**Last Updated: May 9, 2025**

# Master Subscription Agreement

**This agreement governs your acquisition and use of our products and services.**

**By accepting this agreement, through execution of an order form referencing this agreement or through other means, you agree to the terms of this agreement. If you are entering into this agreement on behalf of a company or other legal entity, you represent that you have the authority to bind that entity and its affiliates to these terms and conditions, in which case the terms "You" and "Your" in this agreement refer to that entity and its affiliates. If you do not have that authority, or if you do not agree with these terms and conditions, you must not accept this agreement and may not use our products or services.**

**If you are accessing our product or service as part of a free trial, your free trial is governed by Section 13 (Free Trial) below, which limits our responsibility and, to the fullest extent permitted by law, disclaims all warranties and liability.**

You may not access our products or services if You are our direct competitor, except with our prior written consent. In addition, You may not access our products or services to monitor their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on October 29, 2020. It is effective between You and Appluent Business Solutions, Inc. as of the date You accept it via the executed Order Form.

## 1. DEFINITIONS

"**Affiliate**" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Agreement**" means this Master Subscription Agreement and online addenda hereto that are provided by Us and accepted by You.

"**Beta Services"** means Our services that are not generally available to customers.

"**Documentation**" means the online user guides, documentation, and help and training materials for the Services and Salesforce platform, and the descriptions of Support, as updated from time to time.

"**Malicious Code**" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

"**Non-Appluent Applications**" means online applications and services and offline software products that are provided by entities or individuals other than Us, and that interoperate with the Services, including but not limited to those provided by Salesforce.

"**Order Form**" means an ordering document specifying the Services to be provided hereunder that is entered into between You and Us or any of Our Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

"**Salesforce platform**" means the hosted platform-as-a-service made available by Salesforce.

"**Services**" means the products and services that are ordered by You under an Order Form and made available online by Us, including associated offline components, as described in the Documentation. "Services" exclude Non-Appluent Applications.

"**Support**" means Our customer support for the Services, as described in the Documentation.

"**User**" means an individual who is authorized by You to use a Service, for whom You have ordered the Service, and to whom You (or We at Your request) have supplied a license. Users may include, for example, Your employees, consultants, contractors and agents, and third parties with which You transact business.

"**We**", "**Us**", and "**Our**" mean the contracting party identified under Section 14 (Notices, Governing Law, Jurisdiction and Arbitration) below.

"**You**" means the customer named above and Your Affiliates.

"**Your Data**" means electronic data and information submitted by or for You to the Services.

## 2. OUR RESPONSIBILITIES

**2.1 Provision of Services.** We will (a) make the Services available to You pursuant to this Agreement and the applicable Order Forms, (b) provide standard Support for the Services to You at no additional charge, and/or upgraded Support if purchased, and (c) use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which We shall give at least 8 hours electronic notice and which We shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Pacific time), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, Non-Appluent Application, or denial-of-service attack.

**2.2 Protection of Your Data.** We will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Your Data by Our personnel except (a) to provide the Services and Support and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 8.3 (Confidentiality: Compelled Disclosure) below, or (c) as expressly permitted in writing by You.

**2.3 Data Processing Addendum**

Where applicable, the processing of personal data by Us on Your behalf shall be governed by the terms of our Data Processing Addendum (DPA), which is incorporated by reference into this Agreement and available at https://go.filepulse.app/dpa.

**2.4 Our Personnel.** We will be responsible for the performance of Our personnel (including Our employees and contractors) and their compliance with Our obligations under this Agreement, except as otherwise specified herein.

**2.5 Beta Services.** From time to time, We may invite You to try Beta Services at no charge. You may accept or decline any such trial in Your sole discretion. Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a description of similar import. Notwithstanding anything to the contrary in this Agreement, Beta Services are for evaluation purposes and not for production use, are not supported, are not covered by any warranty (except as required by law) or service level commitment, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Services becomes generally available. We may discontinue Beta Services at any time in Our sole discretion and may never make them generally available. We will have no liability for any harm or damage arising out of or in connection with a Beta Service.

## 3. USE OF SERVICES

**3.1 Subscriptions.** Unless otherwise provided in the applicable Order Form, (a) Services are purchased as subscriptions, (b) subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

**3.2 Usage Limits.** Services are subject to usage limits, including, for example, quantities and/or functionality restrictions referenced in Order Forms. Services are also subject to Salesforce platform limits. Unless otherwise specified, (a) a quantity in an Order Form refers to Users, and the Service may not be accessed by more than that number of Users, (b) a User's password may not be shared with any other individual, and (c) a User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Service. You will reasonably cooperate with any audit We conduct of Your use of the Services. If You violate a contractual usage limit, We will so notify You and may work with You to bring Your usage into conformity with the limit. If, notwithstanding Our efforts, You are unable or unwilling to abide by a contractual usage limit, You will, promptly upon Our request, execute an order form with Us and/or Salesforce, as applicable, for additional quantities of Our and/or Salesforce's services as required, and/or pay any invoice for excess usage in accordance with the payment terms below or in Your agreement with Salesforce, as applicable.

