

## **MAGENTRIX CORPORATION SOFTWARE SUBSCRIPTION AGREEMENT**

THIS SOFTWARE CANNOT BE DEPLOYED OR ACCESSED UNLESS YOU, THE “SUBSCRIBER”, ACCEPT THE TERMS AND CONDITIONS OF THIS SOFTWARE SUBSCRIPTION AGREEMENT (“AGREEMENT”) BY CLICKING THE “ACCEPT” ICON BELOW. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCEPTING IT. IF, UPON REVIEW, YOU CHOOSE NOT TO ACCEPT THE TERMS AND CONDITIONS AS SET FORTH HEREIN, DO NOT ACCESS THIS SOFTWARE AND CONTACT MAGENTRIX CORPORATION (“MAGENTRIX”) FOR A FULL REFUND OF ANY PRE-PAID FEES.

PLEASE NOTE THAT BY AGREEING TO THESE TERMS AND CONDITIONS, YOU ALSO AGREE TO ENSURE THAT ANY PERSON ENTITLED TO USE THE SOFTWARE, SUCH AS YOUR EMPLOYEES AND/OR CONSULTANTS, WILL ALSO ABIDE BY THE TERMS OF THIS LICENSE AGREEMENT, AND YOU WILL INDEMNIFY MAGENTRIX CORPORATION AGAINST ANY BREACH OF THIS AGREEMENT BY SAID EMPLOYEES AND/OR CONSULTANTS. MAGENTRIX AND SUBSCRIBER ARE EACH REFERRED TO HEREIN AS A “PARTY” AND COLLECTIVELY THE “PARTIES” TO THIS AGREEMENT

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### **1 DEFINITIONS.**

**1.1 “Beta Features”** means the new features of the Software developed by Magentrix and specifically marked as “Beta Features”.

**1.2 “Beta Trial”** shall have the meaning set forth in Section 11.1.

**1.3 “Clause” or “Clauses”** shall mean the Clause or Clauses, respectively, set forth in Section 12 of this Agreement.

**1.4 “Commission”** means the European Commission, the European Union’s politically independent arm.

**1.5 “Confidential Information”** of a Party means any information in a tangible form that is disclosed by that Party pursuant to this Agreement and that (a) is identified “Confidential,” “Proprietary” or in some other manner to indicate its confidential nature; or (b) would reasonably be considered to be confidential. This Agreement and its contents shall also be considered Confidential Information.

**1.6 “Controller”** means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of Personal Data; where the purposes and means of such processing are determined by of Union

or Member State law, the controller or the specific criteria for its nomination may be provided for by Union or Member State law;

**1.7 “Data Protection Laws”** means any law, rule, regulation, decree, statute, or other enactment, order, mandate or resolution, applicable to Magentrix or Subscriber, relating to data security, data protection and/or privacy, including without limitation, the Canadian Personal Information Protection and Electronic Documents Act (“PIPEDA”), the US Health Insurance Portability and Accountability Act (“HIPAA”), the General Data Protection Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to processing of Personal Data and the free movement of that data (“GDPR”), and any implementing, derivative or related legislation, rule, regulation, and regulatory guidance, as amended, extended, repealed and replaced, or re-enacted.

**1.8 “Data Subject”** is a natural person who can be identified, directly or indirectly, in particular by referencing an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of that natural person.

**1.9 “Documentation”** means any standard Magentrix documentation distributed by Magentrix as a part of the Software.

**1.10 “Initial Term”** shall have the meaning set forth in Section 9.1.

**1.11 “Malicious Code”** means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

**1.12 “Member State”** means a counter that is a member of the European Union.

**1.13 “Order Form”** means the Subscriber’s purchase order for the Products, as accepted by Magentrix or one of its authorized Resellers.

**1.14 “Personal Data”** means any information relating to a Data Subject.

**1.15 “Personal Data Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, whether transmitted, stored, or otherwise Processed.

**1.16 “Products”** shall have the meaning set forth in Section 2.1.

**1.17 “Proprietary Rights”** means all rights to the Software, Documentation, and Magentrix’ Confidential Information, including, but not limited to, patents, copyrights, trademarks, trade names, trade secrets, or rights to apply for any of the same, irrespective of whether such rights arise under Canadian, U.S., or international laws.

**1.18 “Processing”** means any operation or set of operations that is performed on Personal

Data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction. “Process” and “Processed” will have a corresponding meaning.

**1.19 “Processor”** means a natural or legal person, public authority, agency or other body which processes Personal Data on behalf of the Controller.

