

Introduction

CAMMS Group Inc. (“**CAMMS**”) develops, implements and supports world leading integrated solutions in risk, strategy, projects and people to help its clients make the right decisions, manage risks, align the talents of their organisation and focus on what matters.

This document (and the other documents referred to below) set out the terms on which CAMMS will provide its software solutions and related services to its Customers.

Version: 1.2 (USA)

Date: 9 January 2021

Agreement

1. Agreement Structure

- 1.1. These CAMMS Customer Master Terms (“**Master Terms**”) govern the provision of services by CAMMS Group Inc., a New York Corporation with an address at 510 5th Avenue, New York, NY 10035, to the CUSTOMER named in an executed Order Form (“**Customer**”), each a “Party,” and collectively, “the Parties.”
- 1.2. Details of the CAMMS products and services, fees, subscription duration, and specific license or subscription terms will be set out in Order Forms (defined herein) issued to the Customer organisation identified on the Order Form.
- 1.3. Each time the Customer signs an Order Form, it creates a separate binding agreement (**Agreement**) comprising: (a) that Order Form; (b) Schedule/s, as applicable; (c) any attachments to the Order Form or Schedule/s, as applicable; and (d) these Master Terms, effective as of the Order Start Date (the “**Effective Date**”). The documents listed in this Section 1.3 comprise the entire Agreement between the Parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and verbal. In the event of any conflict between the terms of the agreements listed in this Section 1.3, the Master Terms shall prevail unless expressly stated by CAMMS in another document comprising the Agreement.

2. Definitions

Terms defined in Clause 1 shall have the meanings ascribed to them in Clause 1 herein. In addition:

Account means a unique account established by Customer to enable its Authorized Users to access and use the CAMMS Software.

Account Administrator is an Authorized User who is assigned and expressly authorized by Customer as its agent to manage Customer’s Account.

Affiliates means any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control of CAMMS or Customer.

Agreement Term is defined in Clause 13.1 herein.

Agreement Year means each year beginning from the Order Start Date.

Authorized User means one individual natural person who is registered by Customer to use the CAMMS Software.

CAMMS Hosting means the CAMMS Software is to be installed and hosted on computing equipment of CAMMS or a third-party outsourcer retained by CAMMS.

CAMMS Indemnified Party is defined in Clause 10.3 herein.

CAMMS Professional Services means services which may be provided by CAMMS in addition to the CAMMS Support, such as integration, consulting, architecture, training, transition, configuration, administration, and similar services, as further described in a Schedule and Order Form.

CAMMS Software means the CAMMS integrated software solutions in risk, strategy, projects and people as further described in a Schedule and Order Form.

CAMMS Support means technical support for the CAMMS Software, including error corrections and upgrades, as generally released by CAMMS, and as further described in a Schedule and/or Order Form.

CAMMS Services means, collectively, CAMMS Software, CAMMS Hosting, CAMMS Support and CAMMS Professional Services.

Confidential Information means any information, in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party (defined herein) considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as "confidential." Without limiting the foregoing, Confidential Information of CAMMS includes (i) the CAMMS Software and Documentation, (ii) the results of any performance tests of the CAMMS Software, (iii) material developed by CAMMS as part of CAMMS Support or CAMMS Professional Services, and (iv) the terms of this Agreement. Confidential Information of the Customer includes Customer Data.

Customer Data means any content, materials, data and information (including personal information) that Customer or its Authorized Users enter into the CAMMS Software. Customer Data does not include any component of the CAMMS Software or material provided by or on behalf of CAMMS.

Customer Hosting means the CAMMS Software is to be installed and hosted on computing equipment of Customer or a third-party outsourcer retained by Customer.

Customer Indemnified Party is defined in Clause 10.1 herein.

Documentation means documents about the CAMMS Software as made generally available by CAMMS from time to time, and may include installation guidelines, specification documents and user guides and other resources provided on a web portal.

Fees means the fees payable by the Customer, as described in a Schedule and Order Form.

Infringement Claim means a claim by a third party (not being an Affiliate of Customer) against a Customer Indemnified Party alleging that any part of the CAMMS Services or the Customer Indemnified Party's use of them as authorized under this Agreement infringes any third party's Intellectual Property Rights.

Intellectual Property Rights means patents, utility models, rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs (including in relating semiconductor topography), database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order Form means an order form provided by CAMMS describing the pricing and options of the CAMMS Services selected by Customer.

Order Start Date means the start date set out in the applicable Order Form.

Representative of a Party means its employees, directors, agents, and contractors (or those of its Affiliates).

Schedule means a schedule describing the service-specific terms and conditions applicable to the CAMMS Software, CAMMS Support, CAMMS Hosting and/or CAMMS Professional Services as referred to in, or attached to, an Order Form.

Taxes means all taxes, customs duties, levies, imposts, fines or similar governmental assessments, including sales, use, and excise taxes imposed by any federal, state, or local governmental or regulatory authority in any jurisdiction on any amounts payable by Customer and the interest and penalties on them.