**3.3 Your Responsibilities.** You will (a) be responsible for your and your Users' compliance with this Agreement and Order Forms, (b) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services, and notify Us promptly of any such unauthorized access or use, and (d) use Services only in accordance with the Documentation and applicable laws and government regulations.

**3.4 Usage Restrictions.** You will not (a) make any Service available to, or use any Service for the benefit of, anyone other than You or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service, or include any Service in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit payment card information, (e) use a Service to store or transmit Malicious Code, (f) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (g) attempt to gain unauthorized access to any Service or its related systems or networks, (h) permit direct or indirect access to or use of any Service in a way that circumvents a contractual usage limit, or use any of Our Services to access or use any of Our intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (i) copy a Service or any part, feature, function or user interface thereof (including, without limitation, into a Salesforce organization or tenant not authorized in writing by Us), (j) frame or mirror any part of any Service, other than framing on Your own intranets or otherwise for Your own internal business purposes or as permitted in the Documentation, (k) access any Service in order to build a competitive product or service or to benchmark with a non-Appluent product or service, or (l) reverse engineer any Service (to the extent such restriction is permitted by law). If You use the Services in a way that breaches this Agreement and threatens the security, integrity or availability of the Services, We may immediately suspend the Services; however, We will use efforts reasonable under the circumstances to provide You with notice and an opportunity to remedy the breach before any such suspension.

## 4. NON-APPLUENT PROVIDERS GENERALLY

**4.1 Acquisition of Non-Appluent Products and Services.** We or third parties may make available third-party products or services, including, for example, Non-Appluent Applications and implementation and other consulting services. Except as expressly provided herein regarding the Salesforce platform, any acquisition by You of such Non-Appluent products or services, and any exchange of data between You and any Non-Appluent provider, is solely between You and the Non-Appluent provider. We do not warrant or support Non-Appluent Applications or other Non-Appluent products or services, whether or not they are recommended by Us or designated by Us as preferred, certified or otherwise, except as specified in an Order Form.

**4.2 Non-Appluent Applications and Your Data.** If You install or enable a Non-Appluent Application for use with a Service, You grant Us permission to allow the provider of that Non-Appluent Application to access Your Data as required for the interoperation of that Non-Appluent Application with the Service. We are not responsible for any processing, disclosure, modification or deletion of Your Data resulting from access by a Non-Appluent Application. The Services will allow You to restrict Users from installing or enabling Non-Appluent Applications (other than the Salesforce platform) for use with the Services.

**4.3 Integration with Non-Appluent Applications.** The Services may contain features designed to interoperate with Non-Appluent Applications. To use such features, You may be required to obtain access to Non-Appluent Applications from their providers, and may be required to grant Us access to Your account(s) on the Non-Appluent Applications. We will not be deemed to be in breach of this Agreement to the extent any such Service features cease to function because the provider of the corresponding Non-Appluent Application, other than the Salesforce platform, ceased to make their Non-Appluent Application available for interoperation with such Service features on reasonable terms.

## 5. FEES AND PAYMENT

**5.1 Fees.** You will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services and Support purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the relevant subscription term.

**5.2 Invoicing and Payment.** Fees will be invoiced annually in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, fees are due net 30 days from the invoice date, and invoices may be sent electronically. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

**5.3 Overdue Charges.** If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

**5.4 Suspension of Services.** If any charge owing by You is 30 days or more overdue, We may, without limiting Our other rights and remedies, suspend Services and Support until such amounts are paid in full, provided We have given You at least 10 days' prior notice that Your account is overdue in accordance with Section 13.2 (Manner of Giving Notice) below. In addition, if You have an agreement directly with Salesforce, and Salesforce suspends services to You due to Your breach of that agreement, any Services installed in the same Salesforce instance will also be inaccessible and We will not thereby be deemed to be in breach of this Agreement.

