

Materialise Confidential and Proprietary

Version Date: 7 December 2022

SOFTWARE-AS-A-SERVICE AGREEMENT

PLEASE READ THIS AGREEMENT CAREFULLY. BY EXECUTING THE ORDER FORM, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF YOUR COMPANY, AND THAT THE CUSTOMER SHALL ENSURE THAT ALL OF THE CUSTOMER'S EMPLOYEES, AUTHORIZED USERS, AND AGENTS WILL BE BOUND BY THIS AGREEMENT. IF YOU AND YOUR COMPANY DO NOT WISH TO BE BOUND BY THIS AGREEMENT, YOU MAY NOT USE THE SOFTWARE, SERVICES, SUBSCRIPTION SERVICES OR DOCUMENTATION.

This Software-as-a-Service Agreement (this “**Agreement**”) together with each Order Form governs the use and access by you, the Customer as defined on the Order Form, to the Subscription Services provided by the Materialise entity indicated on the Order Form, on behalf of itself and its Affiliates (“**Materialise**”). This Agreement takes effect when Customer executes the Order Form or earlier if and when Customer first uses or accesses the Subscription Services or any of the Software (the “**Effective Date**”). This Agreement, together with each Order Form, governs Customer’s use of and access to the Subscription Services, Services Software and Documentation. Materialise and Customer are collectively referred to as the “**Parties**” and individually as a “**Party**” in this Agreement.

Materialise is the owner of certain proprietary SaaS-based industrial 3D printing software, related one-time-, deployment- and support services known as **CO-AM** and as further specified on the Order Form (“**Subscription Services**”). Materialise desires to provide and Customer desires to access the Subscription Services for the term of this Agreement. **NOW THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth below, and for other good and valuable consideration, the receipt, sufficiency and adequacy of which consideration is hereby accepted and acknowledged, the Parties, intending to be legally bound, agree as follows.

1. Definitions

- (a) “**Affiliates**” means any entity that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a Party to this Agreement, by way of majority voting equity ownership.
- (b) “**Agreement**” includes this Software-as-a-Service Agreement and all Order Forms referencing this Agreement, the exhibits attached hereto and any other statements of work, exhibits or appendices thereto, whether attached or incorporated by reference.
- (c) “**Authorized Users**” means individuals who are authorized by Customer to access or use the Subscription Services, for whom subscriptions to a Subscription Service have been purchased on an Order Form, and who have been supplied user identifications and passwords by Customer.
- (d) “**Customer**” means the customer or entity that has executed the Agreement and an Order Form with Materialise.
- (e) “**Customer Data**” means all electronic data or information of any kind that is entered into the Subscription Services during the Term by Customer, its Authorized Users or a third-party on behalf of Customer.
- (f) “**Documentation**” means the Materialise standard and then current administrative and user manuals published by Materialise and provided by Materialise to Customer with the Subscription Service, which may be updated from time to time, but excluding any sales or marketing materials.

- (g) “**Electronic Communications**” means any information transmitted in whole or part, electronically received and/or transmitted through the Subscription Services.
- (h) “**Facility**” means the Customer’s (digital or physical) facility location specified in any Order Form.
- (i) “**Initial Term**” means the initial subscription term specified in the applicable Order Form, excluding any renewals terms.
- (j) “**Integration & Deployment Requirements**” means the implementation and training services described in Section 2.10 and the Order Form and to be ordered by Customer and provided by Materialise subject to the terms of this Agreement.
- (k) “**Order Form**” mean the Materialise order form that sets forth the Customer name and contact information, Subscription Services, Integration & Deployment Requirements, payment information, term, and such other terms and conditions, which refers to this Agreement and is incorporated herein by this reference and shall be subject to and governed by the terms and conditions of this Agreement.
- (l) “**Software**” shall mean the then-current version (inclusive of any Updates, Upgrades, or modifications thereto) of those computer program modules and accompanying graphical user interfaces available solely through the Subscription Services and as described in the Documentation.
- (m) “**Term**” has the meaning set forth in Section 9.1 below.
- (n) “**Third-party technology**” means software or technology licensed from third parties and incorporated into the Subscription Service.
- (o) “**Updates**” shall mean updates, patches, bug fixes, feature fixes and minor software enhancements and compatibility (but excluding Upgrades) of the Software that Materialise releases commercially and as determined by Materialise in its sole discretion.
- (p) “**Upgrades**” shall mean a new version of the software that offers a significant change or major improvement over the current version of the Software and as determined by Materialise in its sole discretion.

