

AVANADE PURCHASE ORDER TERMS AND CONDITIONS (“Terms and Conditions”)  
(Applies to all Avanade Issued Purchase Orders in the United States and Canada)

THESE TERMS AND CONDITIONS AND THE PURCHASE ORDER TO WHICH THEY ARE ATTACHED (“PURCHASE ORDER” AND THE STATEMENT OF WORK (“SOW”) ATTACHED THERETO, IF ANY, THE TERMS AND CONDITIONS TOGETHER WITH THE PURCHASE ORDER AND SOW REFERRED TO AS THE “AGREEMENT”) SET FORTH THE ENTIRE UNDERSTANDING BETWEEN AVANADE INC., A WASHINGTON CORPORATION (“AVANADE”) AND THE COMPANY SET FORTH ON THE PURCHASE ORDER (“VENDOR” OR “SUPPLIER”) WITH RESPECT TO THE PERFORMANCE OF SERVICES (“SERVICES”) AND/OR THE FURNISHING OF GOODS (“PRODUCTS”) DESCRIBED ON THE PURCHASE ORDER. THESE TERMS AND CONDITIONS AND PURCHASE ORDER SUPERSEDE ALL PRIOR AGREEMENTS, ARRANGEMENTS AND COMMUNICATIONS, WHETHER ORAL OR WRITTEN, INCLUDING ANY TERMS OF SERVICE, TERMS OF USE, OR CLICK-THROUGH TERMS, REGARDING THE PRODUCTS AND SERVICES.

THIS AGREEMENT WILL CONTROL OVER ANY DIFFERENT TERMS OR CONDITIONS CONTAINED IN ANY QUOTE, QUOTATION, INVOICE, ACKNOWLEDGEMENT FORM OR OTHER DOCUMENT ISSUED BY VENDOR (“VENDOR COMMUNICATION”). ANY ADDITIONAL TERMS IN A VENDOR COMMUNICATION ARE HEREBY REJECTED BY AVANADE AND SHALL NOT BE BINDING ON AVANADE UNLESS SPECIFICALLY AGREED TO IN A WRITING THAT EXPRESSLY REFERENCES SUCH TERMS THAT IS SIGNED BY AVANADE’S AUTHORIZED REPRESENTATIVE. AVANADE’S SIGNATURE ON ANY VENDOR COMMUNICATION WILL NOT CONSTITUTE SUCH A WRITING. AVANADE’S FAILURE TO OBJECT TO TERMS CONTAINED IN ANY VENDOR COMMUNICATION WILL NOT BE A WAIVER OF ANY TERM OF THIS AGREEMENT OR AN ACCEPTANCE BY AVANADE OF ANY TERM IN A VENDOR COMMUNICATION. VENDOR SHALL NOT CONDITION ANY DELIVERY OR COMMENCEMENT OF PERFORMANCE UPON THE ABROGATION OR MODIFICATION OF ANY OF THE TERMS AND CONDITIONS INCLUDED IN THIS AGREEMENT.

THE PURCHASE ORDER WILL BE DEEMED ACCEPTED BY VENDOR IF VENDOR DOES NOT REJECT IT WITHIN 3

BUSINESS DAYS (MONDAY THROUGH FRIDAY OTHER THAN US FEDERAL HOLIDAYS) OF RECEIPT, IN WRITING AND WITH SPECIFICITY.

