

MASTER SERVICES AGREEMENT

1. INTRODUCTION

- 1.1 This Master Services Agreement ("Master Agreement") is between [insert Axiell entity and address] or the Axiell Affiliate identified on the Schedule ("Axiell" or the "Company") and your organization, ("Client" or "You" or "Your"), is effective on the date set forth in the referencing Schedule and specifies the terms and conditions agreed between the Parties as a foundation for their relationship as further defined in the applicable Addendums.
- 1.2 The Master Agreement may incorporate any applicable Addendum attached hereto.

2. DEFINITIONS

- 2.1 **"Addendum"** means the additional terms and conditions applicable to the Axiell Offering attached hereto.
- 2.2 **"Affiliate"** with respect to Client means any legal entity in which the Client directly or indirectly Controls.
- 2.3 **"Agent"** means a single installation of the Axiell Software on a specific operating system instance which can be identified as a unique host identification on a hardware server or, in the case of a device without an operating system, on a single computerized device managed by Client and which Agent communicates with the Axiell Server to transform directions from the Axiell Server into action tasks. A Server may have multiple operating system instances installed on it (through partitioning or virtualization). Each instance of the operating system on a partitioned/virtualized server must license an Agent. Alternatively, in connection with any SaaS deployment, the Agent can be hosted and managed by Axiell.
- 2.4 **"Agreement"** means this Master Agreement, the applicable Addendum and applicable Schedule, and any document incorporated expressly therein by reference.
- 2.5 **"Authorized Use Limitation"** means the limitation on usage of SaaS as measured by the Billing Metric specified in the Schedule.
- 2.6 **"Axiell Applications"** means any ready-to-use applications built by Axiell, including, without limitation, Axiell Collections Museum, Axiell Collections Library, Axiell Collections Archive, Axiell Collections Plus/Xplus which run on the Axiell Server.
- 2.7 **"Axiell Server"** means the Axiell Software's program automation and remediation data center, built by Axiell, which provides the link between the Axiell Applications and the Internet and which is dedicated to: (i) processing information provided by the Agents; and (ii) transforming that information into computational tasks directed back to the Agents for the proper implementation and functionality of the Software.
- 2.8 **"Axiell Software"** means (i) either Tailored Software or Standard Software and/or (ii) any other on premises of SaaS computer software programs, made generally available and licensed to a Client under this Addendum pursuant to the applicable Schedule including all Versions, Releases, provided as part of Maintenance, if applicable.
- 2.9 **"Axiell Affiliate"** means any company which owns, is owned by, or is under common ownership with Axiell. Ownership means having Control.
- 2.10 **"Axiell Offering"** means the individual offering (such as software, services, software as a service etc.) made available by Axiell as defined in the Addendum and/or Schedule.
- 2.11 **"Confidential Information"** means any information, maintained in confidence by the disclosing Party, communicated in written or oral form, marked as proprietary, confidential or otherwise so identified, and/or any information that by its form, nature, content or mode of transmission would to a reasonable recipient be deemed confidential or proprietary, including, without limitation, Axiell Offerings, Documentation, and any benchmark data and results produced.

- 2.12 **“Control”** means ownership or control of greater than 50% of an entity’s shares or control the board of such entity by force of law or contract, or the equivalent.
- 2.13 **“Change”** means any: (a) addition to Axiell Offerings as described in a Schedule; (b) modification to: (i) the nature and scope of the Axiell Offerings; (ii) the specifications; (iii) the processes, controls, standards (including any operating, network or security standards), interfaces, software or systems used by Axiell to provide or perform the Axiell Offerings that could affect, or require modifications to, the processes, controls, standards (including any operating, network or security standards), interfaces, software or systems of Client or its Affiliates; (iv) a service level; or (d) other change as agreed to by the Parties pursuant to a Change Order.
- 2.14 **“Change Order”** means an order evidencing a Change prepared and executed in accordance with the terms of this Master Agreement, as amended from time to time.
- 2.15 **“Client Provided Materials”** means any Client Data, materials, information, text, music, sound, images, video, graphics, logos, trademarks, software, and all other content supplied to Axiell under the Master Agreement.
- 2.16 **“CPI”** means the Consumer Price Index.
- 2.17 **“Documentation”** means the documentation, technical product specifications and/or user manuals, published by Axiell or any entity within Axiell’s group of companies (each an Axiell entity) that is made generally available with Axiell Offerings.
- 2.18 **“Named Users”** means a specific individual or device designated by Client to use or is managed by the Axiell Offering as specified in the Documentation. A non-human operated device or process may be counted as a Named User as specified in the Documentation if such device requires unique identification to the Axiell Offering (i.e. its own access credentials). Named Users’ login credentials are for designated Named Users only and may not be shared among multiple individuals. Named Users’ login credentials may be reassigned to new Named Users if the former users no longer require access to the Axiell Offering.
- 2.19 **“Parties”** means individually and or collectively Axiell and/or the Client.
- 2.20 **“RPI”** means the renewal price increase percentage by which the Company increases the price of a product or service when the Client renews their contract.
- 2.21 **“Schedule”** means a signed mutually agreed ordering document such as a Axiell order quote, statement of work or Change Order for or related to the specific Axiell Offering licensed or purchased.
- 2.22 **“Server”** means computer(s) or computer program that manages access to a centralized resource or service in a network.
- 2.23 **“Standard Software”** means the software program(s) on which Axiell Applications and databases run (adlwin.exe) which may be supplied in various versions to match different types of databases, as applicable (e.g.: file-based Axiell Collections database, MS SQL, Oracle).
- 2.24 **“Subcontractors”** means any entity which Axiell or a Axiell Affiliate has a contract for provision of certain services and will include terms to protect confidentiality and data.
- 2.25 **“Tailored Software”** means Standard Software which has been specially modified and/or expanded for Client by Axiell on the instructions of Client and/or software which has been specially developed for Client.
- 2.26 **“Term”** means, with respect to each Schedule, the period during which the Axiell Offering is provided, licensed or granted.
- 2.27 **“Transfer”** means sending Axiell personal data or providing Axiell access to personal data.
- 2.28 **“Invasive Code”** means “virus”, “trap door”, “Trojan Horse”, “worm”, “malware”, or any other malicious or destructive code.

3. ORDERING AND DELIVERY

- 3.1 This Master Agreement does not entitle Client's Affiliates to directly purchase any Axiell Offering from Axiell, unless such Affiliate enters into an agreement with Axiell to adopt and adhere to the terms for this Master Agreement and applicable Addendums.
- 3.2 Any terms that may appear on a Client's purchase order shall not apply to the Agreement and shall be deemed null and void.
- 3.3 Axiell Offerings shall be installed in the manner specified in an applicable Schedule. If, and to the extent, physical delivery is required, the Axiell Offering will be delivered by electronic delivery (ESD) from Axiell's shipping point. To the extent that the Axiell Offering involves Axiell Software, and if the Axiell Software is delivered by ESD, the obligation to deliver the Axiell Software shall be complete upon transmission of such software electronically to Client. At that time and place, all risk of loss of the copy of the Axiell Software shall pass to Client. Axiell agrees to be responsible for all customs duties and clearances and title to any Axiell hardware if included will pass upon point of delivery to carrier at Axiell's shipping location.

4. CONFIDENTIAL INFORMATION

- 4.1 The Parties agree that when receiving Confidential Information from the disclosing Party, that the receiving Party shall hold it in confidence and shall not disclose or use such information except as permitted under the Agreement. The receiving Party shall treat the disclosing Party's Confidential Information in the same manner as it treats its own proprietary and/or confidential information, which shall not be less than a reasonable standard of care, and Confidential Information only for the purposes described in the Agreement. Confidential Information may be disclosed to receiving Party's employees, agents, financial advisors, contractors and attorneys on a need-to know basis and the receiving Party shall ensure that such persons maintain such Confidential Information pursuant to the terms of the Agreement.
- 4.2 The receiving Party shall be permitted to disclose Confidential Information in connection with a judicial or administrative proceeding to the extent that such disclosure is required under applicable law or court order, provided that the receiving Party shall, where reasonably possible, give the disclosing Party prompt and timely written notice of any such proceeding and shall offer reasonable cooperation in any effort of the disclosing Party to obtain a protective order.
- 4.3 Confidential Information shall exclude: (i) information which the receiving Party has been authorized in writing by the disclosing Party to disclose without restriction; (ii) information which was rightfully in the receiving Party's possession or rightfully known to it prior to receipt of such information from the disclosing Party; (iii) information which was rightfully disclosed to the receiving Party by a third Party having proper possession of such information, without restriction; (iv) information which is part of or enters the public domain without any breach of the obligations of confidentiality by the receiving Party; and (v) information which is independently developed by the receiving Party without use or reference to the disclosing Party's Confidential Information.
- 4.4 Nothing in the Agreement will (i) preclude Axiell from using the ideas, concepts and know-how which are developed in the course of providing any Axiell Offerings to Client or (ii) be deemed to limit Axiell's rights to provide similar Axiell Offerings to other customers. Client agrees that Axiell may use any feedback provided by Client related to any Axiell Offering for any Axiell business purpose, without requiring consent including reproduction and preparation of derivative works based upon such feedback, as well as distribution of such derivative works.
- 4.5 The receiving Party agrees, upon request of the disclosing party, to return to the disclosing Party all Confidential Information in its possession or certify the destruction thereof.

- 4.6 In the event of a breach of this section, the disclosing Party may not have an adequate remedy at law. The Parties therefore agree that the disclosing Party may be entitled to seek the remedies of temporary and permanent injunction, specific performance or any other form of equitable relief deemed appropriate by a court of competent jurisdiction. For Confidential Information that constitutes a trade secret and for Axiell Software (including code) and Documentation, the material terms of the Agreement, and Client's and/or Axiell's Confidential Information expressly designated in writing as perpetually confidential, the obligations of this section are perpetual and shall survive termination. For all other Confidential Information, the foregoing obligations shall extend for five (5) years from the date of initial disclosure.