2. Limited Rights; Ownership and Rights; Access and Use; Feedback; Service Suspension; Service Level and Support

2.1 License and Feedback

(a) Subject to and conditioned on Customer’s timely payment of Fees and compliance with the terms and conditions of this Agreement, including and the use parameters specified in any such Order Form, Materialise hereby grants to Customer a limited, restricted, revocable, non-exclusive, non-transferable, non-sublicensable right to access and use and permit Authorized Users to access and use the Subscription Services solely for Customer’s internal business use during of the Term. Materialise reserves all rights not expressly granted to Customer in this Agreement. 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 the Software, Subscription Services or other Materialise intellectual property (“**Materialise IP**”).

(b) If Customer or any of its Authorized Users, employees or contractors sends or transmits any communications or materials to Materialise by mail, email, telephone, or otherwise, suggesting or recommending changes to the Materialise IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like (“**Feedback**”), Materialise is free to use such Feedback irrespective of any other obligation or

limitation between the parties governing such Feedback. Customer hereby assigns to Materialise on Customer's behalf, and on behalf of its Authorized Users, employees, contractors and/or agents, all right, title, and interest in, and Materialise is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Materialise is not required to use any Feedback.

2.2 Authorized Users: Passwords, Access, and Notification. Customer shall authorize access to and assign unique passwords and usernames for the number of Authorized Users purchased by Customer as set forth on the Order Form. Authorized User logins are solely for designated Authorized Users and Customer shall prevent unauthorized access to or use of the Subscription Services. Customer will be solely responsible for any such unauthorized use or access. Any Electronic Communications Materialise receives under any Customer username or account will be deemed by Materialise to have been sent by Customer. Further, Customer is responsible and liable for all uses of the Software, Documentation, the Subscription Services or resulting from access provided by Customer to any Authorized User or third party, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Software, Documentation, the Subscription Services and shall cause Authorized Users to comply with such provisions.

2.3 Use of the Subscription Services. Customer agrees not to access the Subscription Services by any means other than through the interfaces that are provided by Materialise, and Customer shall not use the Subscription Services for any purposes beyond the scope of the access granted in this Agreement. Customer will not and will ensure that its Authorized Users will not: (a) sell, rent, lend, lease, distribute, transfer, copy, republish, display, license or sublicense the Subscription Services, the Software or the Documentation; (b) introduce or transmit to the Subscription Services, the Software or the Documentation any harmful or malicious code, malware, files, or programs; (c) transmit or store material in the Subscription Services or the Software; (d) send any Electronic Communication from the Subscription Service or the Software that is unlawful, harassing, libelous, defamatory or threatening; (e) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Software, Subscription Services or Documentation, in whole or in part; (f) remove any proprietary notices from the Software, Subscription Services or Documentation; (g) use the Software, Subscription Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (h) use the Software, Subscription or Documentation to develop a similar or competing product, software or service; (i) provide access to the Software, Subscription or Documentation to any person or third party in order to build or assist in building a competitive service or software to the Software, Subscription or Documentation or to benchmark with a non-Materialise service or software; (j) use the Software, Subscription or Documentation on behalf of, or to provide any product or service to, third parties; (k) use the Software or Subscription to transmit or display any false, inaccurate, or unlawful information; or (l) violate the terms and conditions of this Agreement or any terms and conditions posted on the Software or the Subscription Services (collectively, "**Prohibited Conduct**").

2.4 Third-party Technology. Materialise may incorporate technology licensed from a third-party into the Subscription Service. The use of such Third-party technology may be subject to separate terms and conditions as set forth on an Order Form or as otherwise provided to Customer. EXCEPT AS EXPRESSLY SET FORTH IN THE ORDER FORM, ALL THIRD-PARTY TECHNOLOGY IS OFFERED "AS IS" AND "WHERE IS" WITHOUT ANY REPRESENTATION OR WARRANTY AND MATERIALISE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED STATUTORY, OR OTHERWISE RELATED TO THIRD PARTY TECHNOLOGY, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. If Customer installs or enables services from a third party ("**Third-party Services**") for use in conjunction with the Subscription Service, Customer agrees that Materialise may allow such third-party providers to access Customer Data as required for the interoperation of such

Third-party Services with the Subscription Service. Any exchange of data or other interaction between Customer and a third-party provider is solely between Customer and such third-party provider.