**1.20 “Renewal Term”** shall have the meaning set forth in Section 9.1.

**1.21 “Reseller”** means any reseller authorized by Magentrix to provide Products or Standard Technical Support to Subscriber.

**1.22 “Software”** means the computer programs (including but not limited to web-based applications) referenced in the Order Form.

**1.23 “Standard Technical Support”** shall have the meaning set forth in Section 4.2.

**1.24 “Subscriber Application”** means any applications or program code created by Subscriber using the Products.

**1.25 “Subscriber Data”** means any electronic data provided by Subscriber to Magentrix.

**1.26 “Subscriber End User(s)”** means customer(s) of Subscriber authorized to use the Subscriber Application.

**1.27 “Subscription”** shall have the meaning set forth in Section 2.1.

**1.28 “Subscription Fees”** means the fees payable by Subscriber for the Subscription.

**1.29 “Term”** means collectively, the Initial” Term and any Renewal Term.

**1.30 “Transfer”** means to disclose or otherwise make the Personal Data available to a third party (including to any affiliate or sub-processor of Magentrix), either by physical movement of the Personal Data to such third party or by enabling access to the Personal Data by other means.

**1.31 “User”** means each person who is authorized by Subscriber to access or use the Products, directly or indirectly.

**1.32 “Website”** means [www.magentrix.com](http://www.magentrix.com).

## **2 GRANT OF LICENSE.**

## **2.1 License.**

Subject to the terms and conditions of this Agreement, Magentrix Corporation agrees to provide Subscriber the subscription services as described in the Subscriber's Order Form ("Subscription"). Magentrix grants to Subscriber as part of the Subscription, a non-exclusive, nontransferable right to use Magentrix Software (the "Software, together with applicable Documentation and the accompanying media, if any, (collectively, the "Products")), to create Subscriber Applications for use by Subscriber End Users. Subject to the terms of this Agreement, Subscriber may allow its employees and independent consultants to use the Products to create Subscriber Applications solely for the benefit of Subscriber; provided, however, Subscriber remains responsible for any breach of this Agreement by any such individual. Any other use of the Products by the Subscriber or any other person, business, corporation, government organization or any other entity is strictly forbidden and is a violation of this Agreement.

## **2.2 Restriction on Use.**

Use of the Product shall be only by Users and only for Subscriber's own internal business operations (not for the benefit of any other person or entity) for the duration of the Term, provided that Subscriber has and continues to pay the applicable Subscription Fees. Access to the Products is only for the maximum number of authorized Users for whom Subscriber has paid the Subscription Fees. All Subscription Fees paid for the Products are nonrefundable. Subscriber may only exceed the number of ordered Users if Subscriber increases the number of Users for which it is authorized pursuant to a new Order Form and pays additional Subscription Fees. Other than as expressly authorized in this Section 2 or as expressly permitted by applicable law, Subscriber may not: (a) copy the Software or any portion thereof; (b) use the Software to store or transmit Malicious Code, or infringing, tortious or otherwise unlawful materials; or (c) interfere with the business or operations of Magentrix.

## **2.3 Delivery of the Products.**

The Products shall be accessed by the Subscriber through the Website.

## **2.4 Audit Rights.**

Magentrix may, at any time, audit Subscriber's use of the Products by accessing the Products through the Magentrix servers to ensure compliance with the terms of this Agreement. Unless specifically authorized in writing in advance by Magentrix, Subscriber may not rent, lease or timeshare the Products or provide subscription services for the Products or permit others to do so.

## **2.5 Documentation.**

Magentrix hereby grants to Subscriber a non-exclusive, non-transferable, non-sub-licensable, internal use only license to use the Documentation solely for the purposes of utilizing the licenses granted in Section 2.1 above.

# **3 PRICES AND PAYMENTS.**

## **3.1 Prices.**

Pricing for the Products shall be as set forth in the Subscriber's Order Form.

### **3.2 Automatic Renewal.**

Unless terminated as by Subscriber as provided in Section 9.1, this Agreement shall renew automatically on a yearly basis, and the Subscriber shall be invoiced for the upcoming Renewal Term.

### **3.3 Payment.**

All payments (including fees for additional Software, support, training, taxes, etc.) shall be due within 30 days of the date of an invoice from Magentrix or one of its authorized Resellers.

### **3.4 Pricing Changes.**

Magentrix shall have the right to change the Subscription Fees and prices for the Products each year on the anniversary of this Agreement. Magentrix shall provide notice of any such price change to Subscriber ninety (90) days prior to the said anniversary date.