**5.5 Payment Disputes.** We will not exercise Our rights under Sections 5.3(Overdue Charges) or 5.4 (Suspension of Service) above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

**5.6 Taxes.** Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, GST, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this section, You will reimburse Us for that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. We will calculate applicable Taxes based on the address where You primarily use the Services as specified in the relevant Order Form. You will be responsible for self-assessing and paying any additional Taxes arising from Your use of Services and/or Support at a different address. and provide Us with proof of payment of such additional Taxes on request. You will promptly notify Us of any changes to any of Your addresses specified in an Order Form. Should any payment for Services be subject to withholding tax by any government, You will remain liable to Us for the full amounts invoiced hereunder, without reduction, and provide proof of payment of such withholding tax, upon Our request. For clarity, We are solely responsible for taxes assessable against Us based on Our income (other than such withholding taxes), property and employees.

**5.7 Future Functionality.** You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

## 6. PROPRIETARY RIGHTS AND LICENSES

**6.1 Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We and Our licensors reserve all of their right, title and interest in and to the Services and Support, including all of their related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

**6.2 License by You to Host Your Data.** You grant Us, Our Affiliates and Our hosting providers a worldwide, limited-term license to host, copy, transmit and display Your Data as necessary for Us to provide the Services and Support in accordance with this Agreement and Order Forms. Subject to the limited licenses granted herein, We acquire no right, title or interest from You or Your licensors under this Agreement in or to any Your Data, Non-Appluent Application or program code.

**6.3 License by You to Use Feedback**. You grant to Us and Our Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Services any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Users relating to the operation of the Services.

## 7. CONFIDENTIALITY

***7*.1 Definition of Confidential Information.** "**Confidential Information**" means all information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data; Our Confidential Information includes the Services and the Salesforce platform (which is proprietary to Salesforce); and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not

include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**7.2 Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants and Salesforce without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with this Section 8 (Confidentiality).

**7.3 Compelled Disclosure**. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## 8. REPRESENTATION, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

**8.1 Representation.** Each party represents that it has validly entered into this Agreement and has the legal power to do so.

**8.2 Our Warranties.** We warrant that (a) the Services will perform materially in accordance with the applicable Documentation, (b) subject to Section 4.3 (Integration with Non-Appluent Applications) above, We will not materially decrease the functionality of the Services during a subscription term, and (c) We will not materially decrease the overall security of the Services during a subscription term. For any breach of an above warranty, Your exclusive remedies are those described in Sections 11.5 (Termination) and 11.6 (Refund or Payment upon Termination) below.

**8.3 Disclaimers. Except as expressly provided herein, neither party or its licensors make any warranty of any kind, whether express, implied, statutory or otherwise, and each party and its licensors specifically disclaim all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law. We do not guarantee that Services will be error-free, will meet Your requirements, or will address all laws, rules or standards applicable to Your accounting, finance or human resources. Beta Services are provided "AS IS," exclusive of any warranty whatsoever. Notwithstanding any other provision of this Agreement, You agree that We will not be responsible or liable for acts or omission of Salesforce.**

## 9. MUTUAL INDEMNIFICATION

**9.1 Indemnification by Us.** We will defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of a Service in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights (a "**Claim Against You**"), and will indemnify You from any damages, attorney fees and costs finally awarded against You as a result of, or for amounts paid by You in settlement of, a Claim Against You, provided You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You unless it unconditionally releases You of all liability), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to a Service, We may in Our discretion and at no cost to You (i) modify the Services so that they no longer infringe or misappropriate, without breaching Our warranties under "Our Warranties" above, (ii) obtain a license for Your continued use of that Service in accordance with this Agreement, or (iii) terminate Your subscriptions for that Service upon 30 days' written notice and refund You any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that the Services are the basis of the Claim Against You, or (2) a Claim Against You arises from the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Us, if the Services or use thereof would not infringe without such combination.

**9.2 Indemnification by You.** You will defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that the Your Data, or Your use of any Service in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "**Claim Against Us**"), and will indemnify Us from any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us in settlement of, a Claim Against Us; provided We (a) promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us unless it unconditionally releases Us of all liability), and (c) give You all reasonable assistance, at Your expense. The above defense and indemnification obligations do not apply if (1) the allegation does not specifically state that Your Data or Your use of a Service in breach of this Agreement is the basis of the Claim Against Us, or (2) a Claim Against Us arises from the use or combination of Your Data with software, hardware, data, or processes not provided by You, if Your Data or use thereof would not infringe without such combination.

**9.3 Exclusive Remedy.** This Section 10 (Mutual Indemnification) states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this section.