5. **FEES AND PAYMENTS**

- 5.1 **Fees.** Client agrees to pay Company the fees and other amounts set forth on all applicable Schedules. Except as otherwise specified in a Schedule, (a) fees for the SaaS Offering purchased and not actual usage, and (b) payment obligations are non-cancellable and fees paid are non-refundable, and (c) quantities purchased cannot be decreased during the relevant Term. Except as otherwise specified in a Schedule, fees for any and all Axiell Offerings shall be based on then-current rates, which can be fixed or hourly.
- 5.2 **Payment Terms.** Unless otherwise specified in the applicable Schedule, all undisputed fees and other amounts due under this Master Agreement shall be due payable net thirty (30) calendar days after date of receipt by Client of the applicable invoice. Axiell may charge a late charge equal to the lesser of (a) one and a half percent (1.5%) per month or (b) the maximum amount allowed by applicable law, on any outstanding past due balance that is not the subject of a good faith dispute. Client will provide complete and accurate billing and contact information to Axiell via e-mail and will notify Axiell of any changes to such information not later than thirty (30) days after such changes occur.
- 5.3 **Taxes.** Client shall be responsible for, all taxes, of any kind, duties, and assessments imposed on Client in connection with fees paid under the provisions of this Master Agreement, including without limitation, all sales, use, excise or other taxes and duties, and Axiell will include all such taxes, duties and assessments on each applicable invoice. Specifically, Client agrees to: i) pay withholding tax directly to the appropriate government entity where required by law; ii) furnish to Axiell a tax certificate evidencing such payment; iii) pay Axiell only the net proceeds after tax; and iv) fully cooperate with Axiell in seeking a waiver or reduction of such taxes and promptly complete and file all relevant documents. Where taxes are based upon the location(s) receiving the benefit of the Axiell Offerings, Client has an ongoing obligation to notify Axiell of such location(s) if different than such business addresses listed in the applicable Schedule. If a tax-exempt certificate applies, Client agrees to provide Axiell, within thirty (30) days of the Effective Date of this Master Agreement, with such applicable sales tax exemption certificate(s).
- 5.4 **Interest.** Axiell may charge interest of one and a half per cent (1.5%) per month compounded for the entire overdue period or the maximum amount allowed by law unless Client has a bona fide dispute supported by written explanation.
- 5.5 **Expenses.** If agreed in writing in the applicable Schedule, Client shall reimburse Axiell for any reasonable, actual out-of-pocket expenses incurred and approved by Client, including travel expenses and related costs, incurred by Axiell employees and subcontractors, provided that such expense and costs are consistent with Client's own travel policies and approved in advance by Client.
- 5.6 **Disputed Charges.** Client must notify Axiell in writing of any dispute or disagreement with invoiced charges within thirty (30) calendar days after the date of receipt of the applicable invoice by Client. Absent such notice, Client shall be deemed to have agreed to the charges as invoiced.
- 5.7 **Suspension.** If any amount owing by Client under this Master Agreement is thirty (30) or more days past due, Axiell may, without limiting its other rights and remedies, accelerate Client's unpaid fee obligations under this Master Agreement so that all such obligations

become immediately due and payable. If Client's account is overdue, Axiell reserves the right to withhold performance of its obligations under the Master Agreement, without liability, until such amounts are paid in full. Client agrees that Axiell may disable or interrupt functionality of an Axiell Offering or refuse to renew or replace an Axiell Offering, rendering some or all aspects of the Axiell Offering unusable by Client, at any time to enforce its rights under the Master Agreement. Axiell will give Client at least ten (10) days' prior notice that Client's account is overdue before implementing any such acceleration of fees or suspension the Axiell Offering.

6. **REPRESENTATIONS AND WARRANTIES; EXCLUSIONS**

- 6.1 **Warranties.** Each Party represents and warrants to the other Party that (a) such Party has the required operational power, right and authority to enter into this Agreement and perform its obligations hereunder, (b) such Party shall comply with all applicable laws and regulations with respect to its activities under this Agreement, including, without limitation, applicable privacy and data security laws, (c) the execution of this Agreement and performance of its obligations thereunder do not and will not violate any other agreement to which it is a party, and (d) this Agreement constitutes a legal, valid and binding obligation when signed by both Parties..
- 6.2 **Axiell Warranties.** Axiell further represents and warrants to Client that it shall provide the Axiell Offering(s) in a professional and workmanlike manner using employees or contractors of Axiell having a level of skill commensurate with the requirements of this Master Agreement.
- 6.3 **Client Warranties.** Client further represents and warrants to Axiell that Client (a) shall use reasonable efforts to prevent unauthorized access to, or use of, the Axiell Offerings and in the event of any such unauthorized access or use, promptly notify Axiell; (b) shall obtain and maintain all necessary licenses, consents and permissions necessary for Axiell (including its agents) to perform its obligations under this Agreement, including, without limitation, the Axiell Offerings; (c) owns, controls, or has the required licenses, authorizations and/or permissions required to provide Client Provided Materials to Axiell for use in connection with the Axiell Software and/or Axiell Offerings, and all licenses it is granting hereunder, without infringing on or violating any third party's rights; and (d) shall use commercially reasonable efforts to ensure that its network and systems comply with any relevant specifications provided by Axiell to Client in writing from time to time.
- 6.4 **Disclaimers.** Axiell shall use standard industry measures for similarly sized companies to prevent the Axiell Software from containing any Invasive Code which could impair Client's, or its Affiliates', use of or access to the same. However, Client agrees that Axiell does not guarantee or warrant that files available for downloading from the internet and the Axiell Software will be free of Invasive Code. Client is responsible for implementing sufficient procedures and checkpoints to satisfy Client's particular requirements for anti-virus protection and accuracy of data input and output, and for maintaining a means external to the Axiell Software for any reconstruction of lost data. AXIELL WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY A DISTRIBUTED DENIAL-OF-SERVICE ATTACK, INVASIVE CODE OR OTHER TECHNOLOGICALLY HARMFUL MATERIAL THAT MAY INFECT CLIENT'S COMPUTER EQUIPMENT, COMPUTER PROGRAMS, DATA OR OTHER PROPRIETARY MATERIAL DUE TO CLIENT'S USE OF SERVICES, OR ITEMS OBTAINED THROUGH THE SERVICES OR TO CLIENT'S DOWNLOADING OF ANY MATERIAL POSTED ON THE SERVICES, OR ON ANY WEBSITE LINKED TO THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH HEREIN, AXIELL PROVIDES THE SERVICES ON AN "AS-IS" BASIS AND DISCLAIMS ANY AND ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT ACKNOWLEDGES THAT AXIELL DOES NOT WARRANT THAT THE AXIELL SOFTWARE, AXIELL APPLICATIONS, OR AXIELL SERVER WILL BE PROVIDED IN AN UNINTERRUPTED OR ERROR FREE FASHION AT ALL TIMES AND THAT AXIELL IS NOT LIABLE FOR ANY ACTIONS TAKEN BY THIRD PARTIES RELATED TO OR ARISING FROM CLIENT'S USE THEREOF.

7. TITLE

Axiell retains all right, title, copyright, patent, trademark, trade secret and all other proprietary interests to all Axiell Offerings and any derivatives thereof. No title, copyright, patent, trademark, trade secret or other right of intellectual property not expressly granted under the Agreement is exchanged between the Parties.

8. THIRD PARTY PRODUCTS

Under no circumstances shall Axiell have any responsibility or liability to Client with respect to any product or service provided by a third party even if such product or services was resold or distributed by Axiell. Such products and services are provided “as is” without warranty of any kind either express or implied. Client acknowledges and agrees that the performance warranties set forth in the applicable Addendums and Axiell’s indemnification obligations below, do not apply to any product or service provided by a third party even if such product or services was resold or distributed by Axiell.

9. INDEMNIFICATION

- 9.1 Axiell will indemnify, defend and/or, at its option, settle any third party claims that Client’s use of the specific Axiell Offering licensed or purchased by Client under this Agreement infringes any valid patent or copyright within the jurisdictions where Client is authorized to use the Axiell Offering. Axiell may, at its sole option and expense: (i) procure for Client the right to continue to use the Axiell Offering; (ii) repair, modify or replace the Axiell Offering so that it is no longer infringing; or if (i) and (ii) are not commercially practicable, (iii) provide a pro-rated refund of the fees paid for the Axiell Offering which gave rise to the indemnity calculated against the remainder of the Term from the date it is established that Axiell is notified of the third Party claim. If the Axiell Offering is Axiell Software, and is licensed on a perpetual basis, an amortization schedule of three (3) years shall be used for the basis of the refund calculation.
- 9.2 Axiell shall have no liability: (i) in the event the allegation of infringement is a result of a modification of the Axiell Offering except a modification by Axiell, (ii) if the Axiell Offering is not being used in accordance with Axiell’s specifications, related documentation and guidelines, (iii) if the alleged infringement would be avoided or otherwise eliminated by the use of a Axiell published update or patch provided at no additional charge, or (iv) if the alleged infringement results from a combination of the Axiell Offerings with any third party product. The indemnifications contained herein shall not apply and Axiell shall have no liability in relation to any Axiell Offering produced by Axiell at the specific direction of Client.
THE FOREGOING PROVISIONS STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF AXIELL REGARDING CLAIMS OF INFRINGEMENT, AND THE EXCLUSIVE REMEDY AVAILABLE TO CLIENT WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS.
- 9.3 Each Party shall indemnify the other against all damages, fees, (including reasonable attorney’s fees) fines, judgments, costs and expenses as a result of a third party action alleging a bodily injury or death which arises from the provision of services under the Agreement, provided that such liabilities are the proximate result of gross negligence or intentional tortious conduct on the part of the indemnifying Party.
- 9.4 Client agrees to indemnify and defend Axiell against any claim, demand, suit or proceeding made or brought against Axiell by a third party alleging that any Client Data infringes or misappropriates such third party’s intellectual property rights, or arising from Client’s use of an Offering in violation of the Agreement, the Documentation, Schedule or applicable law (each a “Claim Against Axiell”), and Client will indemnify Axiell from any damages, attorney fees and costs finally awarded against Axiell as a result of, or for any amounts paid by Axiell under a settlement approved by Client in writing of, a Claim Against Axiell.
- 9.5 Client shall have no liability: (i) in the event the allegation of infringement is a result of a modification of the Client Provided Materials by Axiell, (ii) if the alleged infringement would be avoided or otherwise eliminated by using materials provided by the Client to replace the infringing Client Provided Materials; or (iii) if the alleged infringement results from a



combination of the Client Provided Materials and any third party products. **THE FOREGOING PROVISIONS STATE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTIRE LIABILITY AND OBLIGATIONS OF CLIENT REGARDING CLAIMS OF INFRINGEMENT WITH RESPECT TO CLIENT PROVIDED MATERIALS UNDER THE AGREEMENT.**

- 9.6 The above indemnities are contingent upon: (i) the indemnified Party providing prompt notice of any claim of infringement and assistance in the defense thereof, (ii) the indemnifying Party's sole right to control the defense or settlement of any such claim, provided that the settlement does not require a payment or admission of liability on the part of the other Party, and (iii) the indemnified Party not taking any actions or failing to take actions that hinder the defense or settlement process as reasonably directed by the indemnifying Party.