### **3.5 Taxes.**

All Subscriber Fees are exclusive of any export, withholding, federal, state and local taxes and duties other than taxes based on Magentrix' net income. If Magentrix pays any such taxes or duties, Magentrix shall itemize such amounts in an invoice to Subscriber and Subscriber shall reimburse Magentrix for such taxes and duties; except that Subscriber shall not be required to make any such reimbursement if it provides an appropriate and valid tax exemption certificate to Magentrix prior to accessing the Software.

### **3.6 Late Payments.**

All amounts that are not paid by Subscriber by the date required by this Agreement shall be subject to a late charge equal to the lesser of one and one-half percent (1.5%) per month and the maximum allowed by applicable law. In the event that any payment due under this Agreement is overdue, Magentrix reserves the right to suspend the rights granted under this Agreement until such delinquency is corrected.

### **3.7 No Refunds.**

Upon termination of this Agreement for any reason, Subscriber shall not be entitled to a refund of any prepaid or other fees.

## **4 SUPPORT AND TRAINING.**

### **4.1 Product Support Services.**

Magentrix or its authorized Reseller shall provide Standard Technical Support services to Subscriber during the Term, in accordance with the terms of this Agreement.

### **4.2 Standard Technical Support.**

Standard Technical Support shall be as set forth in Schedule A below, and may be amended from time to time by Magentrix. Any such amendment shall be effective as of the date it is posted on the Website.

### **4.3 Updates and Upgrades.**

Magentrix may from time to time conduct updates and upgrades to the Software, which may temporarily affect the use of the Software. To the extent that the use of the Software will be affected during such Magentrix updates and upgrades, Magentrix will provide prior notice of such updates and upgrades to Subscriber and will, to the extent possible, be conducted outside of regular business hours.

#### **4.4 Enhanced Support.**

Enhanced support offerings and services (“Premium Support”) are available as set forth in Schedule B for additional cost.

## **5 PROPRIETARY RIGHTS AND PROTECTION THEREOF.**

### **5.1 Acknowledgment.**

The Software is licensed as a subscription, not sold, by Magentrix to Subscriber, and nothing in this Agreement will be interpreted or construed as a sale or purchase of the Software. Magentrix and Subscriber acknowledge and agree that, as between Magentrix and Subscriber, Magentrix owns and will own all rights, title, and interest, including all intellectual property rights therein and thereto, in and to the Software and Documentation, and no title to the Proprietary Rights is transferred to Subscriber. The use by Subscriber of the Proprietary Rights is authorized only for the purposes set forth herein and, upon termination of this Agreement for any reason, such authorization will cease. Subscriber will not have any rights in or to the Software except as expressly granted in this Agreement. Magentrix reserves to itself all rights to the Software not expressly granted to Subscriber under this Agreement.

### **5.2 No Other Rights.**

Subscriber may not, directly or through any person or entity, in any form or manner, decompile, reverse engineer, disassemble or otherwise attempt to derive source code or object code from the Software, except as explicitly permitted under this Agreement or expressly permitted by applicable law.

### **5.3 Proprietary Notices.**

Subscriber will ensure that all copies or partial copies of the Software will display copyright and other proprietary notices to protect Magentrix’ underlying ownership rights in the same manner that Magentrix displays such notices in the Software or in any manner reasonably requested by Magentrix. Subscriber will not, nor will it permit others to, remove, alter, cover, or obscure any such notices from any component of the Software or Documentation.

### **5.4 Subscriber Data.**

Magentrix acknowledges that all Subscriber Data belongs to Subscriber and that other than specifically provided herein, Magentrix acquires no rights, title or interest thereto. Magentrix shall maintain commercially reasonable safeguards for the protection and security of Subscriber Data. Other than as specifically permitted by Subscriber in writing, Magentrix shall not: (a) modify the Subscriber Data; (b) disclose the Subscriber Data unless compelled by law; or (c) access the Subscriber Data.



### **5.5 New Applications Created by Subscriber**

To the extent that Subscriber creates Subscriber Applications using the Products, Subscriber authorizes Magentrix to host, copy, transmit, display such Subscriber Applications, to the extent necessary pursuant to this Agreement. Subject to the foregoing, Magentrix acquires no right, title or interest in or to such Subscriber Applications, including any proprietary rights therein. Furthermore, Subscriber is solely responsible for the Subscriber Applications and shall indemnify and hold Magentrix harmless from any claims arising from any use of the Subscriber Applications.