3. Rights to use the CAMMS Services

- 3.1. **CAMMS Services.** CAMMS will provide to Customer the services ("CAMMS Services") as described in the Customer's Schedules and Order Forms. The CAMMS Software will either be: (a) provided with CAMMS Hosting; or (b) installed on Customer Hosting. In all cases the Customer will receive CAMMS Support. CAMMS Professional Services will be provided as and when both parties execute an Order Form.
- 3.2. **Right to Use.** Subject to the terms of the Agreement, CAMMS grants to Customer a non-exclusive, non-sublicensable, and non-transferrable right during the Agreement Term to: (a) use the CAMMS Services; (b) implement, configure, and through its Account Administrator, permit its Authorized Users to access and use the CAMMS Software; and (c) access and use the Documentation.
- 3.3. **Use of the Services.** When using the CAMMS Services, the Customer and its Authorized Users must: (a) Use the CAMMS Services solely for Customer's and its Affiliates' internal business purposes; (b) comply with any usage restrictions set out in a Schedule or Order Form (such as number of sites or users, or licensed scope of use); (c) use the CAMMS Services in accordance with the Documentation; and (d) (where CAMMS Hosting applies) not interfere

with or disrupt the integrity, operation, or performance of the CAMMS Software or the use or enjoyment of it by others.

3.4. Restrictions. Except as this Agreement expressly permits, Customer shall not, and shall not permit its Authorized Users or others under its control, to do the following:

- 3.4.1. license, sub-license, sell, re-sell, rent, lease, transfer, distribute, assign, publish, time share or otherwise make any portion of the CAMMS Software available for access by third parties (unless expressly authorised by this Agreement);
- 3.4.2. use the CAMMS Services to develop or operate products or services which perform the same or similar functions, in competition with the CAMMS Software;
- 3.4.3. modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of the CAMMS Software;
- 3.4.4. reverse engineer, decompile, disassemble, copy, or otherwise attempt to derive source code or other trade secrets from or about the CAMMS Software without consent, unless and then only to the extent expressly permitted by applicable law;
- 3.4.5. use the CAMMS Services in a way that infringes, misappropriates, or otherwise violates the rights of a third party, including relating to contract, intellectual property or privacy;
- 3.4.6. bypass or breach any security device or protection used for or contained in the CAMMS Software or Documentation;
- 3.4.7. use the CAMMS Software in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the CAMMS Software could lead to personal injury or severe physical or property damage;
- 3.4.8. use the CAMMS Services to create, use, send, store, or run viruses or other harmful computer code, files, scripts, agents, or other programs, or circumvent or disclose the user authentication or security of the CAMMS Hosting;
- 3.4.9. grant, or purport to grant, any security interest to any third party over the CAMMS Software.

3.5. Authorised Users.

- 3.5.1. An Authorized User must be identified by a unique email address and username, and two or more persons may not use the CAMMS Software as the same Authorized User.
- 3.5.2. Customer will appoint one of its Authorized Users as an Account Administrator, with authority to manage the Customer's Account including to configure administration settings, assign access and use authorizations, request different or additional services, provide usage and performance reports, manage templates, execute approved campaigns and events, assist in third-party product integrations, and to receive privacy disclosures. Customer may appoint and change its Account Administrators at any time through its Account.

- 3.5.3. If an Authorized User is not an employee or an Affiliate of Customer, the Customer must ensure the user: (a) is subject to written confidentiality obligations at least as restrictive as those in this Agreement; and (b) is accessing or using the CAMMS Software solely to support the internal business purposes of the Customer or its Affiliates’.
- 3.5.4. Customer will ensure that its Affiliates’ and all Authorized Users comply with all of Customer’s obligations under this Agreement, and Customer is responsible for their acts and omissions as though they were those of Customer.
- 3.6. **Audit.** Where Customer Hosting applies, CAMMS may, once per Agreement Year (and once after the end of the Agreement Term), and upon seven (7) days’ written notice, inspect, audit and analyze Customer’s use of the CAMMS Software, including accounting, Authorised User, computing and other records of Customer relating to the use of the CAMMS Software to verify compliance with this Agreement. The audit may be conducted by CAMMS or a third party appointed by CAMMS who has entered into a written confidentiality agreement with CAMMS which covers the Customer’s Confidential Information. Customer shall make available all such books, records, equipment, information, and personnel, and provide all such cooperation and assistance, as may be requested by or on behalf of CAMMS with respect to such audit. If the audit determines that Customer is found to be non-compliant with this Agreement, Customer shall reimburse CAMMS, within thirty (30) days of the date of written notification of the audit results, for all expenses incurred by CAMMS in conducting the audit, and shall immediately pay any outstanding payment or otherwise rectify the non-compliance.
- 3.7. **Open Source Materials.** CAMMS may incorporate free or open source material in the CAMMS Software. CAMMS is responsible for ensuring that the licence terms of any such free or open source material do not conflict with the licence for the CAMMS Software, or otherwise prevent Customer from using the CAMMS Services in accordance with this Agreement.

