and describing in reasonable detail the basis for the dispute; and (c) cooperates in good faith with IPC's efforts to resolve the dispute.

5.7. **Reporting.** Customer will comply with any reporting obligations set forth in the Order.

5.8. **Audit.** IPC may, at its own expense (except as specified below), upon at least thirty (30) days written notice to Customer specifying any time of day during Customer's regular business hours, audit Customer's books and records for the purpose of verifying Customer's reports under the Agreement and the fees owed under the Agreement. Such audit may be conducted by IPC or a third party audit firm. If any audit identifies an underpayment of fees by Customer under the Agreement, Customer shall promptly pay such underpayment to IPC. If any audit leads to the discovery of an underpayment of more than ten percent (10%) owed in respect of the audited period, Customer shall also reimburse IPC for all of its reasonable costs related to the audit. IPC shall only be permitted to exercise its audit right under this Section once per calendar year, except where an audit reveals an underpayment of more than ten percent (10%) during the audited period.

5.9. **Invoices.** All invoices shall be electronic invoices unless set out otherwise in an Order.

5.10. **U.S. Dollars.** Unless otherwise provided in the Order, all amounts are quoted and to be paid in United States Dollars.

## 6. Intellectual Property Rights

6.1. **Customer Ownership.** As between the parties, Customer owns Customer Furnished Materials.

6.2. **IPC Ownership.** As between the parties, IPC owns all right, title and interest in and to (a) the Cloud Services, Software and Equipment, (b) any software or other work product resulting from the performance of Professional Services and (c) any modifications, translations, or derivatives of the foregoing prepared by or for IPC, including in each case all Intellectual Property Rights therein and thereto.

6.3. **Feedback.** In the event that Customer provides IPC with suggestions, comments, feedback, ideas or know-how, in any form ("**Feedback**"), Customer agrees that IPC may, and hereby grants IPC a worldwide, irrevocable, perpetual license to, use and exploit Feedback in connection with developing and improving IPC products and services and related technology.

6.4. **Reservation of Rights.** Neither party grants any license to the other party other than the licenses expressly granted herein. No license is to be implied from any provision of the Agreement.

6.5. **Data; Directory Information.** IPC may, and Customer hereby grants to IPC permission and a perpetual, worldwide, royalty-free, fully paid-up, non-exclusive, right and license to use, copy, store, process, retrieve, perform, display and disclose Customer Data for the purpose of providing the Services to Customer and to use, copy, store, process, retrieve, perform, display and disclose data provided or generated in connection with the Services in aggregated and/or de-identified form for purposes of improving IPC's services and/or offering additional services to Customer and/or other customers. In addition, IPC may, and Customer hereby grants to IPC permission and a perpetual, worldwide, royalty-free, fully paid-up, non-exclusive, right and license to use, copy, store, process, retrieve, perform, display and disclose contact information for Customer personnel for purposes of improving IPC's services and/or offering additional services to Customer and/or other customers such as a global directory of users within Customer's industry.

## 7. Agreement Term; Termination

7.1. **Agreement Term.** At the end of the Initial Term, Orders for Cloud Services will automatically renew for consecutive twelve (12) month periods (each, a "**Renewal Term**") unless either party, at least ninety (90) days prior to the end of the then-current term, gives the other party written notice terminating the Agreement effective as of the end of the then-current term. These Terms and Conditions refer to the Initial Term together with all Renewal Terms as the "**Term**."

7.2. **Termination.** Either party may terminate the Agreement if the other party commits a material breach of the Agreement, which breach is not cured within thirty (30) days of receiving written notice from the non-breaching party. In addition, either party may automatically terminate the Agreement upon written notice if the other party has availed itself of or become subject to a proceeding in bankruptcy in which such party is the named debtor, an assignment by such party for the benefit of its creditors, the appointment of a receiver for such party, or any other proceeding involving insolvency or the protection of, or from, creditors, and appointment of a receiver for such party, or any other proceeding involving insolvency or the protection of or from creditors, and same has not been discharged or terminated within sixty (60) days without any prejudice to such party's rights or interests under the Agreement; or suffers any proceedings of substantially similar affect in any jurisdiction to any of the foregoing.