### **5.6 Comments and Suggestions**

Should Subscriber provide Magentrix with comments or suggestions for the modification, correction, improvement or enhancement of the Documents or services related thereto, Subscriber grants to Magentrix a non-exclusive, irrevocable, worldwide, royalty-free license, with the right to sublicense, the rights to use and disclose such comments and suggestions in any manner Magentrix chooses, without reference to the source.

## **6 CONFIDENTIALITY.**

### **6.1 Nondisclosure.**

Each Party shall treat as confidential all Confidential Information of the other Party, shall not use such Confidential Information except as set forth in this Agreement, and shall use best efforts not to disclose such Confidential Information to any third party. Without limiting the foregoing, each of the Parties shall use at least the same degree of care that it uses to prevent the disclosure of its own Confidential Information of like importance to prevent the disclosure of Confidential Information disclosed to it by the other Party under this Agreement. Each Party shall promptly notify the other Party of any actual or suspected misuse or unauthorized disclosure of the other Party's Confidential Information.

### **6.2 Exceptions.**

Notwithstanding Section 6.1, neither Party shall have liability to the other with regard to any Confidential Information of the other that the receiving Party can prove: (a) was in the public domain at the time it was disclosed or has since entered the public domain through no fault of the receiving Party; (b) was known to the receiving Party, without restriction, at the time of disclosure, as demonstrated by files in existence at the time of disclosure; (c) is disclosed with the prior written approval of the disclosing Party; (d) was independently developed by the receiving Party without any use of the Confidential Information, as demonstrated by files created at the time of such independent development; or (e) becomes known to the receiving Party, without restriction, from a source other than the disclosing Party without breach of this Agreement by the receiving Party and otherwise not in violation of the disclosing Party's rights.

### **6.3 Return of Confidential Information.**

Upon expiration or termination of this Agreement, each Party shall return all Confidential Information received from the other Party.

### **6.4 Remedies.**

Any breach of the restrictions contained in this Section 6 is a breach of this Agreement that may cause irreparable harm to the non-breaching Party for which monetary damages would be inadequate. Any such breach shall entitle the non-breaching Party to injunctive relief in addition to all other legal remedies available at equity or at law.

## **7 INDEMNIFICATION.**

### **7.1 Indemnification by Magentrix.**

Magentrix agrees, at its own expense, to defend, or at its option to settle, any claim or action brought against Subscriber on the issue of infringement of any copyright, trade secret, or U.S., or Canadian patent by the Software used or distributed within the terms of this Agreement, and to indemnify Subscriber against any and all damages and costs, including legal fees, that a court awards against Subscriber under any such claim or action; provided that Subscriber provides Magentrix with (a) prompt written notice of such claim or action, (b) sole control and authority over the defense or settlement of such claim or action and (c) proper and full information and reasonable assistance to defend and settle any such claim or action.

### **7.2 Injunctions.**

In the event that use of the Software is, or in Magentrix' sole opinion is likely to be, enjoined due to the type of infringement described in Section 7.1, Magentrix, at its option and expense, may either (a) modify the Software so that they become non-infringing, (b) replace the Software with functionally equivalent non-infringing Software reasonably acceptable to Subscriber or, if the foregoing alternatives are not reasonably available to Magentrix, (c) terminate this Agreement and accept return of the Software and refund a prorated portion of the Subscription Fee.

### **7.3 Exceptions.**

Notwithstanding the provisions of Sections 7.1 and 7.2, Magentrix will have no liability to the extent that any such claim would have been avoided but for use of the Software with any other products not provided by Magentrix.

### **7.4 Limitation.**

THE FOREGOING PROVISIONS OF THIS SECTION 7 STATE THE ENTIRE LIABILITY AND OBLIGATIONS OF MAGENTRIX AND THE SOLE AND EXCLUSIVE REMEDY OF SUBSCRIBER WITH RESPECT TO ANY ALLEGED OR ACTUAL INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADE SECRETS, TRADEMARKS OR OTHER INTELLECTUAL PROPERTY RIGHTS BY THE SOFTWARE OR ITS REPRODUCTION, DISTRIBUTION OR USE.