4. Changes

4.1. CAMMS Software.

- 4.1.1. **CAMMS Hosting:** CAMMS may upgrade, maintain, tune, backup, amend, add or remove features, redesign, improve or otherwise modify the CAMMS Software from time to time. CAMMS will not do this in a way that would intentionally cause Authorised Users to lose access to Customer Data or fundamentally decrease the usefulness of the CAMMS Software.
- 4.1.2. **Customer Hosting:** CAMMS may modify the CAMMS Software from time to time including to provide error corrections or upgrades as part of CAMMS Support. Customer must install CAMMS Software updates, fixes or new releases promptly after receipt.
- 4.2. **Changes to Scope.** Other than changes covered by clause 4.1, if either party wishes to change the scope of the CAMMS Services (including changing the scope of CAMMS Professional Services, or increasing the number of Authorised Users or other usage limits, or requests for additional modules or hosting services):
- 4.2.1. The party requesting the change shall submit to the other party written details of the requested change;

- 4.2.2. CAMMS shall, within a reasonable time, give to the Customer a written estimate of: the likely time required to implement the change; any variations to the Fees arising from the change; and any other impact of the change on the terms of this Agreement;
 - 4.2.3. If the parties agree to proceed with the change, they will sign a written variation (or agree an Order Form) to implement the change (and, if they don't, neither party is bound by the change).
- 4.3. **Changes to Master Terms and Schedules.** CAMMS may amend these Master Terms (and Schedules) from time to time by publishing a new version on its website. Changes do not affect Agreements already in force, which continue to incorporate the Master Terms (and Schedules) in force as at the Order Start Date.

5. Ownership

- 5.1. **Customer Data.** Customer Data processed using the CAMMS Services is and will remain, as between Customer and CAMMS, owned by Customer. Customer hereby grants CAMMS the right to process, transmit, store or disclose the Customer Data in order to provide the CAMMS Services to Customer, and subject to the other terms of this Agreement.
- 5.2. **CAMMS Services.** CAMMS, its Affiliates, or its licensors own all right, title, and interest in and to any and all Intellectual Property Rights in and to the CAMMS Software, Documentation, any deliverables, reports or materials created in the course of performing CAMMS Services and any improvements, modifications, design contributions, or derivative works, and any knowledge or processes related to them and/or provided under this Agreement.
- 5.3. **Feedback.** CAMMS encourages Customer to provide suggestions, proposals, ideas, recommendations, or other feedback regarding improvements to CAMMS Services (**Feedback**). To the extent Customer provides Feedback, Customer grants to CAMMS a royalty-free, fully paid, sub-licensable, transferable, non-exclusive, irrevocable, perpetual, worldwide right and license to make, use, sell, offer for sale, import, and otherwise exploit Feedback (including by incorporation of such feedback into the CAMMS Services) subject to CAMMS' obligations under clause 12 to not disclose Customer Data and other Confidential Information.

6. Customer Data and Data Security

- 6.1. **Customer Data.**
 - 6.1.1. Customer is responsible for the accuracy, quality and legality of the Customer Data (including personal data) as entered into the CAMMS Software, or otherwise supplied or used by Customer and its Authorized Users, including the means by which the Customer or its Authorized Users acquired the personal information.
 - 6.1.2. Customer is solely responsible for determining the suitability of the CAMMS Services for Customer's business and complying with any data privacy and protection regulations, laws or conventions applicable to Customer Data and Customer's use of the CAMMS Services.
 - 6.1.3. Customer grants to CAMMS the non-exclusive right to access and process Customer Data (including personal data): (a) for the sole purpose of CAMMS: providing the

CAMMS Services; and verifying that Customer and Authorised Users are complying with this Agreement; and (b) as otherwise set out in this Agreement.

6.2. Data Security.

- 6.2.1. For the **CAMMS Software**: In developing the CAMMS Software, CAMMS warrants that it uses industry standard security technologies; and that it is certified as compliant with ISO/IEC 27001, an international standard for information security requirements.
- 6.2.2. For the **CAMMS Hosting**: CAMMS will only outsource the hosting of the CAMMS Software and Customer Data to globally recognised tier-one hosting providers, who agree to implement and maintain appropriate technical and organizational measures, including information security policies and safeguards, designed to preserve the security, integrity, and confidentiality of Customer Data and personal data and to protect against unauthorized or unlawful disclosure or corruption of or access to personal data. Upon Customer's request, CAMMS will give the Customer details of its then-current hosting provider and links to their security procedures. CAMMS will not be liable to the Customer for a breach of security by the outsourced hosting provider (unless another breach of this Agreement by CAMMS has caused the security breach).

6.3. Data Breaches.

- 6.3.1. CAMMS will maintain a response and crisis communication program that is reasonably designed to detect, contain, respond and recover from a Data Breach.
- 6.3.2. If CAMMS becomes aware of a Data Breach, CAMMS will: (a) take steps to minimize the Data Breach; (b) take appropriate measures to secure the Personal Information and prevent a recurrence of the Data Breach; (c) provide reasonable information to the Customer about its remediation efforts and make any applicable notifications to a regulator; (d) to the extent available to CAMMS, provide Customer with reasonable details of the Data Breach, including, description of the Personal Information subject to the Data Breach and date and time of the Data Breach; and (e) take appropriate steps to remediate the root cause(s) of a Data Breach and give Customer a summary of the results of the investigation and any remediation efforts taken by CAMMS.