2.5 Hosting and Customer Data Center Facilities. The hosting and Customer data center facilities supporting the Subscription Services delivered by Materialise for usage by the Customer shall, as set forth on an Order Form, be one of the following: (a) provided for and managed on behalf of Materialise by a third-party vendor (the “**Third-Party Vendor**”) not a party to this Agreement, (b) delivered to and managed by Customer on its private servers, or (c) installed on premise at Customer’s Facility. Materialise shall not be liable in respect of any breach or error in delivery, loss, damage or interruption to the Subscription Services during the Term of this Agreement caused by the Third-Party Vendor. Customer shall immediately notify Materialise, in writing of any such error, loss, breach, damage or interruption. Materialise shall not be liable for any loss, damage or expense whatsoever and howsoever arising from any breach or error, loss, damage, defect or interruption to the Subscription Services caused by the Third-Party Vendor.

2.6 Service Suspension. Notwithstanding anything to the contrary in this Agreement, Materialise may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Software or the Subscription Services if: (i) Materialise determines that (A) there is a threat or attack on any of the Materialise IP; (B) Customer's or any Authorized User's use of the Materialise IP disrupts or poses a security risk to the Materialise IP or to any other customer or vendor of Materialise; (C) Customer, or any Authorized User, is using the Materialise IP for fraudulent or illegal activities; (D) Customer, or any Authorized User, is violating the terms of this Agreement; (E) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (F) Materialise’s provision of the Software or the Subscription Services to Customer or any Authorized User is prohibited by applicable law; (ii) any vendor of Materialise has suspended or terminated Materialise’s access to or use of any third-party services or products required to enable Customer to access the Subscription, the Maintenance or the Software; or (iii) in accordance with Section 5 (any such suspension described in subclause (i), (ii), or (iii), a “**Service Suspension**”). Materialise shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Subscription Services or the Software following any Service Suspension. Materialise shall use commercially reasonable efforts to resume providing access to the Subscription Services or the Software as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Materialise will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

2.7 Security and Customer Data – GDPR (EU) & HIPAA (USA). Each Party will use commercially reasonable measures to maintain and enforce physical and logical security procedures to prevent unauthorized access to and/or use of the Subscription Services and the Customer Data. Materialise shall not be responsible or liable for the disclosure of or unauthorized access to Customer Data caused by Customer, its Authorized Users, Customer’s affiliates, or the employees, agents or contractors of any of the foregoing. Customer shall have the sole responsibility for and shall maintain and verify the accuracy, quality, integrity, legality, reliability, appropriateness of and copyright permissions for all Customer Data entered into the Subscription Services. Customer represents and warrants that it has complied with all applicable data protection laws and will obtain, all right, title, and interest in and to any Customer Data provided hereunder, which may be necessary for Materialise to process such Customer Data for the purposes set forth herein, including in connection with the analysis and monitoring of Customer’s and its Authorized Users’ use of the Software and the Subscription Services and in connection with the legitimate non-commercial business and information security operations of Customer. Materialise represents to the Customer that the Subscription Services have been designed to be in compliance with the U.S. Health Insurance Portability and Accountability Act of 1996 as amended (“**HIPAA**”) and EU General Data Protection Regulation (“**GDPR**”) as of the Effective Date. If new requirements are promulgated under HIPAA or GDPR that are applicable to the Subscription Services, then Materialise shall update the Subscription Services accordingly. The Data Processor Agreement for GDPR and Business Associate Agreement for HIPAA shall be entered into between the Parties if and when personal data is being processed within the scope of the GDPR respectively HIPAA and are available [here](#).

2.8 No Liability. Materialise (i) assumes no responsibility for the accuracy, propriety, or usefulness of the Customer Data, (ii) shall not be liable to Customer or any third-party for any loss, damage or expense related to any Customer Data, and (iii) shall not be liable or responsible to Customer for deliverables produced by the Subscription Services due to incorrect Customer Data or negligence of Customer, Authorized User, or any Customer Affiliate. Customer acknowledges that it owns all of the Customer Data or has all rights to grant such licenses to Materialise to use and process such Customer Data in furtherance of providing the Subscription Services without infringement or violation of any third-party rights. Materialise provides no warranties, representations, or indemnification to Customer for its access to and use of the Customer Data.

2.8 Transmission of Data. The Subscription Services allow Customer to send and receive Electronic Communications and Customer understands that the technical processing and transmission of Customer's Electronic Communications is fundamentally necessary to the use of the Subscription Services. Customer acknowledges and understands that Customer's Electronic Communications will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by Materialise. Materialise is not responsible for any Electronic Communications and/or Customer Data which are delayed, lost, altered, intercepted or stored during the transmission of any data across networks not owned and/or operated by Materialise, including but not limited to, the Internet and Customer's local network. Materialise will have no access or visibility of Customer Data stored by Customer at the Facility. Customer may limit or restrict Materialise's access to Customer Data as provided in an Order Form.