1. **Scope.** The Products and/or Services are purchased by Avanade in conjunction with Avanade’s and its Affiliates’ (defined below) business purposes, which may include use in the provision of services to its third-party customers or any of Avanade’s Affiliates’ third-party customers (“Clients”). If this Purchase Order is issued by Avanade as a blanket order, Avanade shall purchase only those quantities of Products or Services that it specifically requests under separate subsequent release orders issued by Avanade to Vendor. Vendor acknowledges and agrees that this Purchase Order is a nonexclusive agreement, and Avanade reserves the right to obtain the same or similar Products or Services through third parties. Moreover, Vendor understands it has no authority to bind Avanade in any contractual arrangement with any third party. For purposes of this Agreement, “Affiliate” shall mean any entity that directly or indirectly controls, is controlled by, or is under common ownership or control with the applicable party, with “control” meaning ownership of 50% or more of the voting equity interests, or the power to otherwise direct the affairs of the applicable entity.
2. **Rights in Software Products.** Vendor grants to Avanade an irrevocable, nonexclusive, worldwide, perpetual, royalty-free, and fully paid up right and license to install and use copies of the Software (defined below) for the business purposes of Avanade and its Affiliates and in the provision of services to Avanade’s Clients. “Software” shall mean any software and documentation identified in or associated with the Products or Services described herein or in any attachment made part of this Agreement. Unless specifically stated in the Purchase Order, this license is not subject to any limitations, including but not limited to number or identity of users, models or capacity of processors, location of use or installation. Avanade



shall be entitled to host and/or support data of its Clients using the Software (and any associated Products or Services, as applicable) in the US. Avanade shall be entitled to use the Software (and any associated Products or Services, as applicable) on its own behalf or on behalf of Clients in a third party owned data center.

3. Ownership of Deliverables and Confidential or Proprietary Information. All new materials prepared or created by Vendor and/or its agents or contractors for Avanade pursuant to this Agreement and the conceptual content thereof (collectively, "Deliverables"), will be considered "works made for hire" and will be owned exclusively by Avanade, and pursuant to the Copyright Act, Avanade will be the author of such Deliverables. If any such Deliverables may not be considered a "work made for hire", Vendor hereby irrevocably assigns and will assign to Avanade all intellectual property rights in such Deliverables. To the extent, if any, that the foregoing does not provide Avanade with full ownership, right, title, and interest in and to the Deliverables, Vendor hereby grants Avanade an exclusive, perpetual, irrevocable, fully-paid, royalty-free, worldwide license to reproduce, create derivative works from, distribute, publicly display, publicly perform, use, make, have made, offer for sale, sell or otherwise dispose of, and import the Deliverables, with the right to sublicense each and every such right. Where applicable, Vendor forever waives all moral rights with respect to the Deliverables. Vendor will acquire from its employees and agents or contractors who may carry out or assist with any Services under this Agreement or otherwise contribute to such Deliverables all such rights as may be necessary so that Avanade will receive the rights hereby agreed to be conveyed and vested in it, free of any claims of such employees, agents and contractors. Vendor will execute such documents, and provide such assistance as Avanade may reasonably request to give full effect to the provisions of this paragraph (at Avanade's expense). Vendor warrants that it holds the rights, title and interest necessary to convey the rights, title and interests conveyed in this paragraph. Vendor

acknowledges and agrees that the Deliverables are Avanade Confidential Information.

As between Vendor and Avanade, any part of any Avanade property that Avanade provides to Vendor, including without limitation, software, technology documentation, diagrams, reports, flow charts, other works of authorship, technology logic, technology architecture, formulae, algorithms, inventions and invention disclosures, ideas, improvements, techniques, know-how, proprietary information, methodologies, and trade secrets (collectively, "Avanade Property") or otherwise obtained by Vendor, will at all times remain the property of Avanade, its Clients or its suppliers. Avanade hereby grants to Vendor a non-assignable, non-exclusive, non-sublicensable, royalty-free, worldwide license to use, copy, display and modify the Avanade Property solely as necessary to provide the Services. Vendor will have no other rights in such Avanade Property other than the limited right to use such property or for the purposes expressly set forth herein. Except as expressly set forth in this Agreement, nothing in this Agreement will be construed to grant Vendor any ownership right or license in any Avanade Property. Vendor shall use such property at its own risk and shall be responsible for all losses of or damage to said property while in Vendor's custody. Vendor shall maintain all such property in good condition and repair and Avanade makes no warranties or representations, express or implied, of any nature with respect to such property and Avanade expressly disclaims the warranties of merchantability and fitness for a particular purpose. Vendor acknowledges that all parts and materials supplied by Avanade to Vendor to be used in producing the Products or performing the Services have been received in good condition and will be used only for performing this Agreement.