6.4. Use of Aggregate Data.

Customer agrees that CAMMS may collect, use, and disclose quantitative data derived from the use of the CAMMS Services for its business purposes, including industry analysis, benchmarking, analytics, and marketing. All data collected, used, and disclosed will be in aggregate and deidentified form only and must not identify Customer, its Authorized Users, Customer Data, or any third parties utilizing the CAMMS Services.

6.5. At Termination.

If the Customer makes a request within two (2) weeks of the termination date, CAMMS will deliver to the Customer an electronic copy of the then most recent back-up of the Customer Data contained within the CAMMS Software hosted by CAMMS, within two weeks' of Customer's request. There is no charge for data export format/s then commonly used by CAMMS; if Customer requests different formats, CAMMS may charge an additional fee. CAMMS will delete the Customer Data in its possession within six (6) months of the termination date.

7. Fees & Payment

- 7.1. **Fees.** Except as expressly set out in the applicable Order Form, Customer will pay all Fees as follows:
- 7.1.1. Customer shall pay CAMMS the Licence and Subscription Fees (the “**License and Subscription Fees**”) for CAMMS Software, CAMMS Support, and CAMMS Hosting as set forth in the applicable Order Form in accordance with the terms of this Clause 7. Customer shall pay all License and Subscription Fees due and owing under the Agreement no later than thirty (30) days after the Effective Date.
 - 7.1.2. Fees for CAMMS Professional Services (the “**Professional Services Fees**”) are payable at the Milestones or other intervals as defined and set forth in the CAMMS Professional Services Schedule; and
 - 7.1.3. Payment is due within thirty (30) days from the date of the invoice.
- 7.2. **Commitment for Term.** Each Order Form for CAMMS Software, CAMMS Support and CAMMS Hosting is for the full Agreement Term and is non-cancellable and non-refundable except as explicitly provided in these terms or an Order Form.
- 7.3. **Third Party Professional Service Expenses.** Unless explicitly specified otherwise in an Order Form, Customer will reimburse CAMMS for all third-party expenses incurred by CAMMS in providing CAMMS Professional Services, including travel and accommodation expenses. CAMMS will seek Customer’s consent before incurring any expense over \$1,000 and will provide reasonable supporting details of all such expenses on its invoices.
- 7.4. **Disputed invoices.** Customer may withhold from payment any charge or amount disputed by Customer in good faith pending resolution of such dispute, provided that Customer: (a) notifies CAMMS of the dispute within fourteen (14) days of the invoice date, specifying: the amount in dispute and the reason for the dispute; (b) pays all undisputed Fees and amounts by the due date; and (c) works diligently with CAMMS to resolve the dispute promptly.
- 7.5. **Late Payment.** If Customer fails to make any payment for CAMMS Services when due (other than amounts disputed in accordance with Clause 7.4 herein), CAMMS shall provide written notice to Customer of such delinquency. If Customer fails to make payment in full within two (2) weeks from the date of the notice, in addition to all other remedies that may be available to CAMMS:
- 7.5.1. CAMMS may charge interest on the past due amount at the rate of 1.58% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law;
 - 7.5.2. Customer shall reimburse CAMMS for all reasonable costs incurred by CAMMS in collecting any late payment of amounts due or related interest, including attorneys’ fees, court costs, and collection agency fees; and
 - 7.5.3. if such failure continues for thirty (30) days following written notice thereof, CAMMS may: (i) disable Customer’s use of the CAMMS Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license hereunder; and/or (iii) terminate this Agreement under Section 13 herein, as applicable.

8. Taxes

8.1. Tax Responsibility.

- 8.1.1. All payments and Fees payable by Customer under this Agreement are exclusive of all Taxes.
- 8.1.2. If Customer claims tax exempt status for amounts due under this Agreement, it shall provide CAMMS with a valid tax exemption certificate (authorized by the applicable governmental authority) to avoid application of Taxes to Customer's invoice.
- 8.1.3. Customer confirms that CAMMS can rely on the ship-to name and address set out in the Order Form as being the place of supply for tax purposes.
- 8.1.4. Each Party is responsible for and shall bear taxes imposed on its net income.

- 8.2. **Invoicing Taxes.** If CAMMS is required to invoice or collect Taxes associated with Customer's purchase of, payment for, access to or use of the CAMMS Services, CAMMS will issue an invoice to Customer including the amount of those Taxes, itemized where required by law. If applicable, Customer shall provide to CAMMS its tax identification number on the Order Form. Customer shall use the ordered CAMMS Services for Customer's business use in the foregoing location(s) in accordance with the provided tax identification number.