10. LIMITATION OF LIABILITY

Under no circumstances shall Axiell be liable for any losses relating to the Axiell Offering or the actions of Axiell in connection with this Agreement that was not brought to its attention by Client in writing within forty-five (45) days of its occurrence. No claim for Losses or other relief arising out of this Agreement or the Axiell Offering may be filed by Client more than one (1) year following its delivery to Client. **EXCEPT IN THE CASE OF A BREACH OF EITHER PARTY'S CONFIDENTIALITY OR INFRINGEMENT OF AXIELL'S INTELLECTUAL PROPERTY RIGHTS, AND OF THIRD PARTY CLAIMS ARISING UNDER THE INDEMNIFICATION SECTION, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW NEITHER PARTY (INCLUDING ANY OF AXIELL'S SUPPLIERS) SHALL BE LIABLE FOR A) ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, BUT NOT NECESSARILY LIMITED TO, LOSS OF PROFIT, DAMAGES RELATING TO MONIES SAVED OR FEES GENERATED AND OR ANY LOSS OF DATA BY USE OF ANY AXIELL OFFERING, REGARDLESS OF WHETHER SUCH LOSS WAS FORESEEABLE OR A PARTY WAS APPRISED OF THE POTENTIAL FOR SUCH DAMAGES; AND B) IN NO EVENT WILL A PARTY'S LIABILITY, EXCEED THE FEES PAID AND OR OWED FOR THE PRODUCT OR SERVICE THAT GAVE RISE TO THE BREACH DURING THE PREVIOUS TWELVE (12) MONTHS PRECEDING THE CLAIM. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT CLIENT'S PAYMENT OBLIGATIONS UNDER THE "FEES" SECTION ABOVE.**

11. TERM & TERMINATION

- 11.1 This Master Agreement shall continue in effect unless otherwise terminated in accordance with this section.
- 11.2 The initial term of each subscription and/or Maintenance shall be as specified in the applicable Schedule. Subscriptions and/or Maintenance will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least ninety (90) days before the end of the relevant term. The per-unit pricing during any renewal term will increase to the then current list price. The Parties acknowledge and agree that with respect to any automatic renewal term the Company reserves the right to increase the pricing during such renewal term at the higher of (i) the (x) parties' agreed upon RPI rate, for customers in North America or (y) then current CPI rate, for customers outside of North America or (ii) 5% upon written notice to Client of such price increase at least thirty (30) days before the end of the expiring Subscription Term, in which case the price increase will be effective upon renewal.
- 11.3 This Master Agreement and/or applicable Addendum(s) and/or the applicable Schedule(s) may be terminated by either Party (a) upon a material breach by the other Party, provided that, in each instance of a claimed breach: (i) the non-breaching Party notifies the breaching Party in writing of such breach; and (ii) the breaching Party fails to either cure such breach within thirty (30) days (or such other period as mutually agreed by the Parties) from receipt of such notice; or (b) upon insolvency of the other Party, if permitted by law.

- 11.4 Termination does not release either Party from any liability which, at the time of such termination, had already accrued to the other Party or which is attributable to a period prior to such termination, nor preclude either Party from pursuing any rights or remedies it may have under law or in equity with respect to any breach of this Master Agreement or the Agreement. Excepting for termination based on Axiell's uncured material breach, all fees are non-cancellable and non-refundable unless a pro-rated refund applies as provided in the applicable Addendum. In the event of a termination by Axiell for an uncured material breach by Client, all fees shall immediately become due and payable.

12. **DISPUTE RESOLUTION**

- 12.1 Any dispute, controversy or claim arising out of the Agreement (a "Dispute") shall be resolved as provided in this section. Prior to the initiation of formal dispute resolution procedures, the Parties shall first meet in an effort to resolve the Dispute. If Client and Axiell are unable to resolve the Dispute within thirty (30) days, then each of Axiell and Client will appoint one (1) senior executive who is not involved on a day-to-day basis with the subject matter of the Agreement to negotiate a resolution to the Dispute.
- 12.2 Formal proceedings for the resolution of a Dispute may not be commenced until the earlier of: (i) the good faith determination by the appointed senior executives that resolution of the Dispute does not appear likely; or (ii) thirty (30) days following the date that the Dispute was first referred to the appointed senior executives. The provisions of paragraphs (i) and (ii) will not be construed to prevent a Party from instituting formal proceedings to the extent necessary to avoid the expiration of any applicable limitations period or to pursue equitable rights or injunctive remedies deemed reasonably necessary to protect its interests.

13. **GENERAL TERMS**

- 13.1 **Amendments.** The terms of the Agreement may only be amended by mutual written agreement of the Parties.
- 13.2 **Force Majeure.** Except for payment obligations and Confidentiality obligations, neither Party will be liable for any action taken, or any failure to take any action required to be taken, as a result of circumstances beyond a Party's control, including, without limitation, attacks by third parties, acts of terror, failure from Internet Service Provider, war, civil unrest or commotion, act of God including, but not limited to, earthquakes, epidemics, fires, floods or weather, strike or other stoppage (whether partial or total) of labor, any law, decree, regulation or order of any government or governmental body (including any court or tribunal) power failure, telecommunications interruption, the failure or closure of a financial institution, computer malfunctions, acts of God or any other failure, interruption or error not directly caused, or reasonably anticipated, by Axiell.
- 13.3 **Order of Precedence.** Any conflict or inconsistency among or between the terms and conditions of the documents comprising the Agreement shall be resolved according to the following order of precedence, from the document with the greatest control to the least: (1) the Schedule; (2) the relevant Addendum; (3) this Master Agreement. Notwithstanding this Order of Precedence, a Client issued purchase order shall have no force or effect whatsoever and shall not modify the terms of the documents indicated herein.
- 13.4 **Independent Contractors.** The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.
- 13.5 **Client Data.** Client represents and warrants that (i) it has the right, including consent where required, to lawfully transfer to Axiell all Client Data and any other data or information related to Client's access or use of a Axiell Offering, (ii) its use of the Axiell Offerings does and at all times will comply with applicable law, including, but not limited to, the European Union General Data Protection Regulation; (iii) it is responsible and liable for all activities that occur in user accounts, and (iv) it shall not misuse any Axiell Offering by sending spam or otherwise duplicative or unsolicited messages or store infringing, obscene, threatening,



or otherwise unlawful material or material that is harmful to children or violates third party privacy rights.

- 13.6 **Assignment.** The Master Agreement may not be assigned by Client without the prior written consent of Axiell, such consent not to be unreasonably withheld.
- 13.7 **Import Export.** Client acknowledges that the Axiell Offering(s) are subject to control under import and export regulations and agrees to comply with all applicable import and export laws and regulations. Client agrees that the Axiell Offering(s) will not be exported, re-exported or transferred in violation of U.S. law or used for any purpose connected with chemical, biological or nuclear weapons or missile applications, nor be transferred or resold, if Client has knowledge or reason to know that the Axiell Offerings are intended or likely to be used for such purpose.
- 13.8 **Audit.** Axiell reserves the right, on thirty (30) days' notice to the Client, to conduct an audit remotely or onsite of Client and/or its Affiliates' facilities to verify Client's compliance with the terms of the Master Agreement. Axiell agrees that such audit shall be conducted during regular business hours at Client's offices and Axiell shall endeavor to conduct such audit so as not to interfere unreasonably with Client's activities. Axiell may use a mutually agreed upon independent third party to conduct the audit subject to terms of non-disclosure, if required by Client. Unless supported by reasonable suspicion of a deviation from the terms of the Master Agreement audits shall be no more frequently than once per calendar year.
- 13.9 **Non-Hire.** Client agrees that during the term of this Master Agreement, and for a period of twelve (12) months after termination of this Master Agreement, Client will not solicit for hire, either directly or indirectly, any employee to leave the employment of Axiell and its affiliated companies or to hire/retain such person(s). Client agrees that these provisions are necessary and reasonable to protect the legitimate business interests that Axiell and its affiliated companies have in protecting substantial investments in such employees.
- 13.10 **Interference and Competition.** Client shall not, directly or indirectly, during the term of this Master Agreement: (i) induce or influence any employee of Axiell or any other person or entity to terminate their relationship with Axiell; or (ii) use a Axiell Offering to produce a product or service that competes with the Axiell Offering.
- 13.11 **Counterparts.** This Master Agreement, any Addendum and any Schedule as applicable may be signed in any number of counterparts and each part shall be considered part of the whole and valid, legally binding document.
- 13.12 **Notice.** All notices hereunder shall be delivered to the other Party identified in the Master Agreement either via e-mail delivery or personally, via certified mail or overnight courier. If delivered personally, notice shall be deemed effective when delivered; and if delivered via certified mail or overnight courier, notice shall be deemed effective upon confirmation of delivery.
- 13.13 **Headings.** The section headings used herein are for information purposes only and shall not affect the interpretation of any provision of this Master Agreement.
- 13.14 **Validity.** In the event any term or provision of the Master Agreement shall be held to be invalid, the same shall not affect in any respect whatsoever the validity of the remainder of the Master Agreement.
- 13.15 **Third Parties.** There are no third-party beneficiaries under this Master Agreement.
- 13.16 **Governing Law and Jurisdiction.** Who Client is contracting with under this Master Agreement, what law will apply in any dispute or lawsuit arising out of or in connection with this Master Agreement, and which courts have jurisdiction over any such dispute or lawsuit, depend on which Axiell Affiliate you are contracting with.