### 7.3. **Effect of Termination**

(a) **Obligations.** On the expiration or termination of the Agreement for any reason:

(i) Customer will cease using the Equipment, Services, Software and Documentation and all rights and licenses to do so will terminate;

(ii) IPC will work with Customer to migrate any Customer Data to a new location owned by Customer or a third party, to delete the Customer Data or to make other arrangements as directed by Customer, all at Customer's cost; provided that IPC may maintain backup copies of Customer Data in accordance with its typical backup processes subject to compliance with Section 13 and IPC may maintain Customer Data in aggregated and/or de-identified form for purposes permitted by Section 6.5. Should Customer not provide adequate direction to IPC within thirty (30) days of the expiration or termination of the Agreement, Customer hereby gives IPC permission to delete the Customer Data and IPC will have no liability to Customer for such deletion and Customer will indemnify and hold IPC harmless from and against all losses, costs, liabilities and expenses arising out of any claims (including third-party claims), costs or losses relating to such deletion.

(iii) Customer will work with IPC to return all Equipment to IPC at Customer's cost within forty-five (45) days. Customer shall return Equipment to IPC in its original condition (reasonable wear and tear excepted). Customer will reimburse IPC for all lost, stolen or damaged Equipment in accordance with Section 4.2(b).

(b) **Survival.** Neither the expiration nor termination of the Agreement will affect Customer's obligations to pay any accrued amounts. In addition, Sections 4.2, 5.2, 6, 9.4, 10, 11, 12, 13 and 15 will survive.

## 8. **Service Levels**

8.1. **Service Level Agreement.** The Agreement incorporates IPC's Unigy 360 Service Level Agreement (the "**SLA**") in effect as of the effective date of the applicable Order, which may be revised by IPC from time to time as long as IPC's commitments are not materially reduced; provided that IPC's sole and exclusive liability, and Customer's sole and exclusive remedy, in the event of failure to meet the SLA shall be the service level credits provided for therein.

8.2. **Service Disruptions.** IPC will not be liable for any interruption in or to, or any performance issues with, the Services or the Equipment resulting from (i) scheduled maintenance, emergency maintenance and/or outages for which IPC has provided Customer with commercially reasonable advance notice or as otherwise provided in the SLA; (ii) any act or omission by a person or entity other than IPC, including without limitation Customer and Customer's Affiliates, employees, contractors, suppliers, agents and anyone else acting on behalf or at the direction of Customer; any modification to the Equipment or Services by a party other than IPC; (iii) the operation, failure or malfunction of any hardware, software, system, platform and/or network for which Customer or any other party other than IPC is responsible; (iv) Customer's breach of the Agreement; (v) a telecommunications failure or disruption of any kind; or (vi) a Force Majeure Event.

## 9. Warranties

9.1. **Mutual Representations and Warranties.** Each party represents and warrants that (i) it is duly organized or formed, validly existing and in good standing in its jurisdiction of organization or formation; (ii) it has all necessary power and authority to execute and deliver the Agreement and to perform its obligations under the Agreement; (iii) no consent, approval or authorization from any Governmental Authority or third party is required in connection with the Agreement; and (iv) it will comply with all Laws applicable to its performance of the Agreement.

9.2. **Additional IPC Representations and Warranties.** IPC warrants that (i) the Equipment will be free from material defects in materials and workmanship and that Customer's sole and exclusive remedy for breach of the foregoing warranty is for IPC to replace the Equipment; (ii) the Cloud Services, when used in accordance with the Agreement and the instructions in the Documentation, will include substantially the features and functions set forth in the Documentation, provided that Customer's sole and exclusive remedy for breach of the foregoing warranty is as set forth in the SLA; and (ii) the Professional Services will be provided with reasonable care and skill by means of appropriately qualified and skilled personnel, provided that if IPC does not perform Professional Services in accordance with the foregoing and Customer provides IPC with prompt written notice thereof, IPC will re-perform such Professional Services and the foregoing will be IPC's sole liability, and Customer's sole remedy, for such failure.

9.3. **Additional Customer Representations and Warranties.** Customer represents and warrants that Customer has given notice and obtained all necessary permissions in order to provide or allow access to Customer Data by IPC as contemplated by the Agreement.