2.9 Service Level Agreement – Updates, Upgrades. Materialise's commitment to the availability of the Subscription Services and related matters are set forth in its Service Level Agreement available [here](#). Materialise regularly releases new Updates, Upgrades, workflow enhancements and features. The Software may be updated automatically once a new Update or Upgrade is available. Updates and Upgrades will become part of the Software and will be subject to the provisions of this Section and the other provisions of this Agreement.

2.10 Implementation Services. Implementation and training services ordered by Customer as set forth in the applicable Order Form will be performed in accordance with Materialise's customary practices for the level of Subscription Services purchased. Implementation is performed remotely unless otherwise specified.

2.12 Compliance with Laws and Content. Customer will be solely responsible: (i) for compliance of the laws by Customer, and Customer shall at all times comply, with all federal, state, and local laws, ordinances, regulations, and regulations affecting Customer's business, (ii) for using the Subscription Services in a manner that complies with all federal, state, and local laws, ordinances, regulations, and regulations, and (iii) the content and accuracy of all reports and documents prepared in whole or in part by using the Subscription Services.

2.13 Access and Anti-Virus. Customer shall be solely responsible for gaining access to the Software and the Subscription Services and Materialise shall bear no responsibility or liability for problems arising from or related to Customer's access. During the Term, Customer will deploy, at its sole expense, a reputable industry recognized non free-ware anti-virus solution. Such anti-virus solution must automatically obtain daily virus definition updates and load such updates on all of Customer's computer and other devices. Materialise reserves the right to audit, at any time, Customer's computer, and other devices to determine compliance with this Section 2.13. If Customer fails to adhere to this Section 2.13, Materialise may deny Customer's access to Materialise's systems and the Subscription Services for those devices that do not have anti-virus with active automatic updates until such time as Customer deploys an anti-virus solution pursuant to this Section 2.13.

2.14. Other Materialise Products. Unless explicitly agreed otherwise between the Parties in writing, other Materialise software and/or hardware products, or other services that are not part of the CO-AM suite are not considered as Subscription Services and Software and shall be sold and under and governed by the separate Materialise General Sales Terms and Conditions (“**Sales Terms**”) and Materialise End-User License Agreement (“**EULA**”). If you have not received a copy of these Sales Terms or EULA, please request these documents from your dedicated Materialise account manager.

3. Confidentiality

3.1 Confidential Information. For purposes of this Agreement, “**Confidential Information**” shall include the terms of this Agreement, Customer Data, each Party’s proprietary technology, business processes, methodologies, source and object code, technical product information, designs, issues, all communication between the Parties regarding the Subscription Services or the Software and any disclosed information marked, identified as or reasonably understood to be confidential. Confidential Information shall not include information which: (1) is known publicly; (2) is generally known in the industry before disclosure; (3) has become known publicly, without fault of the receiving Party; (4) the receiving Party becomes aware of from a third-party not bound by non-disclosure obligations to the disclosing Party and with the lawful right to disclose such information to the receiving Party; (5) is independently developed by the receiving Party without use of or reference to the Confidential Information, or (6) is aggregated, de-identified data that does not contain any personally identifiable or Customer-specific information.

3.2 Non-Disclosure Obligations. Each Party agrees: (a) not to use or disclose Confidential Information except to the extent reasonably necessary to perform its obligations or exercise rights under this Agreement or as directed by the disclosing Party; (b) to protect the confidentiality of Confidential Information in the same manner as it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of such Confidential Information), and (c) to make Confidential Information available to authorized persons only on a “need to know” basis. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall, to the extent permitted by applicable law, first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly either (i) return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or (ii) destroy all such copies and if requested by the disclosing Party, certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party’s obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years from the effective date of the termination of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

4. Ownership

4.1 Ownership of Subscription Services. Customer agrees that all rights, title and interest in and to all intellectual property rights in the Materialise IP, including, without limitation, the Subscription Services, Documentation, and underlying Software, are retained and owned exclusively by Materialise or its licensors. Any rights not expressly granted herein are reserved by Materialise. Customer shall not attempt, or directly or indirectly allow any Authorized User or other third-party to attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, reverse compile, disassemble, reverse engineer, download, transmit or distribute all or any portion of the Subscription Services and/or Software in any form or media or by any means. The provisions of this Section 4.1 shall survive termination of this Agreement.

4.2 Ownership of Customer Data. The Customer Data collected by Customer’s use of the Subscription Services shall remain the sole and exclusive property of the Customer and shall not be disclosed unless Materialise is requested by a government agency or authority, subpoena or court order or is otherwise legally required to produce the Customer Data. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness of and copyright permissions for all Customer Data.

