Appendix A - Third Party License(s)

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(b) LIMIT OR EXCLUDE THE LIABILITY OF A PARTY FOR FRAUD OR FRAUDULENT MISREPRESENTATION BY THAT PARTY;  
  
(c) LIMIT ANY LIABILITY OF A PARTY IN ANY WAY THAT IS NOT PERMITTED UNDER APPLICABLE LAW; OR  
  
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ARTICLE 8. CONFIDENTIALITY AND PUBLICITY  
8.1 Each Party shall, during the term of this SLA and thereafter, keep confidential all, and shall not use for its own purposes (other than implementation of this SLA) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such Party from the other Party and which relates to the other Party or any of its Affiliates, unless that information is public knowledge or already known to such Party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Licence, or subsequently comes lawfully into the possession of such Party from a third party. Each Party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.  
  
8.2 SciChart shall have the right to disclose the existence and terms of this Agreement: (a) in any prospectus, offering memorandum, or other document required by law or securities regulations, (b) to any current or prospective investors, acquirers or collaborators (provided that any recipient of a disclosure under this subclause (b) shall be subject to appropriate obligations of confidentiality and non-use), or (c) as otherwise required by applicable law or regulation. SciChart shall have the right to use on its website the LICENSEE's logo, provided such use of the LICENSEE's logo is limited to statements of fact and the LICENSEE shall have the right to revoke permission of such use of the LICENSEE's logo at any time.  
  
8.3 Except as expressly stated in clause 8.2, neither Party, its employees or representatives shall use the name or logo of the other Party in any advertisement, press release, or other publicity without prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).  
  
ARTICLE 9. VARIATION  
SciChart has the right to vary the terms of this SLA and the relevant charges and fees in respect of the Licence from time to time. Existing LICENSEES with active subscriptions and existing commitments will be honoured by SciChart on existing terms for the duration of such LICENSEES' active subscriptions.  
  
ARTICLE 10. DATA PROTECTION  
The Parties undertake to comply with the provisions of the Data Protection Legislation and any related legislation in so far as the same relates to the provisions and obligations of this SLA.  
  
ARTICLE 11. TERMINATION  
11.1 This SLA will terminate immediately and automatically if:  
  
(a) the LICENSEE: (i) is dissolved; (ii) ceases to conduct all (or substantially all) of its business; (iii) is or becomes unable to pay its debts as they fall due; (iv) is or becomes insolvent or is declared insolvent; or (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;  
  
(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the LICENSEE;  
  
(c) an order is made for the winding up of the LICENSEE, or the LICENSEE passes a resolution for its winding up.  
  
ARTICLE 12. EFFECTS OF TERMINATION  
12.1 In the event that this SLA is terminated pursuant to clause 1.1.1 (breach by the LICENSEE), the LICENSEE will no longer be licensed to use the Software in LICENSEE Application(s) and must remove the Software from all version(s) of LICENSEE Applications(s) in a reasonable timescale. In this event, failure to cease using the Software shall make the LICENSEE liable to the LICENSOR for compensation ("Additional Fee") for using unlicensed Software, without prejudice to any other rights provided for by law or under this agreement, such as the right to claim damages in lieu of the Additional Fee.  
  
12.2 Upon termination any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.  
  
12.3 Termination of this SLA will not affect either party's accrued rights and liabilities.  
  
12.4 Save as expressly provided in this SLA, the LICENSEE will not be entitled to a refund upon the termination of this SLA.  
  
ARTICLE 13. GENERAL  
13.1 NO WAIVER. No breach of any provision of this SLA will be waived except with the express written consent of the party not in breach.  
  
13.2. SEVERABILITY. If a provision of this SLA is determined by any court to be unlawful and/or unenforceable, the other provisions of this SLA will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the Parties, in which case the entirety of the relevant provisions will be deemed to be deleted).  
  
13.3 The LICENSOR may freely assign this SLA and/or its rights and/or obligations under this SLA without the LICENSEE's consent. Save as expressly provided in this SLA, the LICENSEE must not assign, transfer, charge, license or otherwise dispose of or deal in this SLA and/or any its rights and/or obligations under this SLA.  
  
13.4 NO THIRD PARTY BENEFICIARIES. This SLA is made for the benefit of the Parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the Parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this SLA are not subject to the consent of any third party.  
  
13.5. FORCE MAJEURE. Under no circumstances shall either Party be held liable for failure to perform its obligations under this Agreement in case such failure is due to a Force Majeure event as defined in Preamble. The Party prevented by Force Majeure shall inform the other Party of the occurrence of the Force Majeure event within fifteen (15) days by written notice. Except as defined below, the Parties shall have no right to assert Force Majeure in order to terminate this Agreement.  
  
If Force Majeure continues for a period of more than three (3) months from the date of the Force Majeure Declaration and has prevented either of the Parties from performing its obligations in whole or in part during that period, then either Party shall be entitled to terminate the SLA by written notice to the other Party.  
  
The Parties shall have no right to claim for any compensation of liquidated damages to the other Party for delays or non-performance of the SLA by such Party in case of Force Majeure, even if the Force Majeure results in the termination of the SLA.  
  
13.6. RETROACTIVE BILLING. Through the use of Telemetry data, or licence audit, the LICENSOR generates usage reports. Where a LICENSEE exceeds the usage of their developer licenses or OEM license Fees (if applicable), the LICENSOR will provide a custom quote at renewal time for the subsequent year support subscription. Excessive mismatch between licenses purchased and usage may result in retroactive billing.  
  
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13.8. SUCCESSORS AND ASSIGNEES. . This SLA shall be binding upon, and inure to the benefit of the Parties and their respective successors and permitted assignees, and references to a Party in this SLA shall include its successors and permitted assignees.  
  
13.9. APPLICABLE LAW AND JURISDICTION. This SLA will be governed by and construed in accordance with the laws of England and Wales to the exclusion of its conflict of laws rules. The courts of England will have exclusive jurisdiction to adjudicate any dispute arising under or in connection with this SLA, including in case of injunctive relief, provisional orders or other interim matters.  
  
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