9.4. **Disclaimers.** OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER IPC, ITS AFFILIATES, LICENSORS OR SUPPLIERS, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, MAKES ANY EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO CUSTOMER OR ANY OTHER PERSON OR ENTITY WITH RESPECT TO THE EQUIPMENT OR SERVICES OR OTHERWISE REGARDING THE AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. NO WARRANTY IS MADE THAT USE OF THE EQUIPMENT OR SERVICES WILL BE ERROR FREE OR UNINTERRUPTED, THAT ANY ERRORS OR DEFECTS IN THE EQUIPMENT OR SERVICES WILL BE CORRECTED OR THAT THE EQUIPMENT'S OR SERVICES' FUNCTIONALITY WILL MEET CUSTOMER'S REQUIREMENTS.

## 10. Indemnity

### 10.1. IPC's Indemnification of Customer

(a) **Obligation.** IPC shall, at its own expense, defend or at its option settle any third party claims, actions, suits or proceedings (collectively "**Claims**") brought against Customer by a third party non-Affiliate of Customer to the extent it alleges (i) facts that, if true, would be a violation by IPC of Section 13 with respect to Personal Data or (ii) infringement of any Intellectual Property Right of any third party that is not an Affiliate of Customer by the Services hereunder, and shall pay all final judgments awarded or settlements entered into by IPC, provided that Customer provides IPC with (a) prompt written notice of such Claim; (b) sole control over the defense and settlement of such Claim; and (c) proper and full information and assistance to settle and/or defend any such Claim; provided, further that any delay in providing such notice shall not relieve IPC of its obligations under this Section 10.1(a) except to the extent IPC is materially prejudiced by Customer's failure to provide or delay in providing such notice. Any settlement that includes a financial obligation on, or admission of liability by, Customer or otherwise

obligates Customer to specific performance requires the prior written consent of Customer, which shall not be unreasonably withheld. Customer may participate in any defense at its sole cost and expense.

(b) **Exclusions.** IPC will have no liability for Claims involving: (i) combinations of the Services, Equipment or Software with other software, products, processes, technology or materials not provided by IPC where the alleged infringement would not have occurred but for such combination; (ii) modifications of the Services made at the direction of Customer or made by or under the direction of anyone other than IPC; (iii) Customer Furnished Materials or other information, designs, specifications, instructions, software, services, data, hardware or materials not furnished by IPC; (iv) Services not used strictly in accordance with the Agreement, the Documentation or any third party software agreement to which Customer is a party; (v) third party software or other technology; (vi) Open Source Software; (vii) services provided by IPC's third party hosting services vendor; (viii) use of a version of the Downloaded Software which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Downloaded Software that was made available to the Customer; (ix) use of the allegedly infringing Services after the expiration or termination of Customer's rights to the applicable Services; (x) use of Services for which Customer's rights have been suspended; or (xi) Customer Content or Customer Furnished Materials.

(c) **Entire Liability.** The provisions of this Section 10.1 state the entire liability of IPC, and the sole and exclusive remedy of Customer, with respect to any actual or alleged claim of infringement or misappropriation of third party Intellectual Property Rights.

(d) **Additional Remedies.** If the Services become, or in IPC's reasonable judgment may become, the subject of a Claim, or if a court determines that such Services infringe any third party right, IPC may at its option and expense (i) procure for the right to continue to offer and use the Services under the terms and conditions of the Agreement; (ii) replace the Services, or part thereof, with a suitable alternative; (iii) modify such Services, or part thereof, to render it non-infringing; or (iv) if none of the foregoing options is commercially practicable, terminate the Agreement without further liability to either Party.

**10.2. Customer's Indemnification of IPC.** Customer shall, at its own expense, defend and indemnify or at its option settle any third party Claim brought against IPC (a) to the extent it alleges facts that, if true, would be a violation by Customer of Section 13 with respect to Personal Data, (b) to the extent it alleges infringement or misappropriation of Intellectual Property Rights of any third party that is not an Affiliate of IPC by any Customer Content or Customer Furnished Materials or (c) by any client of Customer, and shall pay all final judgments or settlements entered into by Customer, provided that IPC provides Customer with: (i) prompt written notice of such Claim; (ii) sole control over the defense and settlement of such Claim; and (iii) proper and full information and assistance to settle and/or defend any such Claim; provided, further that any delay in providing such notice shall not relieve Customer of its obligations under this Section 10.2 except to the extent Customer is materially prejudiced by IPC's failure to provide or delay in providing such notice. Any settlement that includes a financial obligation on, or admission of liability by, IPC or otherwise obligate IPC to specific performance requires the prior written consent of IPC. IPC may participate in any defense at its own expense.