9. Representations and Warranties

- 9.1. **Mutual Representations and Warranties.** Each Party represents, warrants, and covenants to the other Party that:

- 9.1.1. it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;
- 9.1.2. it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, and authorizations it grants and is required to grant under this Agreement;
- 9.1.3. the execution of this agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and
- 9.1.4. when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

- 9.2. **CAMMS Services.** CAMMS warrants that:

- 9.2.1. For so long as Customer pays the Fees to receive CAMMS Support, then the CAMMS Software, when used as authorized under this Agreement, will perform substantially in conformance with its Documentation.
- 9.2.2. The CAMMS Professional Services will be provided: (a) promptly, carefully, exercising all due care, skill and judgement, in an efficient and professional manner and in accordance with generally accepted professional and business practices; and (b) using appropriately trained and skilled personnel.

- 9.3. **Defects.** In the event that the CAMMS Software or CAMMS Professional Services fail to comply with these warranties, Customer shall promptly notify CAMMS in writing including details of any alleged defects. Upon such notice, CAMMS shall, as Customer's sole and exclusive remedy, within a reasonable period (depending on the severity of the defect) correct the defect or re-perform the CAMMS Professional Services; or, at CAMMS' election, refund the pro-rata Fees paid for the defective CAMMS Software or CAMMS Professional Services.

WITHOUT LIMITING THE FOREGOING, CAMMS MAKES NO WARRANTY OF ANY KIND THAT THE CAMMS SOFTWARE OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL OPEN-SOURCE COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN-SOURCE COMPONENTS AND THIRD-PARTY MATERIALS.

- 9.4. **Disclaimer.** Except for the warranties set forth in clause 9.1, or in a Schedule or Order Form, all CAMMS Software, Documentation, products, information, materials, and services provided by CAMMS are provided "as is." CAMMS: (a) makes no additional representation or warranty of any kind, whether express, implied in fact or by operation of law; (b) disclaims all implied warranties, including fitness for a particular purpose, to the fullest extent allowed by law; and (c) does not warrant that the CAMMS Services are or will be error-free or meet Customer's requirements. The Customer assumes sole responsibility for results obtained from its use of the CAMMS Services.

10. Indemnification.

- 10.1. **By CAMMS.** CAMMS will indemnify Customer, its Affiliates', and their Authorised Users, employees, directors, agents, and representatives ("**Customer Indemnified Parties**") from and against and all Losses incurred by Customer or Customer Indemnified Parties resulting from any Action by a third party that the Software or Documentation, or any use of the Software or Documentation in accordance with this Agreement, infringes or misappropriates such third party's US Intellectual Property Rights/US patents, copyrights, or trade secrets in the Territory. This Section 10.1 does not apply to the extent that the alleged infringement arises from:

- 10.1.1. Open Source Components or other Third-Party Materials;
- 10.1.2. combination, operation, or use of the CAMMS Software in or with, any technology (including any software, hardware, firmware, system, or network) or service not provided by CAMMS or specified for Customer's use in the Documentation;
- 10.1.3. modification of the CAMMS Software other than: (i) by CAMMS in connection with this Agreement; or (ii) with CAMMS' express written authorization and in strict accordance with CAMMS' written directions and specifications;
- 10.1.4. use of any version of the CAMMS Software other than the most current version or failure to timely implement any maintenance release, modification, update, or replacement of the CAMMS Software made available to Customer by CAMMS;

- 10.1.5. use of the CAMMS Software after CAMMS' notice to Customer of such activity's alleged or actual infringement, misappropriation, or other violation of a third party's rights;
 - 10.1.6. negligence, abuse, misapplication, or misuse of the CAMMS Software or Documentation by or on behalf of Customer, Customer's Representatives, or a third party;
 - 10.1.7. use of the CAMMS Software or Documentation by or on behalf of Customer that is outside the purpose, scope, or manner of use authorized by this Agreement or in any manner contrary to CAMMS instructions;
 - 10.1.8. events or circumstances outside of CAMMS' commercially reasonable control (including any third-party hardware, software, or system bugs, defects, or malfunctions); or
 - 10.1.9. Third-Party Claims or Losses for which Customer is obligated to indemnify CAMMS pursuant to Section 10.3.
- 10.2. **Infringement Remedy.** If Customer is prohibited from using any of the CAMMS Services because of an Infringement Claim covered by CAMMS' indemnification obligations under Clause 10.1, then CAMMS will, at its sole expense and option, either: (a) obtain for Customer the right to use the allegedly infringing portions of the CAMMS Services; (b) modify the allegedly infringing portions of the CAMMS Services so as to render them non-infringing without substantially diminishing or impairing their functionality; or (c) replace the allegedly infringing portions of the CAMMS Services with non-infringing items of substantially similar functionality. If CAMMS determines that none of these remedies is commercially reasonable, then either Party may terminate this Agreement, and in such case, CAMMS will provide a prorated refund to Customer for any prepaid fees received by CAMMS under this Agreement that correspond to the unused portion of the Agreement Term. Without limiting CAMMS's obligation to indemnify Customer as set out in clause 10.1, the remedy set out in this clause 10.2 is Customer's sole and exclusive remedy for any actual or alleged infringement by the CAMMS Services of any third-party Intellectual Property Rights.
- 10.3. **By Customer.** Customer will indemnify, defend, and hold harmless CAMMS, its Affiliates' and their employees, directors, agents, representatives, and successors and permitted assigns ("**CAMMS Indemnified Parties**") from and against any and all Losses incurred by CAMMS or CAMMS Indemnified Parties resulting from any claim or Action by a third party:
- 10.3.1. that any Intellectual Property Rights or other right of any Person, or any Law, is or will be infringed, misappropriated, or otherwise violated by any: (i) use or combination of the Software by or on behalf of Customer or any of its Representatives with any hardware, software, system, network, service, or other matter whatsoever that is neither provided by CAMMS nor authorized by CAMMS in this Agreement and the Documentation or otherwise in writing; and (ii) information, materials, or technology directly or indirectly provided by Customer or directed by Customer to be installed, combined, integrated, or used with, as part of, or in connection with the Software or Documentation;
 - 10.3.2. relating to facts that, if true, would constitute a breach by Customer of any representation, warranty, covenant, or obligation under this Agreement;