Client is contracting with:	The governing law is:	The courts having exclusive jurisdiction are those located in:



Axiell ALM Canada Inc.	Ontario and controlling Canadian federal law	Toronto, Ontario, Canada
[Axiell US entity]	New York	New York, New York, U.S.A.
[Axiell UK entity]	England	England
[Axiell Australia]	Australia	Australia
[Any other Axiell entity]	The laws of the country in which the Client is based.	The country in which the Client is based.

- 13.17 **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. The Parties further agree that the United Nations Convention on Contracts for the International Sale of Goods do not apply to this Master Agreement.
- 13.18 **Survival.** Sections pertaining to Confidentiality, Title, Limitation of Liability and Termination shall survive termination of this Master Agreement.
- 13.19 **Entire Agreement.** The Master Agreement and all documents incorporated by reference therein shall comprise the entire agreement as pertaining to the subject matter thereof and all other prior representations, proposals, and other such information exchanged by the Parties concerning the subject matter is superseded in their entirety by the Master Agreement.

CLIENT

By: _____

Name: _____

Title: _____

Date: _____

AXIELL

By: _____

Name: _____

Title: _____

Date: _____

SaaS Addendum

1. INTRODUCTION

- 1.1 This SaaS Addendum incorporates by reference the terms of the Master Agreement effective on the date set forth in the referencing Schedule between Axiell and Client. Any capitalized terms used in this SaaS Addendum shall have the meanings given in the Master Agreement unless otherwise provided herein.

2. DEFINITIONS

- 2.1 **“Authorized Users”** means Client, its employees and independent contractors and/or its Affiliates or as otherwise defined in the SaaS Listing, that access and use SaaS provided that they are bound by terms and conditions no less restrictive than those contained in the Master Agreement and solely to the extent that they are acting on behalf of Client or its Affiliates.
- 2.2 **“Billing Metric”** means the metric for billing SaaS to Client as defined in the SaaS Listing (e.g., license, per terabyte, etc.) and as may be specified in an applicable Schedule.
- 2.3 **“Client Data”** means any data, regardless of whether in printed or electronic form, that is (i) provided to Axiell by Client in order for Axiell to perform its obligations under this Master Agreement, (ii) otherwise obtained by Axiell for or on behalf of Client in the course of performing services for Client, (iii) provided to Axiell by Authorized Users; or (iv) derived from Client’s use of the Axiell Offerings.
- 2.4 **“Data Center Region”** means a geographic region that are served by one or more hosting facilities for Axiell SaaS.
- 2.5 **“End User”** means an unaffiliated, third party customer of Client that receives Managed Services for such third party’s internal business purposes from Client.
- 2.6 **“Force Majeure Event”** means an event that arises out of causes beyond a Party’s reasonable control, including, without limitation, war, civil commotion, act of God, strike or other stoppage (whether partial or total) of labor, any law, decree, regulation or order of any government or governmental body (including any court or tribunal) and/or delays or outages caused by an internet service provider or independent (not a Party’s subcontractor) hosting facility.
- 2.7 **“Managed Services”** means the services, if any, provided by a Client to End Users using the SaaS and Client’s intellectual capital and/or additional services supplied by Client.
- 2.8 **“Non-Production”** means any Client deployed environment that is not Production such as development, test, staging, demonstration, or training environments.
- 2.9 **“Production”** means the “live” environment of SaaS that Client uses as their primary business environment.
- 2.10 **“SaaS” or “SaaS Offering”** means the online version of the Axiell Software and/or type of online service defined in the Schedule and made available to Authorized Users via the Internet.
- 2.11 **“SaaS Listing”** means the operating parameters, data and data center location(s), applicable audit standards, availability standards and any other details for the specific SaaS Offering as published or made available by Axiell. SaaS Listings may define provisioning and management processes applicable to the SaaS Offering, types and quantities of system resources (such as storage allotments), functional and technical aspects of the SaaS, as well as a catalogue of available service requests.
- 2.12 **“SaaS Maintenance”** means the provision by Axiell of maintenance and support of the SaaS Offering so it operates materially in accordance with the Documentation as such support is more fully described in an applicable Maintenance Addendum.
- 2.13 **“SaaS Release and Upgrade Policy”** means Axiell’s published policy, if any, on version and patch upgrades of its SaaS Offerings.

- 2.14 “**Schedule**” means a signed mutually agreed ordering document such as a Axiell order form or statement of work for the specific Axiell offering licensed or purchased.
- 2.15 “**Scheduled Downtime**” means planned downtime of SaaS availability for periodic and required maintenance events, including but not limited to, upgrades and updates to the SaaS and data center infrastructure where Axiell provides notice to Client at least 48 hours in advance.
- 2.16 “**Service Level Agreement**” or “**SLA**” means the service level agreement as specified in Section 7.3 of the Maintenance Addendum.
- 2.17 “**Security Breach**” means access to Client Data by an unauthorized person or entity.
- 2.18 “**Subscription Term**” means the initial or renewal period of the subscription to a SaaS Offering as set out in the Schedule.

3. **SAAS OFFERING**

- 3.1 Axiell provides Client a non-transferable and non-exclusive right for Client and its Authorized Users to access and use SaaS during the Subscription Term in accordance with the Master Agreement.
- 3.2 Except as set forth below in Section 3.3, Client’s license is for internal use and Axiell grants the Client a limited, non- exclusive, non-transferable license, for the Term: (1) Use the SaaS up to the Authorized Use Limitation; (2) Permit its Authorized Users Access to the SaaS for Client’s and Affiliates’ internal business. Client hereby expressly agrees that a breach by an Authorized User of the Master Agreement shall be considered to be a breach by and the responsibility of the Client.
- 3.3 Subject to the terms and conditions of the applicable Schedule, Axiell makes available to Client a nonexclusive, non- transferable, non-sublicenseable right to access and use the SaaS in accordance with the Documentation to provide Managed Services to End Users. This authorization includes use of the SaaS by Authorized Users, provided that Client shall be responsible for all use by such Authorized Users. Client hereby expressly agrees that a breach by an Authorized User or End User of the Master Agreement shall be considered to be a breach by and the responsibility of the Client.
- 3.4 Unless otherwise specified fees are based on Named Users or Agents as specified in the Schedule.
- 3.5 Client acknowledges and agrees that in order for Client to access and use SaaS, Client is required to maintain minimum requirements such as operating system versions, browsers etc., as stated in the Documentation. If required, information about updates to minimum requirements will be provided to Client during the Subscription Term.
- 3.6 If Axiell provides Axiell Software to Client to enable or to optimize SaaS during the Subscription Term, such software will be listed in the Schedule. Such software is specifically provided to Client to help Client utilize certain applications and web services that may be available through SaaS. In such cases, Axiell provides Client, during the Subscription Term, a non-transferable and nonexclusive right to use such software solely in connection with SaaS and for the sole purpose of allowing Client’s applications or web services to utilize SaaS. The grant of rights for such software is contingent upon Client’s compliance with the following obligations: Client agrees, that neither Client nor Authorized Users shall: (i) access or use any portion of the software not expressly authorized in the Schedule or the documentation; (ii) cause or permit de-compilation, reverse engineering, or otherwise translate all or any portion of the Axiell Software; (iii) modify, unbundle, or create derivative works of the Axiell Software and/or Documentation; (iv) rent, sell, lease, assign, transfer or sublicense the Axiell Software or use the Axiell Software to provide hosting, service bureau, on demand or outsourcing services for the benefit of a third party; (v) remove any proprietary notices, labels, or marks on or in any copy or version of the Axiell Software or Documentation; (vi) use the Axiell Software beyond the rights granted. Any installation of Agents or software of any kind will be required to be removed at the end



of the Subscription Term and either returned to Axiell or Client will be required to certify destruction or deletion of such items.

4. FEES, RENEWAL & TERMINATION

- 4.1 The Authorized Use Limitation and associated fees shall be as set out on the Schedule. In the event Client exceeds the Authorized Use Limitation, the overage will be treated as an order for excess use and Client will be billed for the overage. The overage will be included in the Authorized Use Limitation for the remainder of the Subscription Term. Client agrees that the purchase of any SaaS is not contingent on Axiell providing any future features or functionalities. In addition, Client may order any service catalogue items which may be listed on the applicable Schedule or on the Axiell Support site ("Axiell Support Site") and by: entering into a separate Schedule for same; opening a ticket on the Axiell Support Site; submitting an order at the site listed on the Schedule, and/or if applicable; enter into an agreement for professional services. Client shall pay any associated fees arising out of any such order.
- 4.2 Axiell may temporarily suspend any Client account, and/or a Client's access to or use of the SaaS if the Client or Authorized Users violate any provision within the "SaaS Offering" "Client Data" or "Client Responsibilities" sections of this Master Agreement, failure to make payment when due, or if in Axiell's reasonable judgment, the SaaS services or any component thereof are about to suffer a significant threat to security or stability based on any unauthorized use. Axiell will provide Client advance notice of any such suspension in Axiell's reasonable discretion based on the nature of the circumstances giving rise to the suspension. Axiell will use reasonable efforts to re-establish the affected SaaS services promptly after Axiell determines, in its reasonable opinion, that the situation giving rise to the suspension has been cured; however, after any suspension period, Axiell will make available to Client the Client Data and SaaS as existing in the Production environment on the date of suspension. Axiell may terminate the SaaS services under an order if any of the foregoing causes of suspension is not cured within thirty (30) days after Axiell's initial notice thereof. Any suspension or termination by Axiell under this paragraph shall not excuse Client from its obligation to make payment(s) under this Master Agreement.