## 11. Limitation of Liability

**11.1. No Consequential Damages.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER IPC NOR ITS AFFILIATES, LICENSORS OR SUPPLIERS, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, ACCEPT LIABILITY FOR, AND IN NO EVENT WILL THEY BE LIABLE FOR: ANY LOSS OF PROFITS; LOSS OF REVENUES, LOSS OF SALES; LOSS OF DATA; LOSS OF OR DAMAGE TO BUSINESS OR REPUTATION; LOSS OF OPPORTUNITIES; PENALTIES, FINES OR SIMILAR ASSESSMENTS IMPOSED BY A GOVERNMENTAL AUTHORITY; OR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE LOSS OR DAMAGE (AND FOR THE PURPOSES OF THIS CLAUSE THE TERM "LOSS" INCLUDES A PARTIAL LOSS OR REDUCTION IN VALUE AS WELL AS A COMPLETE OR TOTAL LOSS), IN EACH CASE UNDER OR IN

RELATION TO THE AGREEMENT OR ITS SUBJECT MATTER IRRESPECTIVE OF WHETHER SUCH LIABILITY ARISES DUE TO NEGLIGENCE, BREACH OF CONTRACT, MISREPRESENTATION OR FOR ANY OTHER REASON, EVEN IF THE PARTIES HAVE KNOWLEDGE OF THE POSSIBILITY OF SUCH LOSSES AND WHETHER OR NOT SUCH LOSSES ARE FORESEEABLE.

11.2. **Cap.** To the maximum extent permitted by applicable Law, IPC's total cumulative liability arising out of and/or relating to each Agreement (and whether the liability arises because of breach of contract, negligence or for any other reason) will be limited to the lesser of (i) \$1,000,000; or (ii) the fees paid or payable by Customer for the affected Service during the twelve (12) month period immediately preceding the date on which the cause of action first arose.

11.3. **Exceptions.** The foregoing limitations in Sections 11.1 and 11.2 will not apply to liability for (i) death or personal injury caused by IPC's negligence or the negligence of its employees or agents; (ii) fraudulent misrepresentations made by IPC; or (iii) any liability which may not be limited or excluded by applicable Law.

## 12. Confidentiality

### 12.1. Confidential Information

(a) **Obligations.** The Receiving Party will use commercially reasonable efforts to keep confidential any Confidential Information of the Disclosing Party and will only use such Confidential Information for the purpose of exercising its rights or performing its obligations under the Agreement. Neither party will disclose any of the other party's Confidential Information to anyone else except to those of their employees, subcontractors and suppliers who need the information to enable the party concerned to carry out its obligations under the Agreement or to exercise any of its rights under the Agreement. Each party will ensure that any person to whom the other party's Confidential Information is disclosed by them understands and agrees to comply with the confidentiality obligations set forth in the Agreement.

(b) **Exceptions.** The obligations of confidentiality in the Agreement do not apply to any information that: (i) is in the public domain or is or becomes generally available to and known by the public other than resulting from, directly or indirectly, any breach of this Section 12.1 by the Receiving Party or its employees or representatives; (ii) is or becomes available to the Receiving Party or any of its employees or representatives on a non-confidential basis from a third party, provided, that to the Receiving Party's knowledge, such third party is not and was not prohibited from disclosing the Confidential Information; (iii) was already known by or in the possession of the Receiving Party or any of its employees or representatives, other than as a result of the relationship contemplated herein; or (iv) was or is independently developed by the Receiving Party or its employees or representatives without reference to or use of, in whole or in part, any of the other party's Confidential Information.

