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5. Term and Termination.

(a) **Right of Termination.** A party has the right to terminate this Agreement if the other party breaches a material provision of this Agreement or such Order Form. To terminate this Agreement, the party seeking termination must give the other party notice that describes the event or condition of termination in reasonable detail. From the date of its receipt of that notice, the other party will have thirty (30) days to cure the breach to the reasonable satisfaction of the party desiring termination. If the event or condition giving rise to the right of termination is not cured within that period, the party desiring termination can terminate this Agreement upon written notice to the other party. Notwithstanding the foregoing, to the extent a material breach of this Agreement cannot be cured through efforts of the breaching party, the non-breaching party has the right to terminate upon written notice this Agreement (including all Order Forms hereunder) at any time while an event or condition giving rise to the right of termination exists. However, notice to Spök of a suspected Documented Defect will not constitute a notice of termination of this Agreement.

(b) **Effect of Termination.** Upon termination of this Agreement by either party, Licensee will discontinue further use of the Licensed Software, and will promptly return to Spök or (at Spök's request) will destroy all copies of the Licensed Software, and will certify to Spök in writing, over the signature of a duly authorized representative of Licensee, that it has done so. Termination of this Agreement will not relieve either party from making payments which may be owing to the other party under the terms of this Agreement.

(c) **Survival of Obligations.** All obligations relating to non-use and non-disclosure of Confidential Information, indemnity, limitation of liability, and such other terms which by their nature survive termination, will survive termination of this Agreement.

(d) **Termination Without Prejudice to Other Rights and Remedies.** Termination of this Agreement will be without prejudice to the terminating party's other rights and remedies pursuant to this Agreement.

6. Notices. All notices and other communications required or permitted under the Agreement must be in writing and will be deemed given when delivered personally, sent by registered or certified mail, return receipt requested, transmitted by facsimile confirmed by first class mail, or sent by overnight courier. Notices must be sent to a party at its address shown on the signature page of this agreement, or to such other place as the party may subsequently designate for its receipt of notices in accordance with this Section. Licensee must promptly send copies of any notice of material breach and/or termination of the Agreement to Spök, Attention: VP-Finance, Spök, Inc., 10400 Yellow Circle Drive, Eden Prairie, Minnesota 55343 or to such other place as Spök may subsequently designate for its receipt of notices.

7. Force Majeure. Neither party will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including Acts of God, acts of war, terrorist acts, accident, labor disruption, acts, omissions and defaults of third parties and official, governmental and judicial action not the fault of the party failing or delaying in performance, or the threat of any of the foregoing.

8. Assignment. Licensee may not assign or otherwise transfer any of its rights or obligations under this Agreement, and any attempt at such assignment will be void without the prior written consent of Spök. For purposes of this Agreement, "assignment" shall include use of the Licensed Software for benefit of any third party to a merger, acquisition and/or other consolidation by, with or of Licensee, including any new or surviving entity that results from such merger, acquisition and/or other consolidation.

9. No Waiver. A party's failure to enforce its rights with respect to any single or continuing breach of this Agreement will not act as a waiver of the right of that party to later enforce any such rights or to enforce any other or any subsequent breach.

10. Choice of Law; Severability. This Agreement will be governed by and construed under the laws of the State of Minnesota, as applicable to agreements executed and wholly performed therein, but without regard to the choice of law provisions thereof. This Agreement is originally written in the English language and the English language version shall control over any translations. If any provision of this Agreement is illegal or unenforceable, it will be deemed stricken from the Agreement and the remaining provisions of the Agreement will remain in full force and effect. The United Nations Convention on the International Sale of Goods (CISG) shall not apply to the interpretation or enforcement of this Agreement.

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14. HIPAA. To the extent that the regulations implementing the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as and when effective, apply to any products or services provided under this Agreement, Spök will conduct its activities in such a manner as to facilitate Customer's compliance with HIPAA. If an amendment to this Agreement is necessary to comply with HIPAA, Spök and Customer will negotiate such amendment in good faith prior to the applicable enforcement date. If Spök and Customer cannot agree upon such an Amendment, Customer may terminate this Agreement upon 30 days' written notice, provided that Customer immediately returns to Spök or destroys all copies of the Software as required under paragraph 1. Customer shall not be entitled to a refund of any license fees paid to Spök in the event of termination pursuant to this paragraph 13..

15. Entire Agreement. This Agreement contains the entire understanding of the parties with respect to its subject matter, and supersedes and extinguishes all prior oral and written communications between the parties about its subject matter. Any purchase order or similar document, which may be issued by Licensee in connection with this Agreement does not modify this Agreement. No modification of this Agreement will be effective unless it is in writing, is signed by each party, and expressly provides that it amends this Agreement.