4. Pricing, Invoicing and Payment. The pricing stated in the Purchase Order includes all charges and costs to be borne by Avanade for the Products and Services. The Purchase Order shall not be filled at higher prices than specified unless such increased prices have been authorized in a writing signed by an authorized



representative of Avanade. If price terms are omitted from the Purchase Order, the price of the Products Goods and Services shall be the lower of: (a) the price last quoted by Vendor; (b) the last price paid by Avanade to Vendor for like goods and services; or (c) the prevailing market price at the time of shipment. Any pass-through costs or expenses must be pre-approved by Avanade in writing in order for Vendor to receive reimbursement for such costs and expenses. Avanade will not pay Vendor any mark-up, administrative or other fee in connection with the pass-through costs. Any equipment or tangible property or materials for which Avanade pays as a pass-through cost shall be owned by Avanade, and Vendor shall take those steps necessary to transfer or otherwise vest ownership in Avanade unless Avanade agrees otherwise in writing. Vendor represents and warrants that the price charged for the Products and Services ordered herein are not higher than those currently extended by Vendor to its other customers buying the same or similar Products and Services in equal or smaller quantities. If, before delivery of the Products or performance of the Services, Vendor reduces the prices for like Products or Services to one or more of its customers, the prices specified in this Purchase Order shall be likewise reduced. With respect to any price reduction applicable to Products, Vendor shall promptly grant Avanade a corresponding price reduction or account credit for the amount of the price reduction for each unit of affected Products obtained from Vendor which is in Avanade's inventory on the effective date of the price reduction. In the event that Vendor should increase the price charged for the Products or Services ordered, prior to the delivery thereof, Vendor will honor this Purchase Order at the prices quoted on the face of this Purchase Order or as provided in Section 4 as applicable. Unless otherwise mutually agreed by the parties in writing, Vendor shall not make material commitments or production arrangements in excess of any amount required to meet Avanade's requirements or in advance of the time reasonably required to meet Avanade's delivery schedule. Vendor shall meet Avanade's requirements and comply with Avanade's schedule. Avanade reserves the right to: (i) refuse or

return at Vendor's risk and expense shipments made in excess of Avanade's requirements or in advance of required schedules; or (ii) to defer payment on advance deliveries until Avanade's scheduled delivery dates.

Vendor may invoice for Products only upon shipment and Services only upon completion unless otherwise agreed. Payment is due Net 60 days after Avanade's receipt of an undisputed invoice, along with any documentation requested by Avanade.

5. Inspection and Acceptance. Avanade may inspect and test the Products and Services at any time at the place of manufacture, prior to shipment and upon receipt or at such time or place as it shall choose, notwithstanding its having paid for the Products and Services prior to inspection. Products and Services shall be subject to final inspection and acceptance at Avanade's or its Affiliates' facility. Payment for Products and Services ordered hereunder shall not constitute acceptance. Products and Services shall be deemed accepted by Avanade if Avanade has not given notice of rejection within a reasonable time after receipt of the Products at Avanade's facilities or performance of the Services (but in any event not less than thirty (30) days after receipt of the Products at Avanade's facilities or performance of the Services), except that no acceptance shall be deemed effective with respect to latent defects (whether or not known by the Vendor). The process of inspection shall neither be deemed to constitute acceptance of the Products and Services nor shall it be deemed a waiver of any of Avanade's rights and remedies under applicable law. Failure to inspect the Products and Services shall not be deemed to constitute: (a) acceptance of any Products and Services with latent defects; or (b) waiver of any of Avanade's rights or remedies arising by virtue of any defect or nonconformance. Avanade's failure to specify any defect or nonconformance in rejecting any or all of the Products and Services shall not prevent Avanade from relying on such defect or nonconformance to establish a failure of the Products and Services to conform to warranties specified in this Agreement, to generally accepted industry standards



for similar Products or to justify rejection. Vendor agrees to permit Avanade to have access to the Vendor's facilities at all reasonable times for the purpose of inspecting the Products or Services set forth in the Purchase Order or work in process for production of such Products or Services and/or audit including but not limited to audits necessary to comply with applicable laws or verification of any certifications required by Avanade.