4.3 Limited License to Customer Data. Subject to the terms and conditions of this Agreement, Customer grants Materialise the limited, non-exclusive, non-transferable terminable license to copy, store, record, transmit, maintain,

display, view, print, or otherwise use Customer Data in furtherance of (i) offering and providing the Subscription Services and associated services to Customer and (ii) performing or enforcing its obligations and rights as set forth in this Agreement. Subject to the terms and conditions of this Agreement, Customer grants to Materialise, its affiliates and applicable contractors a world-wide, royalty free, perpetual, irrevocable, and non-exclusive license to use, distribute, reproduce, modify, and display the Customer Data on an aggregated, anonymous basis to (i) evaluate and provide benchmarking, analytics and trends for Customer, Materialise, third parties and its other customers and (ii) to improve the Software and associated services. Except for the limited license granted herein, no rights in Customer Data are granted to Materialise under this Agreement. Customer grants to Materialise and its affiliates a world-wide, royalty free, perpetual, irrevocable, and non-exclusive license to use and incorporate into Materialise's and/or its affiliates' services any suggestion, enhancement request, recommendation, correction or other Feedback provided by Customer relating to the operation of the Software or Materialise's services.

5. Payment Terms and Taxes.

5.1 Fees and Invoicing. Materialise will invoice Customer for all amounts payable to Materialise hereunder in accordance with the applicable Order Form ("Fees"). Unless otherwise provided in an Order Form, Customer will pay all Fees within thirty (30) days of the invoice date without setoff or deduction. All amounts are payable in the currency indicated on the Order Form. If Customer fails to make any payment when due, without limiting Materialise's other rights and remedies: (i) Materialise may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) Customer shall reimburse Materialise for all reasonable costs incurred by Materialise in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for five (5) days beyond the due date, Materialise may suspend Customer's and its Authorized Users' access to any portion or all of the Software or the Subscription Services until such amounts are paid in full.

5.2 Taxes. All Fees payable under the applicable Order Form are net amounts in the currency indicated on the Order Form and do not include taxes or duties of any kind. Customer is responsible for all sales, use, value added, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder whether or not included on the initial invoice or assessed thereafter, other than any taxes imposed on Materialise's net income. In the event that Materialise is required to collect or pay any tax for which Customer is responsible, Customer will pay such tax directly to Materialise. If Customer is a tax-exempt organization and is not obligated to pay taxes arising out of this Agreement, Customer will provide Materialise with any required documentation to verify its tax-exempt status with the applicable taxing authorities.

6. Warranties

6.1 Warranty of Subscription Service Functionality. Materialise warrants that the Subscription Services, when accessed in accordance with the Documentation and the terms and conditions of this Agreement, will perform materially as described in the Documentation applicable to such Subscription Services purchased by Customer. Customer's sole and exclusive remedy and Materialise's sole liability for Materialise's breach of this warranty shall be that Materialise shall be required to use commercially reasonable efforts to modify the Subscription Services to achieve in all material respects the functionality described in the Documentation and if Materialise is unable to restore such functionality, Customer shall be entitled to terminate the applicable subscription to use the Subscription Services (as described in the corresponding Order Form) and receive a prorated refund of any prepaid subscription Fees paid under such Order Form for its use of the Subscription Service for the remaining terminated portion of the Term. Materialise shall have no obligation with respect to a Subscription Service warranty claim unless notified of such claim within sixty (60) days of the first instance of any material functionality problem, and such notice must be sent in writing to Materialise Customer Support. The warranties set forth in this Section are made to and for the benefit of Customer only. Such warranties shall only apply if the applicable Subscription Service has been utilized in accordance with this Agreement and applicable law.

6.2 Implementation Services Warranty. Materialise warrants that it will perform the implementation Services ordered hereunder in a professional and workmanlike manner.

6.3 Customer Warranties. Customer represents and warrants to Materialise that (i) Customer has full right, title and interest in and to the Customer Data it supplies to Materialise, (ii) the Customer Data supplied by Customer to Materialise hereunder is accurate and complete; (iii) Customer and Customer's use of the Software and Subscription Services will comply with all applicable federal, state, county and local laws, ordinances, orders, codes, rule and regulations; (iv) Customer will use the Software, Documentation and Subscription Services strictly in accordance with the terms of this Agreement; (v) Customer will not engage in any Prohibited Conduct; (vi) Customer Data will not infringe the intellectual property rights or other rights of any third party; and (vii) Customer has secured all necessary licenses and/or authorizations for Materialise to use the Customer Data pursuant to the terms of this Agreement.