(c) **Confidentiality of Agreement.** Each party agrees that the terms and conditions, but not the existence, of the Agreement shall be kept confidential and not disclosed to third parties; provided, however, that each party may disclose the terms and conditions of the Agreement: (i) to legal counsel of the Parties; (ii) in confidence, to accountants, banks and financing sources and their advisors; or (iii) in confidence, in connection with a merger or acquisition or proposed merger or acquisition or the like.

(d) **Mandatory Disclosures.** A party may disclose the other party's Confidential Information or the terms and conditions of the Agreement (i) as required by Law or Governmental Authority (including, by deposition, interrogatory, request for information or documents, subpoena, civil or criminal investigative demand); provided that to the extent permitted by Law prompt written notice thereof, and assistance in obtaining a protective order or otherwise preventing public disclosure of such information is provided to the other party, or (ii) in connection with the requirements of a public offering or securities filing; provided that a reasonable opportunity to review and comment on the disclosure is provided to the other party.

(e) **Benchmarking.** Customer agrees that it will obtain IPC's prior written approval to disclosing to any third party the results of any benchmark, performance or penetration tests (whether conducted by IPC or the Customer) of the Cloud Services.

### 13. Customer Data

13.1. **Roles.** For the purposes of this Agreement IPC is the Processor, processing Personal Data on behalf of the Customer in connection with the Services, and the Customer is the Controller in relation to any Personal Information processed by IPC in connection with the Services.

13.2. **Data Processing Details.** The details of the data processing under this Agreement are contained in Annex 1, which sets out the subject matter and duration of the processing, the nature and purpose of the processing, the type of Personal Data and categories of Data Subjects.

13.3. **Customer Instructions.** IPC will process Personal Information only in accordance with the Customer's instructions. The parties acknowledge that this Agreement constitutes the Customer's instructions in relation to processing of Personal Data.

13.4. **Access and Confidentiality.** IPC (i) will not access Customer Data other than as reasonably necessary to perform its obligations under the Agreement; (ii) will not use Customer Data beyond the scope authorized by Customer pursuant to Section 6.5; and (iii) will disclose Customer Data only to its employees, subcontractors and suppliers who need to know the Customer Data for purposes of the Agreement and are bound by confidentiality and security obligations not less restrictive than those contained in this Section 13. Notwithstanding the foregoing, IPC may disclose Customer Data as required by Law or Governmental Authority (including, by deposition, interrogatory, request for information or documents, subpoena, civil or criminal investigative demand) provided that, to the extent permitted by Law, prompt written notice thereof and reasonable assistance in obtaining a protective order or otherwise preventing public disclosure of such information is provided to Customer.

13.5. **Data Security Measures.** IPC will implement and maintain appropriate technical and organizational measures intended to protect against unauthorized access, loss or disclosure of Personal Data, including at a minimum the measures set forth in the Unigy 360 Security Overview in effect as of the effective date of the applicable Order, which may be revised by IPC from time to time as long as IPC's commitments are not materially reduced during the Term. Customer is responsible for compliance with its obligations under applicable data protection laws, including without limitation, obtaining any consents from Data Subjects as may be required by law and maintaining the security of login credentials, security keys and the correct configuration of access control lists.

13.6. **Data Breach Notification.** If IPC discovers or is notified of a breach of security (as defined below), IPC will (i) promptly notify Customer as required by applicable Law and (ii) take commercially reasonable measures to address the cause of the breach of security in a timely manner (iii) provide reasonable assistance to the Customer to the extent necessary for the Customer to comply with its obligations regarding breach notification requirements under applicable data protection laws, only to the extent Customer cannot comply with such requirements by other means. The term "breach of security" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized access Personal Data transmitted, stored or otherwise processed by IPC or a subcontractor. Customer will immediately notify IPC of any suspected or actual unauthorized access or breaches of security with respect to the Cloud Services of which Customer becomes aware, whether through Customer logins or otherwise. IPC will have no liability for any breach of security caused or contributed to by any acts or omissions of Customer, including any damages of any kind incurred as a result of such acts or omissions.