6. **Packing, Marking and Shipping.** Vendor shall pack, mark and ship all Products and Deliverables in compliance with all applicable transportation regulations and laws, good commercial practice, and in a manner adequate to insure the safe arrival of the Products and Deliverables at the named destination. Unless expressly noted on the Purchase Order, no separate or additional charges shall be payable by Avanade for containers, crating, boxing, bundling, dunnage, storage or similar procedures. Any expense incurred by Avanade as a result of improper preservation, packing, packaging, marking or method of shipment shall be reimbursed by Vendor. An itemized packing list showing the Purchase Order number, Vendor part number and quantity shipped shall be included with each shipment and each container shall be marked to show the Purchase Order number.
7. **Delivery and Cancellation.** The terms, choice of carrier and routing of shipment shall be as specified on the face of this Purchase Order or as Avanade otherwise directs. If not set forth on the Purchase Order or Avanade does not so direct, then Vendor shall select the carrier and routing so as to meet the delivery dates set forth in the Purchase Order. Avanade may revise shipping instructions as to any unshipped Products. Vendor will deliver the Products or provide Services on the applicable date set forth in the Purchase Order, or, if no date is specified, within 10 calendar days of the date of the Purchase Order. Time is of the essence under this Agreement. Vendor will notify Avanade promptly of potential shortages or delays of more than 3 business days, at which time Avanade reserves the

right to cancel such Products or Services without penalty.

During the performance of the Purchase Order, Vendor shall not make any changes in the design, material, process, procedures or practices affecting Products to be furnished or Services to be performed to be furnished by Vendor hereunder without the prior written consent of Avanade.

If Vendor fails to make complete delivery as provided herein, Avanade reserves the right to cancel the Purchase Order, in whole or in part, and to charge Vendor for any additional costs or expenses incurred in the replacement of such Products or Services. Avanade may issue an alteration to the Purchase Order at any time (to the extent delivery or performance has not occurred), in whole or in part, effective upon Vendor's receipt of written notice from Avanade, without penalty or charge. If any alterations materially affect the cost of furnishing the Products or Services, the price of the Products or Services, or the delivery schedule of the Products or Services, an equitable adjustment mutually agreeable to the parties shall be made by Avanade. Vendor shall present claims for adjustment in writing within 5 business days (or such other time period as may be agreed upon by the parties in writing) of receiving Avanade's change notice or any such claim by Vendor for such adjustment shall be deemed waived. Price increases or extensions of time for delivery shall not be binding on Avanade unless evidenced by an authorized change order to the Purchase Order approved by Avanade's authorized purchasing agent. Further, Avanade may terminate the Purchase Order for convenience at any time, in whole or in part, by written, electronic, or facsimile notice. In the event the Purchase Order is terminated by Avanade, (i) Vendor's sole and exclusive remedy will be to receive payment of all unpaid and undisputed fees and reimbursement of all unpaid authorized expenses, if any, that are incurred prior to the termination date, and (ii) Avanade will be entitled to a refund pro-rata or in full of any payments and any credits for Services which were not performed or delivered. Upon termination, Vendor and Vendor's



agents and contractors will (a) cease all activity on the Purchase Order's Services, (b) promptly return without cost to Avanade any Confidential Information of Avanade, any Avanade Property, and any other non-confidential documents and materials that were received from Avanade pursuant to this Agreement, as applicable, in tangible, electronic, magnetic, laser, or other form, and copies made thereof, other than signed copies of this Purchase Order, and (c) deliver any partially completed or completed and not yet delivered Deliverables and related licensed pre-existing materials, if any, to Avanade. Avanade's performance hereunder shall be excused if rendered impossible or "impracticable". "Impracticable" shall have the same general meaning as in Section 2615 of the Washington Commercial Code.