6.4 Disclaimer. EXCEPT AS STATED IN SECTION 6 OF THIS AGREEMENT, MATERIALISE IP (INCLUDING THE SOFTWARE AND SUBSCRIPTION SERVICES) IS PROVIDED "AS IS" AND MATERIALISE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 6, MATERIALISE MAKES NO WARRANTY OF ANY KIND THAT THE MATERIALISE IP (INCLUDING THE SOFTWARE AND SUBSCRIPTION SERVICES), OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. TO THE EXTENT PROHIBITED BY LAW, THE EXCLUSION OR LIMITATION OF CERTAIN WARRANTIES, OR SOME OR ALL OF THE EXCLUSIONS AND LIMITATIONS IN THIS SECTION MAY NOT APPLY TO CUSTOMER.

6.5 Materialise provides no warranty regarding, and will have no responsibility for, any claim arising out of: (i) a modification of the Software or Subscription Services made by anyone other than Materialise, unless Materialise approves such modification in writing; or, (ii) use of the Software or Subscription Services in combination with hardware, software, or other technology not provided by Materialise: (A) that is forbidden by the Documentation; or, (B) that is not designated in the Documentation as available for interface with the Software, unless such hardware or software is a host computer, operating system, or other type of hardware or software necessary for the Software to perform a function listed in the Documentation. Customer shall not use the Software or Subscription Services (directly or indirectly) to conduct or solicit the performance of any business or activity which is tortuous or prohibited by law.

7. Limitations of Liability. IN NO EVENT WILL MATERIALISE BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (A) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (B) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (C) LOSS OF GOODWILL OR REPUTATION; (D) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (E) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER MATERIALISE WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL MATERIALISE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO MATERIALISE UNDER THIS AGREEMENT IN THE SIX (6) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

8. Indemnification

8.1 Materialise's Indemnity. Materialise shall, at its own expense, defend Customer from and against any and all allegations, threats, claims, causes of action, demands, suits, and administrative proceedings brought by third parties (collectively "**Claims**") alleging that the Subscription Services, as used in accordance with the terms and conditions of this Agreement, infringes the US or EU copyrights, trade secrets, patents or trademarks of such third-party and shall indemnify Customer against liability, losses, damages, penalties, interest, judgments, orders, expenses and costs finally awarded or entered into in settlement (including, without limitation, reasonable attorneys' fees) (collectively, "**Losses**") to the extent based upon such a Claim. Excluded from these indemnification obligations are Claims to the extent arising from: (a) use of the Subscription Services in violation of this Agreement or applicable law, (b) use of the Subscription Services after Materialise notifies Customer to discontinue use because of an infringement claim, (c) modifications to the Subscription Service not made by Materialise, or (d) use of the Subscription Service in combination with any software, application or service not provided by Materialise. If a Claim is brought or threatened, Materialise shall, at its sole option and expense, use commercially reasonable efforts either: (a) to procure for Customer the right to continue using the Subscription Service without cost to Customer; (b) to modify or replace all or portions of the Subscription Services as needed to avoid infringement, such update or replacement having substantially similar or better capabilities; or (c) if the remedies described in (a) and (b) above are not commercially feasible, terminate the Agreement and provide to the Customer any pro-rata refund of the subscription Fees pre-paid under the Agreement for the remaining terminated portion of the Term. THE RIGHTS AND REMEDIES GRANTED TO CUSTOMER UNDER THIS SECTION 8.1 STATE MATERIALISE'S SOLE AND ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS OF INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD-PARTY.

8.2 Customer's Indemnity. Customer shall, at its own expense, indemnify, defend, and hold harmless Materialise from and against any and all Claims or Losses arising from or related to: (i) a breach of this Agreement by Customer; (ii) Customer's misuse of the Subscription Services; (iii) use of the Software or Subscription Services in an infringing manner; or (iv) Customer's failure to pay all applicable taxes associated with Customer's use of the Subscription Services. Customer shall indemnify defend and hold Materialise harmless from and against liability for any Losses to the extent based upon such Claims.

8.3 Indemnification Procedures and Survival. In the event of a potential indemnity obligation under this Section 8, the indemnified Party shall: (i) promptly notify the indemnifying Party in writing of such Claim; (ii) allow the indemnifying Party to have sole control of its defense and settlement; and (iii) upon request of the indemnifying Party, cooperate in all reasonable respects, at the indemnifying Party's expense, with the indemnifying Party in the investigation and defense of such Claim. The indemnification obligations under this Section 8 are expressly conditioned upon the indemnified Party's compliance with this Section 8.3. The indemnified Party may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. The indemnifying Party shall not settle any Claim on any terms or in any manner that adversely affects the rights of any indemnified Party without the indemnified Party's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. If the indemnifying Party fails or refuses to assume control of the defense of such Claim, the indemnified Party shall have the right, but no obligation, to defend against such, including settling such Claim after giving notice to the indemnifying Party, in each case in such manner and on such terms as the indemnified Party may deem appropriate. The indemnified Party's failure to perform any obligations under this Section 8.3 will not relieve the indemnifying Party of its obligations under this Section 8, except to the extent that the indemnified Party can demonstrate that it has been materially prejudiced as a result of such failure.