## 10. LIMITATION OF LIABILITY

**10.1 Limitation of Liability. Neither party's liability with respect to any single incident arising out of or related to this Agreement will exceed the amount paid by You hereunder in the 12 months preceding the incident, provided that in no event will either party's aggregate liability arising out of or related to this Agreement exceed the total amount paid by You hereunder. The above limitations will apply whether an action is in contract or tort and regardless of the theory of liability.**

**10.2 Exclusions. In no event will either party have any liability to the other party for any lost profits, revenues, goodwill or indirect, special, incidental, consequential, cover, business interruption or punitive damages, and in no event will either party's licensor have any liability under this Agreement for any damages, however caused, whether an action is in contract or tort and regardless of the theory of liability, even if a party has been advised of the possibility**

**of such damages or if a party's remedy otherwise fails of its essential purpose. The foregoing disclaimer will not apply to the extent prohibited by law.**

**10.3 Limitation of Restrictions. The above limitations will not limit Your payment obligations under Section 5 (Fees and Payment) above.** In addition, if You are domiciled in the European Union, then nothing in this Section 10 (Limitation of Liability) shall exclude or limit the liability of either party for death or personal injury caused by that party's negligence or for fraud or fraudulent misrepresentation or for any other liability to the extent that the same may not be excluded or limited as a matter of applicable law.

## 11. TERM AND TERMINATION

**11.1 Term of Agreement.** This Agreement commences on the Order Effective Date and automatically renews at the renewal date.

**11.2 Term of Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. **Except as otherwise specified below or in an Order Form, Order Forms and all subscriptions thereunder will automatically renew for additional periods of one year, on the same terms and without entry into a new Order Form, unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant subscription term. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at least 90 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.** Any such pricing increase will not exceed 7% of the pricing for the applicable Service in the immediately prior subscription term, unless the pricing in the prior term was designated in the relevant Order Form as promotional or one-time.

**11.3 Non-Renewal and Reinstatement of Subscriptions.** If You provide timely notice of non-renewal, the Services will expire and Your access to the Services will cease on the subscription end date unless a new Order Form for the Services is entered into on or before the subscription end date. If any Service subscriptions are not renewed by the subscription end date (other than due to Our notice of non-renewal under Section 11.2 (Term of Subscriptions) above), and We and You enter into a new Order Form for such Services during the 90-day period after the subscription end date, You will be charged an additional reinstatement fee equal to a pro rata portion of the total annual renewal subscription for each day that has elapsed since the subscription end date.

**11.4 Deactivation of User Subscriptions.** In the event of a permitted reduction in the number of Your User subscriptions (e.g., upon renewal), You will promptly deactivate the applicable Users in the Services upon termination of the subscriptions. Any failure to do so will be considered a violation of a contractual usage limit under Section 3.2 (Usage Limits) above.

**11.5 Termination.** A party may terminate this Agreement if the other party (a) materially breaches this Agreement and fails to cure the breach within 30 days after written notice by the non-breaching party detailing the breach, or (b) becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, and such petition or proceeding is not dismissed within 60 days. Termination of this Agreement will result in termination of all Order Forms.

**11.6 Refund or Payment upon Termination.** If You terminate this Agreement in accordance with Section 11.5 (Termination) above, We will refund You any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Us in accordance with Section 11.5 (Termination), You will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

**11.7 Surviving Provisions.** Sections 6 (Fees and Payment), 7 (Proprietary Rights and Licenses), 8 (Confidentiality), 9.3 (Disclaimers), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.6 (Refund or Payment upon Termination), 12.8 (Surviving Provisions), 14 (Who You are Contracting With, Notices, Governing Law, Jurisdiction and Arbitration) and 16 (General Provisions) will survive any termination or expiration of this Agreement.

## 12. FREE TRIAL

If We make any of Our products and services available to You as part of a free trial, those products and services will be considered "Services" under this Agreement, including this Section 13, even if the products and services are not specified in an Order Form, notwithstanding the "Services" definition in Section 1 (Definitions). Any such free trial will end at the earlier of (a) the end of the free trial period, (b) the start date of any subscriptions purchased by You for such Services, or (c) termination by Us in our sole discretion. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

**Any data you enter into the Services and any customizations made to the Services by or for You during a free trial will be permanently lost unless you purchase a subscription to the same Services as those covered by the trial, or export such data, before the end of the trial period.**

**Notwithstanding Sections 2 (Our Responsibilities), 8 (Confidentiality), 9 (Representation, Warranties, Exclusive Remedies and Disclaimers), and 10.1 (Indemnification by Us), in any free trial We provide the Services "AS IS," without any warranty, covenant, commitment or liability whatsoever, to the extent permitted by law.**

Please review the applicable Service's Documentation during the trial period so that You become familiar with the features and functions of the Services before You make Your purchase.