8. Quantity. Vendor may supply only the quantity stated on the face hereof, notwithstanding any trade custom to the contrary. Any excess shall be returnable at Vendor's expense but Avanade shall neither be required to return such excess nor shall Avanade be liable for the care of any excess or for its value or for any damage resulting to such excess. Avanade's count shall be accepted as correct as to the quantity received.

9. Title and Risk of Loss. Unless otherwise specified on the face of this Purchase Order, all Products shall be shipped F.O.B destination to Avanade's designated location or locations, with all customs, duties, taxes, freight, insurance and other costs and expenses relating to the transportation and delivery of the Products being paid by Vendor. Title to Products will pass to Avanade upon delivery. All risk of loss of, or damage to, the Products will be borne by Vendor until receipt of delivery of such Products. Vendor agrees to provide replacement of items lost or damaged in transit, at no additional charge, within 3 business days of receipt of notice from Avanade. Vendor assumes full responsibility for packing, crating, marking, transportation and liability for loss and/or damage even if Avanade has agreed to pay freight, express or other transportation charges. Avanade reserves the right to refuse C.O.D. shipments.

10. Taxes. Applicable taxes will be billed as a separate item or line item. Avanade will pay sales, use, value added, goods and services, and all other similar taxes imposed by any federal, state, or local governmental entity for items and/or services provided under this Agreement, excluding taxes based solely on Vendor's income or property. Avanade will pay such tax(es), provided that Vendor itemizes them on a proper VAT, GST or other invoice. Any taxes paid on behalf of Avanade by Vendor will be uniquely identified on the applicable invoice and Vendor will provide Avanade with proof of payment if previously paid by Vendor. Vendor will indemnify and hold Avanade harmless from any interest or penalties imposed on Avanade because of Vendor's improper payment of any taxes on Avanade's behalf. If Avanade is required to withhold or deduct any taxes from any payment, Avanade will not be required to "gross up" the amount of such payment and will pay the total amount reflected on the invoice less the applicable withholding taxes. The parties will cooperate in good faith to minimize taxes to the extent legally permissible. Each party will provide and make available to the other party any resale certificates, treaty certification and other exemption information reasonably requested by the other party.

11. Warranties. Vendor represents and warrants that:

a. Vendor has the full right, power and authority to enter into and perform its obligations according to the terms of this Agreement.

b. The Products, Services and Deliverables as furnished to Avanade will not infringe any copyright, patent, trade secret, trademark, or other intellectual property or proprietary right held by any third party.

c. The Products and Deliverables will be transferred by Vendor to Avanade with full right, title and interest in and to the Products and Deliverables, free and clear of all liens and encumbrances. Vendor has good, valid and marketable title to the Products.



d. The Services will be performed by appropriately trained, experienced and skilled personnel in a professional and workmanlike manner in accordance with industry standards. Further, the Deliverables will substantially comply with the description, specifications, requirements and/or expectations set forth herein for a period of one (1) year following acceptance. In the event of a failure by Vendor to comply with the foregoing warranties, Vendor will re-perform the nonconforming portion(s) of the Services or Deliverables at no extra charge; however, in the event that Vendor is unable to cure any noncompliance within a reasonable period of time not to exceed thirty (30) days then, at Avanade's option, Vendor will refund the fees and expenses paid by Avanade for the nonconforming portion(s) thereof.

e. Vendor will ensure that the Services, the Deliverables, and Vendor's performance of its obligations under this Purchase Order are in compliance at all times with all applicable federal, state, provincial, local and foreign laws, rules, regulations, standards, policies and guidelines. Vendor assumes all responsibility for providing to its employees any training that may be required to insure compliance with such laws and agrees to immediately remove upon Avanade's request any of its employee who fail to comply with such policies, laws, and regulations.

f. Vendor will not, either directly or indirectly, solicit work from Avanade's clients, when knowledge of the work opportunity is the direct result of this Purchase Order.