9. Term; Subscription Renewals; Termination

9.1 Term; Renewals. Unless set forth otherwise in the Order Form or otherwise terminated earlier pursuant to this Agreement's express provisions, the term of this Agreement shall commence on the Effective Date and shall continue thereafter for so long as there is at least one outstanding Order Form hereunder whose term (including any

renewals thereof) has not expired (“**Term**”). Unless explicitly agreed otherwise between the Parties in writing, the Term of each Subscription Services subscription purchased under an Order Form shall continue for the term set forth on the Order Form and shall automatically renew for successive terms of the same period (“**Renewal Term**”), unless either Party gives the other at least sixty (60) days written notice of termination prior to any such renewal. Materialise reserves the right to modify pricing applicable to any Subscription Services Renewal Term provided that it gives Customer at least sixty (60) days advance written notice of such change.

9.2 Termination, Expiration. Either Party may terminate this Agreement for material breach of this Agreement by the other Party upon thirty (30) days prior written notice of such breach which is not cured during such notice period. Termination of this Agreement for material breach shall terminate all Order Forms. Either Party may terminate any Order Form for material breach of such Order Form by the other Party upon thirty (30) days prior written notice of such breach which is not cured during such notice period. Termination of any Order Form for material breach thereof shall not terminate this Agreement or any other Order Form. Such Notice (as hereinafter defined) shall be sufficiently detailed so as to provide the alleged breaching Party a meaningful opportunity to cure such alleged breach and shall be sent pursuant to Section 11.1 to the alleged breaching Party at the address set forth in the Order Form. Either Party may terminate this Agreement immediately upon written Notice if the other Party (i) files a petition, or has a petition filed against it, under any laws relating to liquidation or distribution of assets for the benefit of its creditors due to insolvency which is not abandoned or dismissed within thirty (30) days; or (ii) ceases to carry on business operations in the ordinary course. Upon termination or expiration of this Agreement for any reason, Customer shall have no rights to continue use of the Subscription Services. If this Agreement or any Order Form is terminated as a result of Customer’s material breach of the Agreement, then Materialise shall be entitled to all of the Fees due under this Agreement and any terminated Order Forms (applicable) for the entire committed subscription term under such Order Forms. If this Agreement is terminated as a result of Materialise’s material breach of this Agreement, then Customer shall be entitled to a refund of the pro rata portion of any prepaid subscription fees paid by Customer to Materialise under this Agreement for the remaining terminated portion of the Term. Customer agrees that Materialise shall not be liable to Customer or any third-party for any damages suffered by Customer as a result of termination of this Agreement. In the event of any legal proceedings arising out of a material breach of this Agreement, the prevailing Party shall be entitled to recover its reasonable costs and expenses, including but not limited to reasonable attorneys’ fees, incurred in the event of breach of this Agreement.

9.4 Survival. Sections 2.3, 3, 4, 5, 7, 8, 9, 10, and 11 and any other provisions necessary to interpret the respective rights and obligations of the parties hereunder will survive any termination or expiration of this Agreement, regardless of the cause of such termination or expiration.

10. Non-Solicitation. Customer agrees that during the Term and for a period of twelve (12) months thereafter, neither Customer nor its Affiliates shall solicit any employee or contractor of Materialise to leave his/her/its employment or engagement with Materialise or hire or engage any employee or contractor in any capacity. In the event that Customer violates the foregoing, it shall pay liquidated damages to Materialise in an amount equal to the first year’s compensation to such individual following such violation.

11. General Provisions.

11.1 Notice. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “**Notice**”) must be in writing and addressed to the Parties at the addresses set forth on the Order Form (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Subsection 11.1). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

11.2 Independent Contractors. This Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the Parties. Neither Party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

11.3 No Waiver. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) 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 and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

11.4 Force Majeure. Materialise shall not be liable for any delay or failure to perform its obligations due to circumstances beyond Materialise's control, such circumstances to include without limitation natural disasters, pandemic, epidemic, terrorism, labor disputes, war, declaration of governments, transportation delays, computer and/or network failures, acts of civil or military authorities, interruptions in third-party telecommunications or internet equipment or service, or misuse of the Subscription or the Software by Customer.