13.7. **Data Location.** Unless otherwise specified in the Order, Customer agrees that IPC may process and store Customer Data anywhere IPC or its agents or Affiliates maintain facilities. To the extent that Customer and/or Customer Affiliates are located within the European Economic Area ("EEA"), and any Personal Data is transferred in connection with the Services outside of the EEA to a jurisdiction which

is not recognized by the European Commission as providing an adequate level of protection for personal data, Customer may enter into standard contractual clauses with IPC.

**13.8. Return of Deletion of Personal Data.** IPC shall delete or return to the Customer all Personal Data upon the Customer's request or on termination or expiry of this Agreement, unless IPC is required by law to retain such Personal Data.

**13.9. Subcontractors.** Customer acknowledges and agrees that IPC may use subcontractors in connection with provision of the Cloud Services, which includes the processing of Customer Data by such subcontractors. Subcontractors will only be allowed to process Customer Data to the extent necessary to provide or maintain the Cloud Services, and subcontractors will not be permitted to process Customer Data for any other purpose. IPC remains responsible for any acts or omissions of a subcontractor which cause IPC to be in breach of its obligations under this Section 13. IPC will enter into a written agreement with any subcontractors with access to Customer Data which require the subcontractor to comply with contractual obligations no less protective than those set out in this Section 13. For the avoidance of doubt, this section 13.9 shall constitute IPC informing the Customer for the purposes of Article 5(h) of the European Commission Standard Contractual Clauses.

**13.10. Data Subject Requests.** Customer is responsible for responding to requests from Data Subjects under applicable data protection laws in relation to Personal Data processed in connection with the Cloud Services under this Agreement. IPC will promptly notify Customer if it receives any such requests from Data Subjects, and Customer will remain responsible for responding to such requests.

To the extent necessary to facilitate the Customer's compliance with its obligations under applicable data protection laws in connection with Data Subject requests, IPC will: (a) provide Customer with the facilities to correct, delete or block Personal Data as part of the Cloud Service or IPC will correct, delete or block Personal Data as reasonably requested by the Customer (to the extent such facilities are not available to the Customer as part of the Cloud Services); (b) provide reasonable assistance to make Personal Data available to the Customer in relation to a Data Subject access request (to the extent Customer does not already have access to such data as part of the Cloud Service); (c) allow Customer to extract Personal Data to comply with data portability requests under applicable data protection laws.

**13.11. Data Protection Impact Assessments.** IPC will provide reasonable assistance to the Customer to the extent necessary for the Customer to comply with its obligations under applicable data protection laws regarding data protection impact assessments which relate to the Cloud Services provided by IPC to the Customer under this Agreement. IPC is only required to provide such reasonable assistance to the extent the Customer cannot comply with obligations regarding data protection impact assessments under applicable data protection laws through other means.

**13.12. Customer Content.** Customer is solely responsible for the information it or its Users transmit or receive and for complying with all applicable Laws.

**13.13. Call and Data Recording Features.** Notwithstanding any other applicable provisions or prohibitions of use set forth in the Agreement, Customer acknowledges that the Laws regarding the notice, notification and consent requirements applicable to recording conversations and data vary by jurisdiction. Unless otherwise provided in the Order, Customer acknowledges and agrees that (i) it will be solely responsible for complying with all applicable Laws when using call and data recording features; (ii) IPC expressly disclaims all liability regarding Customer's recording of any conversations and data utilizing the Services; and (iii) IPC will have no liability for, and Customer will indemnify IPC from and against all costs, losses, liabilities and expenses arising out of or related to recording or failing to record or retrieve any telephone conversations using the Services.

## 14. Disaster Recovery and Business Continuity

IPC has and throughout the Term will have in place a reasonable business continuity plan designed to minimize the impact of disruptions to the Cloud Services, provide coordinated responses to

potential or actual disruptions and coordinate restoration activities once a disruption has ended. Such plan includes reasonable disaster backup and recovery plans for IPC's critical information technology infrastructure (data centers, hardware, software, power systems, etc.) and critical voice, data communications links and plans to restore production capability. If IPC is unable to, or is likely to become unable to, provide Services for any reason, including physical damage to equipment and/or facilities, equipment or software malfunction, telecommunications links and devices or software failure, IPC will take reasonable commercial efforts to promptly notify the appropriate personnel of Customer of the actual or potential incident or outage.