5. CLIENT DATA

- 5.1 Client exclusively owns all rights, title and interest in and to all Client Data which may include personally identifiable information. Client Data shall be considered to be Confidential Information under the Master Agreement. Client Data will be stored and processed in the Data Center Region specified in the SaaS Listing. Axiell shall not access Client's user accounts, or Client Data, except (i) in the course of data center business operations if required, (ii) in response to SaaS or technical issues, (iii) at Client's specific request as reasonably required in the provision and support of SaaS, or (iv) for purposes of validating the Client's Authorized Use Limitation.
- 5.2 Axiell may utilize subcontractors in the provision of SaaS Services so long as such subcontractors are bound to contractual terms no less protective of Client's rights provided hereunder and provided further that any use of subcontractors in the operation of any applicable data center is subject to the same security controls and audits as if performed by Axiell employees. The Parties understand and agree that Axiell remains fully liable under the terms of the Master Agreement for any breach caused by a subcontractor of Axiell.
- 5.3 Axiell will collect, modify and analyze meta data and/or operations data, including, but not limited to, number of workstations by operating system, system log files and transaction counts which relate to system utilization and performance statistics, all as deemed necessary by Axiell.
- 5.4 Client may access reports and/or information through SaaS until the end of the Subscription Term. All reports and other output will be produced in standard readable format (e.g., CSV, XML) and transmitted according to the transmission protocols used by the SaaS Offering for such transmissions. Any specific reports or data requested by Client



at the end of the Subscription Term that is not available through SaaS or produced in customized formats will be charged based on the scope of the request. Such fees will be agreed in writing between Client and Axiell.

- 5.5 In case of a Force Majeure Event, Client acknowledges and agrees that Client Data may not be fully recoverable beyond the last restoration archive point, the frequency of which is described in the SaaS Listing.
- 5.6 Client agrees not to provide any health, payment card or similarly sensitive personal information that imposes specific data security obligations for the processing of such data unless it is a supported feature in the Documentation of the applicable SaaS Offering.
- 5.7 Data availability, retention and destruction post expiration or termination of the applicable SaaS Offering will be as follows: (1) Client Data will be available to Client during the Subscription Term and may be retained by Axiell for a period of no more than thirty (30) days from the effective date of expiration or termination; while this data is retained by Axiell, Client has the right to extract all Client Data held in the SaaS (2) A record of Client Data required to support audits of the billing transactions that occurred during the Subscription Term will be retained in accordance with Axiell's data retention policies for such activities and in accordance with the Master Agreement, including, without limitation, Article 6 (Security) of this SaaS Addendum. All other Client Data will be deleted from all Production and Non-Production Environments within sixty (60) days of such date.

6. SECURITY

- 6.1 Axiell will maintain and administer a security policy with physical and technical safeguards designed to protect the security, integrity and confidentiality of the Client Data.
- 6.2 Axiell will not be responsible for any unauthorized access, alteration, theft or destruction of Client Data, unless caused as a result of Axiell's negligence or intentional misconduct, in which case Axiell's only obligation and Client's exclusive remedy is for Axiell to use commercially reasonable efforts to restore the Client Data from the most recent back-up. Axiell is not responsible for unauthorized access, alteration, theft or destruction of Client Data arising from Client's own or its Authorized Users' actions or omissions in contravention of the Documentation.
- 6.3 In the event that Axiell has determined that a Security Breach will or is likely to cause harm to the Client or an Authorized User, Axiell will, in accordance with Axiell's Crisis Management Policy and in compliance with Axiell's ISO 27001 Certification, provide Client with notice of the Security Breach. After initial notification, Axiell will keep Client updated at periodic intervals on the steps taken by Axiell to investigate the Security Breach including providing a reasonably detailed incident report, including measures to be taken by the Client to minimize potential damages. Notification is subject to State and Federal legislation related to the reporting of a Security Breach and will be provided up to thirty (30) days following completion of the report. The Parties understand and agree that if Axiell is prevented by law or regulation from providing such notice(s) and/or reports within the time frames, such delay shall be excused.

7. SAAS MAINTENANCE

- 7.1 If SaaS Maintenance is purchased as defined in a Schedule, the Client shall be provided with SaaS Maintenance during the Subscription Term in accordance with the terms and conditions of an applicable Maintenance Addendum.
- 7.2 Access to SaaS Maintenance is limited to supported versions of the SaaS Offerings, as per the SaaS Upgrade Policy. Extended support agreements for non-supported versions of SaaS Offerings are not offered.

8. SAAS UPGRADES

- 8.1 Axiell may update, improve, modify or add new functionality to SaaS during the Subscription Term for optimization of SaaS as necessary in order to maintain performance and/or fix any issues during the Subscription Term. To the extent that Axiell is required to



update, improve, modify or add new functionality as a result of or due to interim system changes made by the Client, such updates, improvement, modifications or additions shall be billable to the Client for which it shall be solely responsible.

- 8.2 Axiell may make changes or updates to the SaaS infrastructure (such as computer infrastructure, storage technology, security, technical configurations, hosting facilities within Data Center Region, etc.) during the Subscription Term, including to reflect changes in technology, industry practices, and patterns of system use.
- 8.3 Client is obligated to stay current on a supported version of the SaaS Offering, as per any SaaS Release and Upgrade Policy.

9. CLIENT RESPONSIBILITIES

- 9.1 Client is responsible for all activities that occur in, or are related to, user accounts including the data, information stored or transmitted when accessing SaaS. All applications residing within Client environment or installed on 3rd party service providers on behalf of Client that integrate to SaaS shall be managed and supported by Client. Client is also responsible for managing components that are downloaded onto their environment such as web browser based software plug-ins that extend SaaS.
- 9.2 As Client may integrate or utilize third party links to other software, hardware or other services which are associated with, or otherwise available through the SaaS, Client agrees that it and/or its Affiliates, its Authorized Users and anyone acting on their behalf shall use such third party links at their sole discretion. Axiell shall have no responsibility or liability with respect to such third party links used by Client's and/or its Affiliates, its Authorized Users or for any act or omission of any such third party provider.
- 9.3 Client shall not: (i) make SaaS available to any third party not authorized or as otherwise contemplated by the Master Agreement; (ii) send or store code that can harm or result in damage to SaaS (including but not limited to malicious code and malware); (iii) willfully interfere with or disrupt the integrity of SaaS or the data contained therein; (iv) attempt to gain unauthorized access to the SaaS or its related system or networks; (v) use SaaS to provide services to third parties except as expressly permitted by the Master Agreement; (vi) use SaaS in order to cause harm such as overload or create multiple agents for the purpose of disrupting operations of a third party; (vii) remove or modify any program markings or any notice Axiell's or its licensors' proprietary rights; or (viii) perform or disclose any of the following security testing of the SaaS environments or associated infrastructure: network discovery, port and service identification, vulnerability scanning, password cracking, remote access testing, penetration testing or any other test or procedure not authorized in the Documentation. A breach by the Client of its obligations under this section shall be considered a material breach of the Master Agreement.

10. WARRANTY

- 10.1 Axiell warrants that during the Subscription Term, the SaaS shall perform materially in accordance with the applicable.
- 10.2 Documentation subject to Client's compliance with the Master Agreement. During any Trial Period, this warranty shall not apply.
- 10.3 EXCEPT AS EXPRESSLY SET FORTH ABOVE, TO THE EXTENT PERMITTED BY LAW, NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THIRD PARTY WARRANTIES, IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY OR SATISFACTORY QUALITY, OR THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE MADE BY AXIELL.

11. WARRANTY REMEDY

- 11.1 If it is established that Axiell has breached the above warranty, Axiell may, at its option, (i) use reasonable efforts to cure the defect in the SaaS; (ii) replace the SaaS with SaaS that materially conforms to the specifications in the Documentation; (iii) in the event Axiell cannot, after commercially practicable attempts to do so, achieve the remedies in (i) or (ii),



Axiell may terminate the subscription to the SaaS and provide a refund of pre-paid, unused fees calculated against the remainder of the Subscription Term as of the effective date of such termination. Client must report the alleged breach of warranty with reasonable specificity in writing within thirty (30) days of its occurrence to benefit from this warranty and the remedies stated herein. The above warranty remedies are Axiell's sole obligation and Client's sole and exclusive remedy for breach of the above warranty.

12. SERVICE LEVEL OBJECTIVES

- 12.1 Axiell: (i) intends to provide at least 98.5% uptime of SaaS, except for Scheduled Downtime or Force Majeure Events, (ii) shall use commercially reasonable methods to limit Scheduled Downtime so that disruption to your business is minimized, (iii) will use commercially reasonable methods to protect the security and integrity of Client Data, (iv) will include all software updates at no additional cost, except where Axiell may, at its option, enhance the functionality, utility or efficiency of Axiell Software by producing new versions or add-on modules during the life of the Master Agreement. Upon Client's request Axiell will provide information regarding the terms and conditions, including additional fees, if any, required to license such new versions or modules.
- 12.2 If Client cannot access SaaS during the Subscription Term, Client should contact Axiell to receive SaaS Maintenance.
- 12.3 The following events shall be excluded from the calculation of Service Level Agreements: (i) Force Majeure Event; (ii) outages due to Scheduled Downtime; (iii) outages based on Client networks or domain name server issues; (iv) Client's configuration, scripting, coding drafted by Client without Axiell's authorization or knowledge; (v) internet outages; (vi) outages requested by Client; (vii) Client changes to its environment which hinder SaaS production; (viii) outages to remedy a security vulnerability or as required by law and (ix) inability for Client to log in to SaaS service because of dependence on non-Axiell provided services or components.

Software Addendum

1. INTRODUCTION

- 1.1 This Software Addendum incorporates by reference the terms of the Master Agreement effective on the date set forth in the referencing Schedule between Axiell and Client. Any capitalized terms used in this Software Addendum shall have the meanings given in the Master Agreement unless otherwise provided herein.