- 10.3.3. relating to negligence, abuse, misapplication, misuse or more culpable act or omission (including recklessness or wilful misconduct) by or on behalf of Customer or any of its Representatives with respect to the Software or Documentation or otherwise in connection with this Agreement; or
- 10.3.4. relating to use of the Software or Documentation by or on behalf of Customer or any of its Representatives that is outside the purpose, scope or manner of use authorized by this Agreement or the Documentation, or in any manner contrary to CAMMS's instructions.
- 10.4. **Indemnification Procedures.** The Parties' respective indemnification obligations above are conditioned on: (a) the indemnified party giving the indemnifying party prompt written notice of the claim, except that the failure to provide prompt notice will only limit the indemnification obligations to the extent the indemnifying party is prejudiced by the delay or failure; (b) the indemnifying party being given full and complete control over the defence and settlement of the claim (as long as the settlement does not include any payment of any amounts by or any admissions of liability, whether civil or criminal, on the part of any of the indemnified parties); (c) the relevant indemnified parties providing assistance in connection with the defence and settlement of the claim, as the indemnifying party may reasonably request; and (d) the indemnified parties' compliance with any settlement or court order made in connection with the claim.
- 10.5. **Damages and Costs.** The indemnifying party will indemnify the indemnified parties against: (a) all damages, costs, and legal fees finally awarded against any of them with respect to any claim; (b) all out-of-pocket costs (including reasonable legal fees) reasonably incurred by any of them in connection with the defence of the claim (other than legal fees and costs incurred without the indemnifying party's consent after it has accepted defence of such claim); and (c) all amounts that the indemnifying party agreed to pay to any third party in settlement of any claims arising under this Clause 10 and settled by the indemnifying party or with its approval.

11. Limitations of Liability

- 11.1. **EXCLUSION OF DAMAGES.** IN NO EVENT WILL CAMMS, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (a) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (b) LOSS OF GOODWILL OR REPUTATION, (c) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE OR OPEN SOURCE COMPONENTS OR OTHER THIRD-PARTY MATERIALS, (d) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (e) COST OF REPLACEMENT GOODS OR SERVICES, OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- 11.2. **Indirect Losses.** To the fullest extent allowed by law, each party excludes all liability for any loss of product, loss of data, loss of revenue, loss of profit, loss of or damage to reputation, loss of anticipated savings or benefits, or any indirect, special or punitive loss, damage, cost

or expense or other claims for consequential compensation, incurred by or awarded against the other party arising directly or indirectly under or in connection with this Agreement or the performance or non-performance of this Agreement and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity, **except for:** (a) interest due by any party for late payments; (b) personal injury or tangible property damage caused by negligence; or (c) losses caused by fraud or fraudulent misrepresentation.

- 11.3. Cap on Monetary Liability.** CUSTOMER AGREES THAT IN NO EVENT WILL THE AGGREGATE LIABILITY OF CAMMS AND ITS SUPPLIERS AND SERVICE PROVIDERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO CAMMS UNDER THIS AGREEMENT IN THE ONE (1) YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER MAY ONLY MAKE CLAIMS RELATING TO THE SAME EVENT IN ONE (1) AGREEMENT YEAR.
- 11.4. Contribution.** Each party's liability shall be reduced proportionately to the extent that the other party's acts or omissions causes or contributes to, directly or indirectly, the loss or damage for which the first party is liable.
- 11.5. External factors.** Neither party shall be in breach of this Agreement nor liable for delay in performing, or failure to perform, any of its obligations under this Agreement (except an obligation to pay money) if such delay or failure results from events, circumstances or causes beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of CAMMS or any other party), failure of a utility service or transport or telecommunications network or the internet, act of God, pandemic or public health crisis, fire, flood, storm, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, accident, or breakdown of plant or machinery. In such circumstances the affected party is entitled to a reasonable extension of time for performing its obligations, provided that if the delay or non-performance continues for three months, the party not affected may terminate this Agreement by giving one month's notice to the other party. If the Customer terminates under this clause it will receive a pro-rata refund of pre-paid Fees.