## 15. General

15.1. **Construction.** Notwithstanding IPC's acknowledgment of receipt or acceptance of a purchase order issued by Customer, any term or condition in any such purchase order that conflicts with the Agreement will be void and of no effect. No canon of construction will be used to construe any provision of the Agreement against one party over the other.

15.2. **Amendments.** Except as specifically provided in these Terms and Conditions, amendments to the Agreement will not be effective unless they are in writing and signed on behalf of both parties.

15.3. **Notices.** All notices under the Order and Terms and Conditions will be in writing (writing will include letter, fax and email). Notices will be sent to the address of the recipient set out in the Agreement marked for the attention of the Vice President of Legal Affairs or similar position or to such other address as either party will notify to the other under this Section. A letter may be delivered by hand or first class pre-paid letter and will be treated as having been delivered if sent by hand when delivered and if by first class mail 48 hours after posting. A fax or email will be treated as having been delivered on the next working day after the transmission provided that a copy of the fax or email was sent by first class post on the day of the transmission.

15.4. **Force Majeure.** Except for the obligation to pay money, neither party will be liable for any act or omission caused by any event outside its reasonable control, including but not limited to acts of God, fire, lightning, explosion, war, terrorism, disorder, flood, industrial disputes, severe weather, acts of any local or central governments including but not limited to acts which change any telecommunications or financial services regulations, and acts of other competent authorities, any declaration to IPC by one of its suppliers of a force majeure event, and any delay caused by any act, omission or default of the other party or public telephone companies and telecommunications companies (a "Force Majeure Event").

15.5. **Entire Agreement.** The Agreement constitutes the parties' entire agreement regarding its subject matter, and supersedes all prior agreements and understandings, both written and oral, between the parties with respect to that subject matter. For the avoidance of doubt, any agreement between the parties relating to IPC's Alliance systems or UNIGY System will continue to govern the related products and services as applicable, whether purchased or delivered before or after the date of the Agreement. Each party acknowledges that, in entering into the Agreement, it has not relied on any representation made by the other party not set out in the Agreement and agrees that it will not try to rely on any representation made by the other party unless the representation concerned is contained in the Agreement.

15.6. **Waiver.** Neither party's failure to exercise any right under the Agreement will be construed as a waiver, nor will any single or partial exercise of any such right preclude any other or further exercise of any right, power or privilege.

15.7. **Assignment and Subcontracting.** Subject to the following, the Agreement will bind and inure to the benefit of each party's successors and permitted assigns.

(a) **By Customer.** Customer may not assign its rights or delegate or subcontract its duties under the Agreement either in whole or in part without the prior written consent of IPC. If IPC

grants such consent, no assignment will be valid unless Customer has (i) delegated all of its obligations under the Agreement to the assignee; (ii) obtained from the assignee an unconditional written assumption of all such obligations; (iii) provided IPC a copy of the assignment, delegation and assumption; and (iv) transferred physical possession of all Equipment and all associated Software and Documentation to the assignee (or destroyed any copies thereof that are not being transferred as part of the assignment). Customer will bear joint and several liability for the performance of the assignee's obligations toward IPC (or its concerned Affiliate). Any attempted assignment, delegation or subcontracting without such consent will be void and a material breach of the Agreement.

(b) **By IPC.** IPC may assign the Agreement in whole to an entity that succeeds to all or substantially all of its business or assets to which the Agreement relates, and will notify Customer of any such assignment. IPC may delegate or subcontract the performance of any of its obligations under the Agreement, provided that IPC shall remain responsible for any act or omission of such delegate or subcontractor in the performance of such obligations.

15.8. **Marketing and Publicity.** Customer grants IPC the perpetual right to include Customer's name in IPC's marketing materials published through any medium including, but not limited to, IPC's website, press releases and case studies issued by IPC regarding Customer's use of the Cloud Services.

15.9. **Nonsolicitation.** Customer, for the duration of the Agreement and for six (6) months following termination or expiration, will not directly or indirectly induce or attempt to induce any employee of IPC or any of its Affiliates engaged in the provision, receipt, review or management of the Equipment or Services to leave the employment of IPC. Nothing in this Section will preclude Customer from publishing or otherwise making general solicitations of employment not specifically directed towards IPC personnel or hiring IPC personnel because of such general solicitation.