12. Losses Caused by Vendor. Vendor agrees that at all times that it and/or its employees or agents (including independent contractors, consultants and subcontractors) are present on Avanade's or its Affiliates' premises or using any Avanade or its Affiliates' property or resources that they shall comply with Avanade's or its Affiliates' instructions, directions and rules applicable to visitors and use of its facilities including, but not limited to, those relating to the safety and security of persons and Avanade's property

and intellectual property rights, appropriate use of technology, insider trading and prohibitions against harassment including sexual harassment. In the event that Vendor, its employees, agents or subcontractors at any time enter premises occupied by or under the control of Avanade or its Affiliates, Vendor shall indemnify and hold harmless Avanade and its Affiliates and their respective officers and employees from any loss, cost and expense (including reasonable attorneys' and expert witness fees), damage, expense or liability arising from, relating to or resulting from property damage, personal injury or death arising out of or in connection with the actions or omissions of Vendor, its employees, agents or subcontractors at any tier. Without in any way limiting the foregoing, Vendor shall maintain, and shall require its subcontractors at all times to maintain, public liability and property damage insurance in a reasonable amount but in no event less than \$1,000,000 of commercial general liability insurance coverage per occurrence to cover the obligations set forth in this Section 12 and shall maintain proper worker's compensation insurance covering all employees performing obligations under this Agreement. Vendor shall name Avanade and its Affiliates and their respective officers, directors, employees, agents as additional insureds under the required insurance. Vendor shall furnish certificates of insurance before providing products or services to verify that Vendor's coverage is provided by a reputable insurance carrier annually at policy renewal and upon Avanade's request. Such certificates shall include the required additional insured wording and state that Vendor's policies shall apply on a primary basis. If any of the foregoing insurance policies are cancelled or changed by Vendor or its insurer so as to affect the coverage required by these Terms and Conditions, Vendor shall notify Avanade in writing no less than thirty (30) days prior to such cancellation or change. Vendor shall cause its authorized subcontractors or assignees to maintain the same or substantially similar insurance coverage.

13. Indemnification. Vendor will indemnify, defend and hold harmless Avanade and its respective directors, officers, employees, contractors and agents, and



Affiliates (“Indemnified Parties”) from and against any claims, demands, losses, costs, expenses, damages or other liabilities of any nature (including reasonable attorneys’ fees and any of the foregoing related thereto) (“Claims”) arising from or relating to (a) any bodily injury, death, or property damage caused by the negligence or willful misconduct of Vendor, its employees, agents or contractors; (b) any Claims alleging that any Products or Deliverables received by Avanade pursuant to this Agreement, or any use thereof or exercise of rights hereunder with respect thereto by Avanade, infringes or misappropriates any intellectual property rights of any third party, or violates any personal right of any individual (an “Infringement Claim”); (c) claims that Vendor or any Vendor employee is in any relationship with Avanade other than that of an independent contractor; (d) claims that any Vendor employee is not an employee of Vendor; (e) claims by any employees, agents or contractors of Vendor for injuries or damages under workers’ compensation or similar acts; (f) claims by Vendor’s employees, agents or contractors for payment; (g) disclosure or exposure of Avanade Confidential Information caused by the acts or omissions of Vendor, its employees, agents or contractors; and (h) Vendor’s acts or omissions in breach of the express warranties in this Agreement and/or in violation of any applicable laws, regulations, or industry standards. If an injunction issues as a result of any Infringement Claim, Vendor agrees, at its expense, to either: (i) procure for Avanade and its Clients the right to continue using the Products or Deliverables, as applicable; (ii) replace such Products or Deliverables with noninfringing Products or Deliverables, having the same functionality, operating characteristics, compatibility and interoperability as the Products or Deliverables that are replaced; (iii) modify the Products or Deliverables so that they become noninfringing; or (iv) at Avanade’s option, refund to Avanade the amount paid for the Products or Deliverables.