12. Confidentiality

- 12.1. Obligations.** Where one party (**Receiving Party**) has access to Confidential Information of the other party (**Disclosing Party**), the Receiving Party must (during and for a period of three (3) years after the Term of this Agreement):
- 12.1.1. hold the Disclosing Party's Confidential Information in strict confidence, and safeguard the Confidential Information from unauthorized use, access, or disclosure using at least the standard of care used by the Receiving Party in protecting its own Confidential Information, but not less than a reasonable standard of care;
 - 12.1.2. except as may be permitted under the terms and conditions of Section 12.4 herein, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under

and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 12; and (iii) are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 12;

- 12.1.3. not access or use any Confidential Information of the Disclosing Party except as necessary to exercise its rights or perform its obligations under this Agreement;
 - 12.1.4. immediately notify the Disclosing Party of any potential, suspected or actual unauthorized use, copying or disclosure of its Confidential Information and take all reasonable steps to prevent further unauthorized use or disclosure; and
 - 12.1.5. ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with the terms of this Section 12.
- 12.2. **Trade Secrets.** Notwithstanding any other provisions of this Agreement the Receiving Party's obligations under this Section 12 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.
- 12.3. **Permitted Use.** Notwithstanding clause 12.1, the Recipient may use or disclose the Confidential Information to the extent necessary to comply with any law or the requirements of a regulatory body (including a stock exchange), or to obtain professional legal or accounting advice, or for use in legal proceedings regarding this Agreement.
- 12.4. **Exceptions.** Confidential Information does not include information which the Receiving Party can prove by written or other documentary evidence:
- 12.4.1. is in or becomes part of the public domain other than through the Receiving Party's or any of its representatives' noncompliance with this Agreement;
 - 12.4.2. was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement;
 - 12.4.3. that the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential information; or
 - 12.4.4. was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality.
- 12.5. **Compelled Disclosures.** If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party will: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 12.3; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a

protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 12.5, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party will disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party's request, will use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

- 12.6. **Publicity.** Neither Party shall refer to the identity of the other Party in promotional material, publications, or press releases or other forms of publicity relating to the CAMMS Services unless the prior written consent of the other Party has been obtained, provided, however, that CAMMS may use Customer's name and logo for the limited purpose of identifying Customer as a customer of the CAMMS Services.

13. Term and Termination

- 13.1. **Agreement Term.** The term of each Agreement begins on the Order Start Date and continues until the Order End Date, both dates as specified on the Order Form (the "**Agreement Term**").
- 13.2. **Renewal Term.** The Agreement Term will automatically renew for successive one-year terms, where specified in a Schedule or the Order Form (the "**Renewal Term**") unless earlier terminated pursuant to any of the Agreement's express provisions, or either Party gives the other Party written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current term. In the event that an Order Form terminates or expires, Agreements relating to all other Order Forms then effective shall remain unaffected.
- 13.3. **CAMMS Professional Services.** Before the Order Start Date, CAMMS may, upon mutual agreement, start providing CAMMS Professional Services and/or provide Customer access to the CAMMS Software, which will be governed by these terms. In the case of an Order Form for CAMMS Professional Services, if no expiration date is specified in the Order Form, then the Agreement Term shall expire upon completion of the CAMMS Professional Services or early termination as permitted by these terms.
- 13.4. **Termination.** This Agreement may be terminated at any time:
- 13.4.1. by CAMMS, effective on written notice to Customer, if Customer fails to pay any amount when due under this Agreement, where such failure continues more than 30 days after CAMMS' delivery of written notice thereof;
 - 13.4.2. by CAMMS, immediately on written notice to Customer if any three (3) or more Payment Failures occur in any twelve (12) month period;
 - 13.4.3. by either Party, effective on written notice to the other Party, if the other Party breaches this Agreement, including a material breach of confidentiality or Intellectual Property Rights, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach; or
 - 13.4.4. by CAMMS, effective immediately, if the Customer: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign

bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property.

13.5. Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

13.5.1. all rights, licenses and authorizations granted to Customer hereunder will immediately terminate and Customer will (A) immediately cease all use of and other activities with respect to the Software and Documentation; (B) within seven (7) days deliver to CAMMS, or at CAMMS' written request, destroy, and permanently erase from all devices and systems Customer directly or indirectly controls, the Software, the Documentation and the CAMMS' Confidential Information, including all documents, files, and tangible materials (and any partial and complete copies) containing, reflecting, incorporating, or based on any of the foregoing, whether or not modified or merged into other materials; and (C) certify to CAMMS in a signed written instrument that it has complied with the requirements of this Section 13.5; and

13.5.2. all unpaid amounts due and owing by Customer to CAMMS of any kind are immediately payable and due no later than thirty (30) days after the effective date of the expiration or CAMMS' termination of this Agreement.

13.6. Surviving Terms. The provisions set forth in the following Sections, and any other right, obligation or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: this Section 13, 3.6, **Error! Bookmark not defined.**7.5, 8.1, **Error! Bookmark not defined.**11.

14. Export Laws

14.1. Export Laws. The CAMMS Software may be subject to US export control laws, including the US Export Control Reform Act and its associated regulations. Neither party shall export, directly or indirectly, any technical data acquired from the other party under this Agreement (or any products, including software, incorporating any such data) in breach of such applicable laws or regulations, including United States export laws and regulations and, if applicable, Australian Government sanctions ("**Export Control Laws**"), to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.