15.10. **Third Party Beneficiaries.** Except as specifically set forth in Section 4.3(b), the Agreement is being made and entered into solely for the benefit of the parties hereto, and no party intends to create any rights in favor of any other person as a third party beneficiary of the Agreement or otherwise.

15.11. **Export Controls.** IPC is subject to regulation by agencies of the U.S. government, including but not limited to the U.S. Department of Commerce and by similar agencies of other governments, which prohibit export, re-export or diversion of certain products and technology to certain countries. Customer agrees to comply with the export control regulations of such agencies and to cooperate reasonably with IPC in such compliance. Customer's failure to perform its obligations under this Section will be deemed a material breach of the Agreement.

15.12. **Severability.** If any provision of the Agreement is held for any reason to be ineffective or unenforceable, then (i) such provision or portion thereof shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable Law and (ii) the remaining terms, provisions, covenants and restrictions of the Agreement shall remain in full force and effect.

15.13. **Risk Allocation.** Customer acknowledges that the limited warranties, disclaimers and limitations of liability contained in the Agreement set forth an allocation of risk reflected in the fees and payments due under the Agreement.

15.14. **Independent Contractors.** Customer and IPC act as independent contractors and under no circumstances will any of the employees of either be deemed employees of the other for any purpose. The Agreement will not be construed as authority for either party to act for the other party as agent or any other capacity, or to make commitments of any kind for the account of or on behalf of the other except to the extent and for the purposes provided by the Agreement. This execution of the Agreement will create no joint venture, partnership, employment, agency or other relationship except for seller and purchaser of the Services.

**15.15. Choice of Law; Venue; Arbitration.**

(a) **Choice of Law.** Unless otherwise provided in the Order, the Agreement will be governed by and interpreted under the Laws of the State of New York without regard to conflicts of laws principles. Neither the Uniform Computer Information Transactions Act nor the United Nations Convention on Contracts for the International Sale of Goods (UNCCISG) will apply to the Agreement.

(b) **Venue.** Except as set forth in Section 15.15(c) or as may otherwise be provided in the Order, all disputes related to the Agreement will be submitted to state or federal courts in the State of New York; alternatively, if such New York courts do not accept jurisdiction, disputes will be submitted to state or federal courts in the State of New Jersey. Each party consents to the jurisdiction of such courts and waives any objection it may have regarding venue.

(c) **Arbitration.** At IPC's option, any dispute related to the Agreement will be finally settled by binding arbitration in New York, New York, under the Rules of Arbitration of the International Chamber of Commerce by one (1) arbitrator appointed in accordance with said rules. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

**15.16. Injunctive Relief.** Each party agrees that in the event of a breach or alleged breach of Sections 4 or 12, the other party may not have an adequate remedy at law, including monetary damages, and that the other party shall consequently be entitled to seek a temporary restraining order, injunction or other form of equitable relief against the continuance of such breach, in addition to any and all remedies to which such other party shall be entitled. Notwithstanding Section 15.15, application for such relief may be made in any court of competent jurisdiction.

**15.17. Language.** This Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall not be binding on the parties hereto. All communications and notices to be made or given pursuant to the Agreement shall be in the English language.

**15.18. Counterparts.** The Agreement may be executed in multiple counterparts and delivered by electronic transmission, and each counterpart will be deemed an original but all of which will constitute one and the same instrument.

## **Annex 1**

### **Categories of Data Subjects**

Data subjects may be the Customer's own customers, employees or end-users.

### **Subject-matter of the Processing**

To provide the Cloud Services to the Customer as requested by the Customer from time to time.

### **Nature and purpose of the Processing**

The processing, including without limitation storage, usage and deletion of Customer Data by Customer in connection with the Cloud Services provided by IPC to the Customer.

### **Type of Personal Data**

Any Personal Data uploaded by the Customer to the Cloud Services from time to time.

### **Special categories of Personal Data (if relevant)**

Any sensitive Personal Data uploaded by the Customer to the Cloud Services from time to time

### **Duration of Processing**

IPC will process Personal Data for the duration of the Agreement, and post termination to the extent required by applicable law.