2. DEFINITIONS

- 2.1 **“Access”** means use of Axiell Software remotely by an Authorized End User.
- 2.2 **“Authorized End Users”** means Client, Affiliate and their employees and independent contractors (but excluding any outsourcer, facilities management providers, managed service provider, or application service provider) that are bound by terms and conditions no less restrictive than those contained herein and are acting on behalf of Client and not a third party.
- 2.3 **“Authorized Use Limitation”** means the quantity of the Axiell Software licensed in accordance with the License Metric specified on the Schedule.
- 2.4 **“End User”** means an unaffiliated, third-party customer of Client that receives Managed Services for such third party's internal business purposes from Client.
- 2.5 **“License Metric”** means the specific criteria for measuring the usage of the Axiell Software (such as Agents, Named Users or Servers).
- 2.6 **“Managed Services”** means the services provided by a Client to End Users using the Axiell Software and Client's intellectual capital and/or additional services supplied by Client.
- 2.7 **Maintenance”** means the provision by Axiell of maintenance and support as more fully described in an applicable Maintenance Addendum.
- 2.8 **“Operations Center”** or **“OC”** is the datacenter location where Client installs the Axiell Software to run the Managed Services.
- 2.9 **“Perpetual License”** means a license to use Axiell Software for an indefinite period subject to compliance with the Agreement.
- 2.10 **“Release”** means a general available release of a Axiell software product, which may contain minor new software product functionality, code, or compatibility and incorporates all previous fixes (if any exist) since the last Version.
- 2.11 **“Subscription”** means a license to use Axiell Software on premises for a specific period of time which shall include Maintenance fees unless otherwise stated in a Schedule.
- 2.12 **“Territory”** is the location indicated on the Schedule where Client is authorized to install the Axiell Software.
- 2.13 **“Version”** means a release of Axiell Software that contains major changes in software product functionality, code, or compatibility and incorporates the previous release (if one has occurred), fixes and service Packs (if they have occurred).

3. SOFTWARE OFFERING & OBLIGATIONS

- 3.1 Except as set forth below in Section 3.2, Client's license is for internal use and Axiell grants the Client a limited, non-exclusive, non-transferable license, for the Term to: (i) install and deploy the Axiell Software in the Territory up to the Authorized Use Limitation; (ii) permit its Authorized End Users Access to the Axiell Software for Client's and Affiliates' internal business wherever located. Client hereby expressly agrees that a breach by an Authorized End User of the Master Agreement shall be considered to be a breach by and the responsibility of the Client.
- 3.2 If Client's license is for use as Managed Services Axiell grants the Client a limited, non-exclusive, non-transferable license, for the Term: Subject to the terms and conditions of



the applicable Schedule, Axiell makes available to Client a nonexclusive, non-transferable, non-sublicenseable right to access and use the Axiell Software in accordance with the Documentation to provide Managed Services to End Users in the designated OC. This authorization includes use of the Axiell Software by Authorized Users, provided that Client shall be responsible for all use by such Authorized End Users. Client hereby expressly agrees that a breach by an Authorized End User or End User of the Master Agreement shall be considered to be a breach by and the responsibility of the Client.

- 3.3 Unless otherwise specified fees are based on Named Users or Agents as specified in the Schedule.
- 3.4 The grant of license is contingent upon Client's compliance with the following obligations set out under this provision: Client agrees, that it shall not: (i) access or use any portion of the Axiell Software not expressly authorized in the Schedule; (ii) cause or permit de-compilation, reverse engineering, or otherwise translate all or any portion of the Axiell Software; (iii) modify, unbundle, or create derivative works of the Axiell Software and/or Documentation; (iv) rent, sell, lease, assign, transfer or sublicense the Axiell Software or use the Axiell Software to provide hosting, service bureau, on demand or outsourcing services for the benefit of a third party; (v) remove any proprietary notices, labels, or marks on or in any copy of the Axiell Software or Documentation; (vi) use the Axiell Software beyond the Authorized Use Limitation.
- 3.5 Installation. Client agrees to prepare Client's Equipment and site for Axiell Software installation in accordance with Axiell requirements as set forth in an applicable Schedule.
- 3.6 Axiell Administrator. Client agrees to appoint at least one administrator and a backup administrator that shall serve as Axiell's primary contact for Maintenance and services ("Axiell Administrator"). Client agrees that these Axiell Administrators will complete the necessary coursework to comply with our then-current requirements for the Axiell Administrator designation. Axiell will rely on all oral and written orders and instructions issued by these Axiell Administrators, including without limitation, instructions to initiate work and incur expenses on your account. Client may select and reassign Axiell Administrators, provided that any replacement meets the then-current requirements for the Axiell Administrator designation. Provided that Client is current on payment of all Maintenance fees Axiell will provide basic support to Client's Axiell Administrator(s) at no additional costs.
- 3.7 All rights not specifically granted hereunder are expressly reserved.

4. MAINTENANCE

- 4.1 If Maintenance is purchased as defined in a Schedule, Axiell will provide Client with maintenance and support in accordance with the terms and conditions of an applicable Maintenance Addendum.

5. THIRD PARTY TERMS

- 5.1 In the event that the Axiell Software contains third-party software components, additional terms, notices and/or information that may be applicable to such third-party software components may be found in the Documentation accompanying the Axiell Software (e.g., a user manual, user guide, or readme.txt or notice.txt file).

6. PERFORMANCE WARRANTY

- 6.1 Axiell warrants that the Axiell Software as defined in the Schedule will operate materially in accordance with the applicable specifications set forth within the Documentation for a period of ninety (90) days after delivery of the Axiell Software subject to Client's compliance with the Master Agreement.

7. PERFORMANCE WARRANTY REMEDY

- 7.1 If Axiell has breached the warranty set forth in the section entitled: Performance Warranty, Client's remedy is for Axiell to, in consultation with Client, to either (i) use reasonable efforts



consistent with industry standards to cure the defect, or (ii) replace the Axiell Software(s) with one that materially complies with the Documentation, or (iii) terminate the license and provide a pro-rata refund of the license fees paid and or Maintenance fees. If option (iii) applies, the pro-rata refund shall be calculated on the number of months left remaining on the Term of the applicable Schedule or if the Axiell Software is licensed under a Perpetual License, using (only for purposes of a refund calculation) an amortization schedule of three (3) years.

- 7.2 Warranty remedies are conditioned upon (i) any error or defect complained of is reasonably reproducible by Axiell, (ii) the Axiell Software is not modified and is being used in accordance with Axiell Documentation, and (iii) the breach is not attributable in whole or in part to any non-Axiell product(s) or service(s).
- 7.3 THE ABOVE WARRANTIES ARE THE SOLE WARRANTIES PROVIDED BY AXIELL. NO OTHER WARRANTIES, INCLUDING THAT THE AXIELL SOFTWARE IS ERROR FREE, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, OR SUITABILITY AND/OR THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE MADE BY AXIELL OR ITS SUPPLIERS.

Services Addendum ("Services Addendum")

1. INTRODUCTION

- 1.1 This Services Addendum incorporates by reference the terms of the Master Agreement effective on the date set forth in the referencing Schedule between Axiell and Client. Any capitalized terms used in this Services Addendum shall have the meaning given in the Master Agreement unless otherwise provided herein.

2. DEFINITIONS

- 2.1 **"Attendees"** means the participants authorized by the Client to attend Education classes or courses or as indicated in the Schedule.
- 2.2 **"Axiell Intellectual Property"** means Deliverables, business processes, software, tools, databases, data, materials, information, and any derivatives or modifications thereof, which includes, without limitation any and all patents, copyrights, trademarks, trade secrets, and other intellectual property rights therein, that are either (i) owned at any time (ii) developed independently of the Services (iii) licensed from a third party.
- 2.3 **"Axiell Personnel"** means employees, sub-contractors or agents on behalf of Axiell that have entered into confidentiality provisions no less restrictive than defined in the Agreement.
- 2.4 **"Course Materials"** means any Education content provided to Client in any media pursuant to a Schedule, including without limitation, all publications, courseware, training manuals and materials, user guides, web portals, or virtual labs provided by Axiell or a Axiell subcontractor.
- 2.5 **"Client Intellectual Property"** means Confidential Information and any business requirements, materials, information and/or intellectual property owned or licensed that is provided by Client, which includes, without limitation all patents, copyrights, trademarks, trade secrets, and other intellectual property rights that may be accessed or used during the provision of Services but in all cases excludes any Axiell Intellectual Property.
- 2.6 **"Deliverables"** means items provided to the Client pursuant to an SOW.
- 2.7 **"Education"** means any standard or customized education offerings, training or instruction, or related services, provided by Axiell or a Axiell subcontractor in any format or location, including without limitation, (i) instructor led training, including at Axiell or Client site(s), (ii) virtual training, including online classes, courses, or course catalogues and/or (iii) class room training or testing, at a Axiell or third party training facility.
- 2.8 **"Prepaid Funds"** means a pool of funds prepaid by Client which may be applied to Services or Education pursuant to a mutually agreed upon Schedule.
- 2.9 **"Project Coordinator"** means the individual appointed by a party to act as a project coordinator for each Services engagement to (i) coordinate the performance of its obligations under the Agreement, (ii) act as its representative regarding the Services, and (iii) maintain primary responsibility for communication with the other party in relation to the Services.
- 2.10 **"Services Documentation"** means the documentation provided to the Client pursuant to a Services engagement, including without limitation, such documentation describing the project specifications, design, configuration, architecture and testing procedures, or installation and user guides, as applicable.
- 2.11 **"Services"** means the professional services provided by Axiell or its designated subcontractors to the Client as set out in the relevant SOW.
- 2.12 **"SOW" or "Statement of Work"** means a description of Services to be provided or as referenced in the Schedule.