11.5 Assignment & Successors. Customer may not assign this Agreement or any of its rights or obligations hereunder without Materialise's express written consent, which shall not be unreasonably withheld. Materialise may assign this Agreement or any of its rights or obligations to the surviving or acquiring party hereunder in a sale of substantially all the assets or equity of or a merger or demerger of Materialise into another entity, or to an Affiliate or other entity as part of a corporate or business unit reorganization. Any other purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. Except to the extent forbidden by this Section 11.5, this Agreement will be binding upon and inure to the benefit of the respective successors and assigns of the parties.

11.6 Governing Law & Jurisdiction.

11.6.1. IF MATERIALISE USA LLC IS THE ENTITY INDICATED ON THE ORDER FORM: Unless explicitly agreed otherwise between the Parties in writing on the Order Form, this Agreement will be governed solely by the internal laws of the State of Michigan, without 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 Michigan. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of Michigan in each case located in Wayne County, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

11.6.2. IF MATERIALISE NV OR ANY OTHER MATERIALISE ENTITY IS THE ENTITY INDICATED ON THE ORDER FORM: Unless explicitly agreed otherwise between the Parties in writing on the Order Form, this Agreement will be governed solely by the laws of Belgium, without 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 Belgium. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the courts of Leuven, Belgium, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

11.7 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, 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. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated.

11.8 Execution in Counterparts. This Agreement may be executed in one or more counterparts, each of which counterpart will be deemed an original, but all such counterparts will constitute a single instrument.

11.9 Construction. The Parties agree that the terms of this Agreement result from negotiations between them. This Agreement will not be construed in favor of or against either Party by reason of authorship.

11.10 Entire Agreement and Amendment. This Agreement, including its recitals, exhibits, referenced URLs, and Order Form, sets forth the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous writings, negotiations, discussions, representations and warranties, both written and oral, with respect to the subject matter hereof. Neither Party has relied upon any such prior or contemporaneous communications. NO TERMS AND CONDITIONS FROM ANY CUSTOMER PURCHASE ORDER, INVOICE OR OTHER DOCUMENT NOR ANY MODIFICATIONS TO THIS AGREEMENT SHALL BE CONSIDERED AS PART OF THIS AGREEMENT, UNLESS EXPLICITLY AGREED BETWEEN THE PARTIES IN WRITING AND SUCH ADDITIONAL TERMS AND/OR MODIFICATIONS ARE ATTACHED TO THIS AGREEMENT OR THE ORDER FORM AS AN ANNEX. Except as set forth in this Section 11.10, this Agreement may not be modified except (i) by authorized representatives of each Party and (ii) in a written contract signed by both Parties. Notwithstanding anything to the contrary contained herein, Materialise reserves the right, in its sole discretion to make any changes to the Agreement, Subscription Services, Software or associated services that it deems necessary or useful, including but not limited to: (a) maintain or enhance: (i) the quality or delivery of the Subscription Service or Software to its customers, (ii) the competitive strength of or market for the Software, or (iii) the Software cost efficiency or performance; or (b) to comply with applicable laws or regulations. Notwithstanding anything to the contrary contained herein, Materialise may modify or amend this Agreement at any time and will post access to details of any modifications or amendments to this Agreement [here](#). The version of this Agreement that is in effect at the moment of signature of the Order Form shall be the version that controls that Order Form. Any changes will not apply retroactively and generally will only become effective in the event a new Order Form is entered into by the Customer. However, changes addressing new functions for a product or service or made for legal reasons will be effective immediately. Your continued use of the Software or Subscription Service after the effective date of any such changes constitutes your agreement to follow and be bound by such changes.

11.11 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 3 (Confidentiality) or, in the case of Customer, Section 2.3 (Use Restrictions) would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, 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.

11.12 Export Regulation. The Subscription Services utilize software and technology that may be subject to US and/or EU export control laws, including the US Export Administration Act, EU export control regulations and its associated (state/national) regulations and implementing measures. Customer shall not, directly or indirectly, export, re-export, or release the Subscription Services or the underlying software or technology to or make the Subscription Services or the underlying software or technology accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Customer shall comply with all applicable US and EU laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Subscription or the underlying software or technology available outside the US or EU, as applicable.

11.13 Public Announcement and Use of Customer Name and Logos. Upon execution of this Agreement, the Parties may agree to develop and issue a mutually agreeable press release announcing this transaction. Materialise may also use Customer's name and logos in its marketing and advertising materials, including, but not limited to, on its website and in its investor decks.

END

For any questions concerning this Agreement we invite you to contact your dedicated Materialise account manager.