14.2. Implementation. Each party undertakes: (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out in clause 14.1; and (b) if requested, to provide the other party with any reasonable assistance, at the reasonable cost of the other party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

15. Intellectual Property Rights.

15.1. Ownership. Customer acknowledges and agrees that:

15.1.1. the Software and Documentation are licensed, not sold, to Customer by CAMMS and Customer does not have under or in connection with this Agreement any

ownership interest in the Software or Documentation, or in any related Intellectual Property Rights;

15.1.2. CAMMS is the sole and exclusive owner of all rights, title, and interests in and to the Software and Documentation, including all Intellectual Property Rights relating thereto, subject only to the limited license granted to Customer under this Agreement; and

15.1.3. Customer hereby unconditionally and irrevocably assigns to CAMMS its entire right, title, and interest in and to any Intellectual Property Rights that Customer may now or hereafter have in or relating to the Software or Documentation (including any rights in derivative works or patent improvements relating to either of them), whether held or acquired by operation of law, contract, assignment or otherwise.

15.2. **Customer Cooperation and Notice of Infringement.** Customer shall, during the Term:

15.2.1. take all reasonable measures to safeguard the Software and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access;

15.2.2. at CAMMS' expense, take all such steps as CAMMS may reasonably require to assist CAMMS in maintaining the validity, enforceability and CAMMS' ownership of the Intellectual Property Rights in the Software and Documentation;

15.2.3. promptly notify CAMMS in writing if Customer becomes aware of: (i) any actual or suspected infringement, misappropriation or other violation of CAMMS' Intellectual Property Rights in or relating to the Software or Documentation; or (ii) any claim that the Software or Documentation, including any production, use, marketing, sale or other disposition of the Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and

15.2.4. fully cooperate with and assist CAMMS in all reasonable ways in the conduct of any Action by CAMMS to prevent or abate any actual or threatened infringement, misappropriation or violation of CAMMS' rights in, and to attempt to resolve any Actions relating to, the Software or Documentation, including having Customer's employees testify when requested and making available for discovery or trial relevant records, papers, information, samples, specimens and the like.

15.3. **No Implied Rights.** Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Customer or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Software or Documentation.

16. General

16.1. **Independent Contractors.** The parties are independent contractors, not employees, agents, partners or representatives of each other. Each party may not create or assume any obligation or liability on behalf of the other party. Each party assumes full responsibility for the actions of its personnel while performing any services and such party shall be solely responsible for

the supervision, daily direction, control of its personnel, and for the payment of all of their compensation.

- 16.2. **Assignment.** Customer shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without CAMMS' prior written consent. No assignment, delegation, or transfer will relieve Customer of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 16.2 is void. This Agreement is binding on and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.
- 16.3. **Entire Agreement.** This Agreement, together with the Schedule/s and Order Form constitutes the sole and entire agreement between the Parties and supersedes all previous and contemporaneous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to the subject matter of this Agreement. Each party acknowledges that in entering into this Agreement it does not rely on any statement, representation or warranty that is not set out in this Agreement. **This Agreement will prevail over terms and conditions of any Customer-issued purchase order or other ordering documents, which will have no force and effect, even if CAMMS accepts or does not otherwise reject the document.**
- 16.4. **Interpretation.** For purposes of this Agreement: (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to Sections, exhibits, schedules, attachments, and appendices mean the Sections of, and exhibits, schedules, attachments, and appendices to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.
- 16.5. **Severability.** If a clause or part of a clause of this Agreement is illegal, unenforceable or invalid, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. On such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 16.6. **Amendment and Modification; Waiver.** No amendment or modification of this Agreement will be of any force or effect unless it is in writing and signed by both Parties to this document. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising,

any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. A waiver by a Party is only effective if it is in writing.

- 16.7. **Governing law.** This Agreement is governed by and construed in accordance with the laws of the State of New York, without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of New York. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses and rights granted hereunder will be instituted in the federal courts of the United States or the courts of the State of New York, in each case located in the city of New York and County of New York, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such Party's address set forth herein will be effective service of process for any suit, action, or other proceeding brought in any such court.

- 16.8. **Notices.** Any notice, request, consent, claim, demand, waiver, or other communication under this Agreement have legal effect only if in writing and addressed to a Party as specified in the Order Form (or to such other address or such other person that such addressee Party may designate from time to time in accordance with this Section 16.8).

Notices sent in accordance with this Section 16.8 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or email, (in each case, with confirmation of transmission), if sent during the addressee's normal business hours, and on the next Business Day, if sent after the addressee's normal business hours; and (d) on the fifth day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

- 16.9. **Equitable Relief.** Customer acknowledges and agrees that a breach or threatened breach by Customer of any of its obligations under Sections 10, or 15 of this Agreement would cause CAMMS irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, CAMMS will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

- 16.10. **Attorneys' Fees.** In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of, or related to, this Agreement, the prevailing Party is entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.

- 16.11. **Counterparts.** This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic

transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.