14. Limitation of Liability. The limit of Avanade’s liability (whether in contract, tort, negligence, strict liability in tort or by statute or otherwise) to Vendor or to any

third party concerning performance or nonperformance by Avanade, or in any manner related to this Agreement, for any and all claims, regardless of the form of action, will not in the aggregate exceed the purchase price paid for the Deliverables, Products or Services involved in the transaction giving rise to the cause of action. EXCEPT AS OTHERWISE REQUIRED BY LAW, AVANADE WILL NOT BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, RELIANCE OR PUNITIVE DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCTS LIABILITY, OR OTHERWISE, EVEN IF AVANADE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15. Use of Names and Marks. All trademarks and trade names of each party are and will remain the exclusive property of such party. Neither party will acquire any right to the trademarks or trade name of the other party. Avanade will have the limited right to use Vendor’s trade name and trademarks in connection with the activities described in this Purchase Order. Vendor may not: (i) publicize this Purchase Order or its subject matter, (ii) state that any Product or Service has been approved or endorsed by Avanade or its Affiliates; or (iii) use the name, trade name, trademark or symbol of Avanade or its Affiliates on any list of Vendor’s customers, or in connection with any advertising or promotional materials or activities, or in other written, electronic, magnetic or laser media communications with or materials or products provided to third parties.
16. Non-Disclosure. Except for any license or other right expressly granted under these Terms and Conditions, each party retains all right, title and interest in or to any and all Confidential Information (as defined below) that it discloses to the other party under this Agreement. The party receiving Confidential Information (“Recipient”) will protect Confidential Information of the party disclosing Confidential Information (“Discloser”) against any unauthorized



use, dissemination and disclosure to the same extent that the Recipient protects its own Confidential Information of a similar nature against unauthorized use, dissemination or disclosure, but in no event using less than a reasonable standard of care. Recipient will use any and all Confidential Information of the Discloser solely to exercise its rights and perform its obligations hereunder. This Section will not be interpreted to prohibit any use or disclosure by the Recipient made with the written consent of the Discloser. Recipient may disclose Confidential Information of the Discloser to the extent required by applicable law, provided that Recipient provides advance notice thereof as reasonably practicable so as to afford Discloser an opportunity to oppose or otherwise limit such disclosure. "Confidential Information" means any trade secrets, Avanade Client information, or other confidential and/or proprietary information that is disclosed by one party to the other party under this Agreement that is: conspicuously marked or otherwise identified as confidential or proprietary upon receipt by Recipient; or, Recipient otherwise knows or has reason to know that the same is Confidential Information of Discloser. Confidential Information may be of a technical, business or other nature. However, Confidential Information does not include any information that: (a) was known to Recipient prior to receiving the same from the Discloser; (b) is independently developed by or for Recipient without use of or reference to the other party's Confidential Information; (c) is acquired by Recipient from a third party which was not, to the Recipient's knowledge, under an obligation not to disclose such information; or (d) is or becomes publicly available through no breach of these Terms and Conditions.

17. Alliance Relationships: Avanade is partially owned by Microsoft and Accenture and has a close alliance with Microsoft, which is also Avanade's primary vendor. Vendor acknowledges that Avanade works closely with Microsoft on marketing and technical matters to promote solutions using the Microsoft platform, and may receive compensation or other benefits in

connection with the development, promotion or sales of products and services.