## 13. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW, JURISDICTION AND ARBITRATION

**13.1 General.** Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any dispute arising out of or in connection with this Agreement, and where and how such disputes will be resolved, depend on where You are domiciled.

| If you are domiciled in: | You are contracting with: | Notices should be addressed to: | The governing law is: | Exclusive forum for resolution of disputes is: |
|---|---|---|---|---|
| The United States of America, Mexico or a country in Central or South America or the Caribbean | Appluent Business Solutions, Inc. a Pennsylvania corporation. | Appluent Business Solutions, Inc.<br>1288 Valley Forge Road, Unit 51<br>Phoenixville, PA 19460<br>attn.: Controller<br>subscription@appluent.net | Pennsylvania and controlling United States federal law | Mandatory, binding arbitration in Philadelphia, Pennsylvania, U.S.A. as set forth in Section 13.4 below |

**13.2 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, (c) confirmed delivery by courier service, or (d), except for notices of termination or an indemnifiable claim ("**Legal Notices**"), the day of sending by email. Notices to Us will be addressed as specified in Section 13.1 (General) above. Billing-related notices to You will be addressed to the relevant billing contact designated by You, and Legal Notices to You will be addressed to You and be clearly identifiable as Legal Notices. All other notices to You will be addressed to the relevant Services system administrator designated by You.

**13.3 Agreement to Governing Law and Jurisdiction.** Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

**13.4 Arbitration for Customers Domiciled in Americas.** If you are domiciled in a country for which arbitration is designated in Section 13.1 (General) above as the exclusive forum for dispute resolution, then any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by confidential and binding arbitration in Philadelphia, PA before a single arbitrator. The language to be used in the arbitral proceedings shall be English. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the arbitrator's award may be entered in any court having jurisdiction. The parties agree to keep all disputes arising under this Agreement confidential, except as necessary in connection with a judicial challenge to or enforcement of an award or unless otherwise required by law or judicial decision. The arbitrator may issue orders to treat any information regarding such proceedings, including the award, as Confidential Information under this Agreement. Notwithstanding the foregoing, either party may seek equitable relief to protect its interests (including but not limited to injunctive relief), or make a claim for nonpayment, in a court of appropriate jurisdiction, and issues of intellectual property ownership or infringement may be decided only by a court of appropriate jurisdiction and not by arbitration.

**13.5 Legal Fees and Costs.** The prevailing party in any action arising from or relating to this Agreement shall be entitled to recover its reasonable attorneys' fees and costs, including, without limitation, arbitration fees and fees of experts.

**13.6 No Agency.** For the avoidance of doubt, We are entering into this Agreement as principal and not as agent for any other salesforce.com company. Subject to any permitted Assignment under Section 15.9 (Assignment), the obligations owed by Us under this Agreement shall be owed to You solely by Us and the obligations owed by You under this Agreement shall be owed solely to Us.

## 14. GENERAL PROVISIONS

**14.1 Export Compliance.** The Services, other technology of Ours, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. We and You each represent that it is not named on any U.S. government denied-party list. You will not permit any User to access or use any Service in a U.S.-embargoed country (currently Crimea, Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. or other applicable export law or regulation.

**14.2 Anti-Corruption.** The parties will comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption, including without limitation the U.S. Foreign Corrupt Practices Act, as such amended. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from Our employee or agent in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not

violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Us.

**14.3 Publicity and Reference.** Either party may publicly identify the other party as a customer or vendor, as applicable, using the other party's name and logo. Either party may issue a press release announcing Your selection of the Services, the text of which will be subject to the other party's prior written approval, not to be unreasonably withheld or delayed. You will use commercially reasonable efforts to act as a sales reference for Us upon request once per quarter, provided You are satisfied with the Services.

**14.4 Entire Agreement and Order of Precedence.** This Agreement and the applicable Order Form(s) constitute the entire agreement between You and Us regarding Your provision and use of Services and Support and supersede all prior and contemporaneous agreements, proposals or representations, written or oral, concerning their subject matter. No modification, amendment, or waiver of any provision of this Agreement or any Order Form will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in Your purchase order or in any other order documentation of Yours (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation.

**14.5 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**14.6 No Third-Party Beneficiaries.** There are no other third-party beneficiaries under this Agreement. Nothing herein is intended to confer any right or benefit to any third party.

**14.7 Waiver.** No failure or delay by either party in exercising any right hereunder will constitute a waiver of that right.

**14.8 Severability.** If any provision of this Agreement or any Order Form is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement or applicable Order Form will remain in effect.

**14.9 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety, together with all Order Forms, without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, We will refund You any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.