3. SERVICES OFFERING

- 3.1 Axiell will provide the Services as agreed in a SOW or Schedule, on the basis of time and materials, fixed price or staff augmentation each of which will be further described in the SOW.
- 3.2 Axiell will determine the resources required for the provision of the Services.
- 3.3 Client may request Axiell to change any particular Axiell Personnel assigned to the provision of the Axiell Services upon prior written notice provided that it can show reasonable cause for such request. Axiell will use reasonable efforts to replace such Axiell Personnel subject to parties agreeing that work schedules or time allotted for the Services may be impacted and require a Change Order.
- 3.4 If a remote session is cancelled with less than twenty-four (24) hours' notice, the scheduled time will be deducted from the consulting project hours. Multiple cancellations can result in the re-set of the business consultant and/or replacement back into the onboarding queue.
- 3.5 If an onsite engagement is cancelled with less than ten (30) days' notice, the amount equal to the scheduled time reserved any travel & accommodation fees owed will be the responsibility of Client.

4. EDUCATION OFFERING

- 4.1 Axiell will provide Education as agreed in a Schedule. The Schedule will indicate the courses or classes ordered, the number of Attendees and the location of the Education services, if applicable. Client is responsible for any travel costs and/or expenses incurred to attend Education.
- 4.2 Axiell may require the registration or pre-registration of Client's Attendees in order to attend or access the applicable Education. Client acknowledges that Axiell has (or reserves) the right to refuse entry or access to any individual that cannot authenticate their registration or authorization for such Education. Any customized educational courses will be based on the rates and expenses of the instructor providing the course or such fees as stated in the Schedule, as applicable.
- 4.3 If Axiell cancels a class, due to unforeseen circumstances, or low enrollment, Axiell will provide as much advance notice as possible but no less than ten (10) business days prior to the class in which case Client may receive credit or reschedule the class to an alternative time
- 4.4 Cancellation in writing by Client must be provided at least fifteen (15) business days prior to the class. If such notice is not given Axiell may charge up to 100% of the fees for the class. If fees are pre-paid, no refund will be provided.

5. COOPERATION

- 5.1 Each party acknowledges that the success of the Services requires the cooperation of both parties. Client and Axiell shall each assign, where appropriate, a Project Coordinator that has requisite authority to decide day-to-day questions that may arise in relation to the Services as defined in the SOW.
- 5.2 Client acknowledges and agrees that in order for Axiell to effectively perform the Services in a timely manner, Client will cooperate with Axiell by making available on a timely basis (i) management decisions, information, approvals and acceptances (such as a milestone acceptance form where applicable) required by Axiell for the completion of the Services; (ii) appropriate access to Client facilities, personnel, equipment, resources and systems; and (iii) any relevant information and documentation as necessary to facilitate performance of the Services. In addition to the above, Client shall supply Axiell Personnel with suitable office and workspace, and normal office equipment and support, adequate computer resources (including necessary rights to third party software), internet, telephone and facsimile support as necessary to perform the Services.

- 5.3 Each party agrees to assign competent and qualified staff to participate in the performance of the Services.

6. FEES AND EXPENSES

- 6.1 Client will pay to Axiell the fees, expenses and other charges as provided for or as defined in the Schedule.
- 6.2 Axiell will invoice expenses that are approved by Client in accordance with Axiell's expense policy, which may be provided to Client upon request.
- 6.3 The Services are to implement the pre-existing features and functions of Axiell Software and do not include any customization or development activity that impacts any of the full features and benefits and underlying source code of the Axiell software. Payment of license fees and/or support fees for Axiell software is not contingent upon Client receiving the Services.
- 6.4 Costs for Services are estimated. Fees for Services are based upon Axiell's understanding of the project. If any scope/level- of-effort changes are discovered, the estimate for the timeline and the resources and fees required to complete the project will be communicated to Client. Changes in the scope/level-of-effort shall be agreed to by the parties via amendment to the Schedule.
- 6.5 Client acknowledges and agrees that it must use Prepaid Funds within one (1) year from the effective date of the Schedule purchasing such funds. Any portion of Prepaid Funds unused following such period shall expire and not be subject to any refund or credit.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 Client shall retain all rights in and to Client Intellectual Property, including all Client Intellectual Property that may be contained in the Deliverables, and such rights shall remain vested in Client.
- 7.2 Axiell shall retain all rights in and to all Axiell Intellectual Property and such rights shall remain vested in Axiell.
- 7.3 If information or materials are used by a party in the performance of its obligations in the Agreement, such use of information or materials shall not transfer ownership of that information or materials to the other party.
- 7.4 Client shall have the right to modify or adapt the Deliverables as required or deemed appropriate by Client ("Modifications"), however any such Modification shall render void any warranties or indemnities provided by Axiell and its licensors or subcontractors.
- 7.5 Axiell grants to Client, a non-exclusive, limited, non-transferable license to use the Deliverables and Modifications for internal business purposes subject to terms of the Agreement. Where the Deliverables or Modifications are to be used in conjunction with Axiell software then the license to use the Deliverables or Modifications shall be consistent with the usage limitations as set out in the license agreement for such Axiell software.

8. WARRANTY

- 8.1 Axiell warrants that it will perform the Services and/or instructors will provide Education in a professional workman like manner.
- 8.2 Client shall provide written notice of a warranty claim within thirty (30) days of date of delivery ("Notice") of the Services or Education claimed to be in breach of the above warranty. If Notice is not provided to Axiell that a breach occurred and/or if milestone or acceptance forms are signed by Client, then the Deliverable, Services and/or Education will be deemed delivered in accordance with the warranty obligations.
- 8.3 EXCEPT AS SET FORTH IN THIS SECTION, NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THIRD PARTY WARRANTIES, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR SATISFACTORY QUALITY AND NONINFRINGEMENT AND/OR THE WARRANTY OF



FITNESS FOR A PARTICULAR PURPOSE, ARE MADE BY AXIELL. THE WARRANTY REMEDY BELOW IS CLIENT'S EXCLUSIVE REMEDY FOR ANY BREACH OF THE WARRANTIES SET FORTH ABOVE.

9. WARRANTY REMEDY

- 9.1 In the event of a breach by Axiell of the above Warranty section, Client's remedy, at Axiell's discretion and in consultation with Client, shall be to re-perform the Services and/or Education at no additional charge to Client or to refund the applicable fees paid which correspond to the Services, applicable Deliverable or Education. These remedies are contingent upon the following: (i) that the Deliverable has not been modified by Client; and (ii) that the alleged breach did not result from Client's failure to abide by its obligations defined in the applicable Schedule or for its failure to follow the Services Documentation.

10. CHANGE REQUEST

- 10.1 Upon request by Client or Axiell, the scope of Services may be adjusted through a mutually agreed Change Order defining the impact of any changes, including the fees or any other aspect of the provision of the Services.

Maintenance Addendum ("Maintenance Addendum")

1. INTRODUCTION

- 1.1 This Maintenance Addendum incorporates by reference the terms of the Master Agreement effective on the date set forth in the referencing Schedule between Axiell and Client. Any capitalized terms used in this Services Addendum shall have the meaning given in the Master Agreement or applicable addendum unless otherwise provided herein.

2. DEFINITIONS

Advice	means advising the Client - according to ability, since this involves external services - when examining disruptions.
Availability	means the situation where the Client can make use of the Axiell Applications.
(Axiell Collections) Level of availability	means the percentage of the time that the Axiell Applications are available to use, calculated over periods in which no disruptions occur or have occurred.
Security	means the manner in which the authenticity, confidentiality, integrity and exclusivity of Client Data is protected.
Build	means the process whereby Axiell Applications and/or Axiell Software is constructed on an Axiell Server and whereby a unique number is provided which identifies a service pack.
Corrective Maintenance	means the ad hoc development, testing and distribution of new service packages (as a result of security risks and of incident resolutions) for the Axiell Applications, furnished with clear service package notes and - where necessary - amended user documentation.
Data Dictionary	means the description (in terms of fields, associated coding options and key fields) of the tables in the databases of the Axiell Applications.
The working of an Axiell Application which could be expected in view of the user documentation	means the working of the Axiell Applications as set out in (a) the functional specifications set out in a Schedule, (b) the user documentation provided with the Axiell Applications and in (c) this Maintenance Addendum.
Incident	means a deviation from the working of an Axiell Application which could be expected in view of the user documentation, or which is caused by that product.
Incident Diagnosis	means the service which determines whether a customer-reported issue is caused by an incident, an issue or a disruption.
Incident Prioritization	<p>Customer-reported issues registered as Incidents receive Priority status of 1, 2 or 3 assigned by the Service Desk</p> <ul style="list-style-type: none"> • Priority 1 - An incident causing a total loss of service for a client, including high impact performance issues and security-related incidents • Priority 2 - An incident which seriously affects operation of the system, but which does not prevent its continued use • Priority 3 - An incident affecting an individual transaction, or cosmetic issues
Users Group	means an association of Axiell Applications users.
User Support	means support from or on behalf of Axiell to (representatives of) the Client with questions about the working of Axiell Applications.
Service Desk	means the service channel through which the Client communicates its questions and customer-reported issues and Axiell its replies and diagnoses. The Service Desk also has administrative responsibility for resolving faults at Axiell and will initiate an Advice process with regard to combating disruptions,
Rectification Time	means the time which starts after an Incident Diagnosis and ends at the time when the Incident is rectified (or a workaround has been realized).