18. Non-Waiver. A waiver of any term or condition of this Purchase Order by either party does not constitute a subsequent waiver of such term or condition or any other.
19. Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions of this Agreement will continue in full force and effect.
20. Independent Contractors. In connection with this Purchase Order, Vendor is an independent contractor in relation to Avanade. This Purchase Order creates no agency relationship between Vendor and Avanade. Vendor will be solely responsible for all employment taxes and employee benefits including: (a) paying all wages and other compensation to Vendor employees; (b) withholding and payment of federal and state individual income tax, FICA, FUTA and other taxes and applicable amounts with respect to payments made to Vendor's employees; (c) making any overtime payments to Vendor's employees if required by law or regulations; (d) offering minimum essential coverage that provides minimum value and is affordable to all Vendor employees who work full-time in compliance with the Patient Protection and Affordable Care Act ("PPACA"). To the extent that a government agency determines that Avanade is responsible for an assessable payment or excise tax penalty under the employer shared responsibility provisions of PPACA as a result of a Vendor employee not being offered minimum essential coverage that provides minimum value and is affordable, Vendor shall reimburse Avanade for the amount Avanade was required to pay; and (e) providing all other employment related benefits to Vendor's employees.
21. Export Compliance. Vendor will comply with all applicable export control and economic sanctions laws and regulations of the United States and other governments in the performance of this agreement





and in the import, export, re-export, shipment, transfer, use, operation, maintenance, or repair of Products and any related technical data and services (collectively, "Trade Control Laws"). Prior to providing Avanade any goods, software or technical data subject to export controls, Vendor shall provide written notice to Avanade specifying the nature of the controls and any relevant export control classification numbers. Avanade may decline to receive goods, software, services and/or technical data subject to export controls at a level other than EAR99/AT, or to obtain other relief from Vendor. Notwithstanding any of other provisions of this Agreement, violation by Vendor of the Trade Control Laws will render this Agreement immediately terminable in Avanade's sole discretion upon notice by Avanade.

22. Assignment. This Agreement and Vendor's rights or duties arising hereunder neither may be assigned, nor may the work contemplated be subcontracted, without Avanade's prior written consent.

23. Vendor Standards of Conduct. Avanade is committed to conducting its business free from unlawful, unethical or fraudulent activity. Vendor is expected to act in a manner consistent with the ethical and professional standards of Avanade as described in the Avanade Supplier Standards of Conduct, including, without limitation: (i) ensuring that all invoices supplied and services performed, including expenses incurred comply with Avanade's Code of Business Ethics; and (ii) prompt reporting of unlawful, fraudulent or unethical conduct. A copy of the Supplier Standards of Conduct can be found at: <http://www.avanade.com/en-us/Pages/code-of-ethics.aspx>. Avanade has established reporting mechanisms and prohibits retaliation or other adverse action for reporting violations of these standards. To report a serious concern, please call the Avanade Business Ethics Line at +1 312 737 8262, available 24 hours a day, 7 days a week (the charges can be reversed). Vendor should use the Ethics Line only to make a good faith claim. Avanade takes all allegations seriously.

24. Governing Law. This Agreement is governed by and interpreted in accordance with the laws of the State of Washington as applied to agreements negotiated, entered into, and performed entirely within Washington between Washington residents, without regard to principles of conflict or choice of law. The U.S. federal and state courts of the State of Washington located in King County shall have sole and exclusive jurisdiction and venue to adjudicate over any actions related to the subject matter of this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

25. Order of Precedence. To the fullest extent possible, the Terms and Conditions, Purchase Order, and SOW shall be interpreted so as to be consistent with each other. In the event of any inconsistencies between and among such documents, or any modifications, whether in substance or import, the order of precedence will be in the order listed below, in descending order with the controlling agreement listed first:

- a. Terms and Conditions
- b. Change Requests to the SOW
- c. SOW
- d. Purchase Order

26. Survivability. The provisions of this Agreement, which by their nature survive termination or expiration, including but not limited to Sections 2, 3, 5, 7, 9, 11, 13, 14, 15, 16, 18-22 and 23 shall survive termination or expiration of this Agreement.