Customer-reported issue	means the categorization of a Customer-reported issue as an incident, including prioritization (1, 2, 3) and or undocumented feature by Axiell.
Customer-reported issue Diagnosis	means the categorization of a Customer-reported issue as an issue, Disruption or Incident by Axiell.
Backward compatibility	means that all later Releases and Service Packs in a Version remain operational with the information and data collections built up in earlier Releases and Service Packs of that Version.
Maintenance	means User Support to prevent or resolve Customer-reported issues about the working of Axiell Applications.
Preventative Maintenance	means maintenance that relates to ensuring that the Axiell Applications continue to work properly (i.e. in accordance with agreed service level) on the agreed system software and within the research and development division.
Prospective Maintenance	means modification of the Axiell Applications in the form of new Releases, so that the Axiell Applications remain in line with changing external conditions (e.g.: Client's changing legal obligations). If the external conditions mean that a modification needs to be made to the data model, a new Version of the Axiell Software will be needed, so that the modification is no longer covered by this Maintenance Addendum.
Response Time	means the period of time starting at the moment when a Customer-reported issue is received by Axiell and ending at the moment when Axiell shares the Customer-reported issue Diagnosis with the Client.
Regular Maintenance	Means the periodic development, testing and distribution of new Releases (as consolidations of Service Packs) of the Axiell Applications, furnished with clear release notes.
Release	means a Version maintenance that is linked to numbered releases (collections of Service Packs) which are backward compatible with the Version of which they form part.
Security Risk	means a known vulnerability to malicious software. These can relate to Axiell Applications (and will then lead to Prospective Maintenance) but can also relate to System Software (and will then lead to Advice, if requested).
Service Pack	means numbered, individual changes to Releases via Builds which result from either observed Security Risks or from Corrective Maintenance.
Service, release and version management	means the administration of, documentation of and communication about new Service Packs, Releases and Versions.
System Software	means the operating system software, the database management software and the web server software which the Axiell Applications use and on which they are reliant.
Issue	means an alleged deviation from the working of an Axiell Application which could be expected in view of the user documentation.
Version	means a numbered collection of Releases of a series of Axiell Applications with an unchanging data model. If any form of maintenance requires a modification to the data model, backward compatibility cannot be guaranteed.
Version-release-service pack numbering	Axiell Collections products are indexed using three numbers: Axiell Collections product-[version#].[release#].[service pack#]
Disruption	means a deviation from the working of an Axiell Application which could be expected in view of the user documentation which is not caused by that product but by another external cause.
Working days	means Monday to Friday between 9.00 a.m. and 5.00 p.m. with the exception of applicable public holidays and in accordance with respective time zones.
Workaround	means an alternative workable solution to a deviation from the working of an Axiell Applications which could be expected in view of the user documentation.

3. COSTS

- 3.1 All costs arising from improper use or from use not in accordance with the user documentation of the Axiell Applications by the Client's sole responsibility.
- 3.2 All costs of Maintenance are payable annually in advance. The Maintenance charge is subject to an annual increase based on the higher of the following:
 - For customers in North America, the agreed-upon Retail Price Index (RPI) rate, or for customers outside North America, the current Consumer Price Index (CPI) rate.
 - A fixed 5% increase provided that Axiell gives written notice of the price adjustment at least thirty (30) days before the end of the expiring Subscription Term.

Axiell also undertakes to inform the Client in writing of any other increases in the maintenance charges at least three (3) months before the start of a new charging period.
- 3.3 In the event of a change in the licenses, both expansions and reductions, the annual Maintenance charge will be amended accordingly. For expansion of the license, the change to the Maintenance charge will commence on the moment of delivery of the expansion. When reducing the license, the new Maintenance charge will take effect at the end of the then current Maintenance period. No refunds will be available. Reductions and expansions of the license must be provided by Client via written notice to Axiell.

4. **Changes**

- 4.1 Changes may be requested by either Party via Change Order.

5. **MAINTENANCE SERVICES**

- 5.1 This Maintenance Addendum relates only to Maintenance for Standard Software, for both hosting and non-hosting clients, and for the Axiell Designer as may be used by Client or Client's suppliers. Maintenance in connection with the Hosting Service itself or for Tailored Software is available for purchase separately. For the avoidance of doubt, this Maintenance Addendum does not apply to Tailored Software. Such software is not maintained by Axiell unless expressly and separately agreed otherwise.

6. **TYPES OF MAINTENANCE**

6.1 **Service Desk Support.**

- Axiell provides a Service Desk to receive Customer-reported issues and requests for support received from Client.
- The Service Desk has administrative responsibility for dealing with Customer-reported issues in accordance with the applicable service level.
- Client can utilize the Service Desk for all questions relating directly to the use of the Axiell Applications.
- Providing written reports containing all information relevant to the Client such as about the existence of Incidents and the issuing of updates, patches, new Releases and new Versions of Axiell Applications.
- Participation in and feedback about relevant consultation, including the Users Consultation.
- **Note 1:** Client is under no obligation to accept new Releases or Versions of the Axiell Applications. However, should Client decline to accept the same, Axiell is entitled to terminate the support or to attach new conditions to the support.

6.2 **Preventative Maintenance** consists of:

- ensuring that the Axiell Applications continue to work properly on the underlying System Software specified as being compatible;

- identifying trends in, links between and causes for frequently occurring problems (e.g. performance problems) and modifying the Axiell Software as needed;
- developing, testing and supplying new Releases of the Axiell Applications, furnishing with clear release notes containing all application changes and technical user documentation;
- Axiell will provide new releases of standard Axiell applications upon request at no additional charge. For on-premises installations, the client is responsible for the installation. In SaaS environments, installation will be carried out in cooperation with the customer. If needed, Axiell can assist with the installation in on-premises environments at the applicable hourly rates. Announcements regarding the availability of new Axiell product releases will be made through customary channels, including the Axiell website (alm.axiell.com).

6.3 **Corrective Maintenance** is comprised of:

- receiving Incidents from Client;
- Customer-reported issue Diagnosis by Axiell;
- rectifying customer-reported issues diagnosed as an Incident within the specified Rectification Time by issuing solutions to Incidents in the short term in the form of fixes or patches and in the long term as part of upgrades or Releases;
- Disruptions are excluded.

7. **SERVICE LEVELS**

7.1 Communication Procedures.

7.1.2 **In general.**

- At the operational level, operational contacts take place on an *ad hoc* basis between the Client's designated contact persons (See Appendix 1) and Axiell's Service Desk.
- At strategic level, liaison takes place at the initiative of the Users Group between the Users Group and Axiell about evaluation of the contract, expansion of the services, charges and/or software developments.
- Appendix 1 contains details of the relevant contact persons.

7.1.3 **For Customer-reported issue Handling.**

- In the event of a Customer-reported issue, the Client will notify Axiell in writing (e-mail). Such written notification must be accompanied by all information relevant to Axiell (if the Client deems this advisable for reasons of business security, it will use confidential channels of communication which it deems acceptable for this);
- If the notification relates to a Customer-reported issue which the Client believes to be an Incident, it must indicate with reasons whether or not it deems the Incident to be *urgent* in nature, i.e. that it prevents access to the database, transactions with the database or the inputting of data into the database.
- Axiell is obliged to diagnose the received Customer-reported issue as an urgent or non-urgent prioritized Incident, as a Disruption or as an Issue and to inform the Client of Axiell's diagnosis within the applicable Response Time;
- Axiell is required to rectify a Customer-reported issue diagnosed as an (urgent or non-urgent) Incident within the agreed Rectification Time (see Table at Section 7.3) and to make the relevant patch and/or Workaround available;
- A number of requirements must be met in order to be able to guarantee the response times (see Table at Section 7.3). Failure on the part of the Client to meet

these requirements relieves Axiell of the obligation to produce a solution within the agreed time. The requirements in question are:

- providing online access for Axiell to the Client's application and data;
- clear description of the problem by the Client to Axiell;
- Client has alerted Service Desk by telephone after submitting an urgent, high priority customer-reported issue;
- reproducibility of the problem;
- provision of information needed for diagnosis and/or solution at Axiell's request;
- availability of Client's relevant contact person.
- A failure to comply with these requirements or a delay in complying, e.g. as a result of waiting time when making data available, will result in the response time being suspended and is therefore not included in the specified Rectification Time.
- If the Client fails to respond to Axiell's request for the provision of the information specified above within two weeks, Axiell is free to consider the Customer-reported issue to be resolved.

7.2 Standard Response Times.

- The Axiell Service Desk is open on Working Days relevant to the applicable region of the Axiell Service Center. This is also the period within which Axiell provides services in connection with Corrective Maintenance.
- Axiell will provide a Customer-reported issue Diagnosis within the agreed response time. For Customer-reported issues labelled as urgent by the Client this is no more than eight (8) hours for Customer-reported issues.
- In those cases that involve a Customer-reported issue which has been labelled as urgent which Axiell has diagnosed as an urgent Incident, Axiell will provide a solution as soon as possible.
- In those cases that involve a Customer-reported issue which has been diagnosed as a non-urgent Incident by Axiell, it is at Axiell's discretion, possibly in consultation with the Client, whether and if so when a solution or Workaround will be provided.

7.3 Summary of Services and Service Level Agreement(s).

Type of notification	Response Time	Diagnosis	Rectification Time
<u>Customer-reported issue (urgent)*</u>	4-hours	Incident – Priority 1	N/A
<u>Customer-reported issue (urgent)</u>	8-hours	Incident – Priority 2	N/A
<u>Customer-reported issue or Question (non-urgent)</u>	1-week	Incident – Priority 3	To be determined by Service Desk

*Client must alert the Service Desk by telephone after submitting an urgent Customer-reported issue.

8. CLIENT'S STIPULATED REQUIREMENTS

8.1 In order to be able to safeguard the quality of Axiell's Software, a number of requirements are laid down for the use of the provisions.

- Client will ensure that the Axiell Applications are used in accordance with the user documentation;

- Client will ensure adequate documentation of the phenomenon which gives rise to the Customer-reported issue, particularly specifying how the complained of situation can be reproduced;
- Client will ensure adequate identification of the Versions and Releases which are in use operationally - both of the Axiell Applications and of the System Software.

8.2 In the case of a Service Desk question the Client must first have checked that the answer is not provided in the User Documentation.

- In the case of a Customer-reported issue, the Client must inform Axiell as soon as possible, preferably in writing (e-mail or letter)
- Client must enable Axiell to do what Axiell believes to be appropriate or necessary.
- The notification must be sufficiently clear and must be accompanied by all information relevant to Axiell. For Priority 1 incidents, the Client is required to alert the Service Desk by telephone of any high priority incidents they raise via the customer portal.
- Client must ensure that the Axiell Applications including Client Data are accessible to Axiell.
- Client's relevant contact person must also be available.

8.3 If it is found in the Customer-reported issue Diagnosis that a Customer-reported issue is not attributable to the Axiell Applications, Axiell is entitled to charge the Client at the rate then in force the costs incurred for any rectification. For the avoidance of doubt, the Customer-reported issue Diagnosis itself is a maintenance service, the costs of which are covered by Maintenance fee paid by Client to Axiell.