## **8 WARRANTIES.**

### **8.1 Limited Warranty.**

During the Term, Magentrix warrants that the Products will operate in substantial conformance with the then-current Magentrix published Documentation under normal use. Notwithstanding



the previous sentence, Magentrix does not warrant that: (a) Products will be free from defects; (b) Products will satisfy all of Subscriber's requirements; (c) Products will operate without interruption or error. Magentrix shall use reasonable efforts to remedy any significant Product non-conformance reported to Magentrix that Magentrix can reasonably identify and confirm. Magentrix or its representative will repair or replace any such non-conforming or defective Product. This paragraph sets forth Subscriber's sole and exclusive remedy and Magentrix' entire liability for any breach of warranty or other duty related to the Products. Any unauthorized Product modification, tampering with the Products, Product use inconsistent with the accompanying Documentation, or related breach of this Agreement shall void the aforementioned warranty. EXCEPT AS EXPLICITLY SET FORTH HEREIN AND TO THE EXTENT ALLOWED BY LAW, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS. MAGENTRIX DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR THAT OPERATION OF THE SOFTWARE WILL BE SECURE OR UNINTERRUPTED. MAGENTRIX EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON SUBSCRIBER APPLICATIONS THAT ARE BASED UPON OR CREATED THROUGH USE OF THE SOFTWARE.

## **8.2 Subscriber-Hosted Environment.**

Subscriber is not authorized to host the Products in its own environment and must use the Products through the Website provided by Magentrix with a fully configured Software. Subscriber understands and agrees that, any changes made by Subscriber, without Magentrix' written consent, to the administrative settings of the underlying operating system, servers, or third party libraries included in the Software will void any warranty provided by Magentrix hereunder and will automatically make Subscriber ineligible for Standard Technical Support.

## **9 TERM AND TERMINATION.**

### **9.1 Term.**

This Agreement shall be effective as of the Effective Date and remain in effect for the duration of the initial term indicated on the Order Form (the "Initial Term"). Thereafter, this Agreement shall renew automatically for additional twelve month periods (each a "Renewal Term"), unless either party provides written notice of their intent to terminate the Agreement, no later than sixty (60) days prior to the end of the then-current term.

### **9.2 Termination for Cause.**

In the event of breach of this Agreement by either Party, the non-defaulting Party may give written notice of such default to the defaulting Party. If the non-defaulting Party gives such notice and the default is not cured within a 30-day period following receipt of the notice by the defaulting Party, then this Agreement shall automatically terminate. Notwithstanding the foregoing, if Subscriber breaches the provisions of Sections 2, 5, or 6 and such breach is not curable, then Magentrix shall be entitled to terminate this Agreement effective immediately upon delivery of written notice to Subscriber.

### **9.3 Effect of Termination.**

Upon termination by either Party, all of Subscriber's rights and licenses with respect to the Software shall terminate. Subscriber shall cease using the Products, and shall destroy or return to Magentrix copies of the Products, if any, in its possession, and certify in writing that all copies thereof, including backup copies, if any were authorized, have been destroyed.

Furthermore, all copies of Magentrix Confidential Information in Subscriber's possession at the time of termination or expiration of this Agreement shall, at Magentrix' option, be promptly destroyed or returned to Magentrix.

### **9.4 Survival.**

The provisions of Sections 1, 3.5, 5, 6, 9.3, 10, 11.3 and 12. and all payment obligations shall survive the expiration or termination of this Agreement for any reason. All other rights and obligations of the Parties shall cease upon termination of this Agreement.

## **10 LIMITATION OF LIABILITY.**

EXCEPT FOR LIABILITY RESULTING FROM A PARTY'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OR A BREACH OF SECTIONS 2.2, 5 or 6, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, LOSS OF DATA, LOST PROFITS OR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE OR STRICT LIABILITY), ARISING OUT OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL MAGENTRIX'S LIABILITY ARISING OUT OF THIS AGREEMENT EXCEED THE TOTAL SUBSCRIPTIONS FEES RECEIVED BY MAGENTRIX FROM SUBSCRIBER HEREUNDER IN THE PREVIOUS TWELVE MONTHS FROM THE DATE OF THE CLAIM. SUBSCRIBER ACKNOWLEDGES AND AGREES THAT THE AMOUNTS PAYABLE HEREUNDER BY SUBSCRIBER ARE BASED IN PART UPON THESE LIMITATIONS, AND FURTHER AGREES THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## **11 Beta Features.**

### **11.1 Beta Trial**

Subscriber may choose to participate in testing of the Beta Features in their live environment and under normal operating conditions as further set forth herein (the "Beta Trial"). Subscriber will subject the Beta feature to normal workload and cooperate in the identification, isolation, documentation and reporting of any and all problems encountered. If Subscriber encounters a significant problem with or deficiency with a Beta Feature, it shall report the same to Magentrix personnel as soon as practicable. Magentrix may contact Subscriber during normal business hours by telephone or e-mail and Subscriber agrees to completely and accurately respond to questions and surveys regarding the performance of the Beta Features. Subscriber

acknowledges and agrees that Magentrix is under no obligation to incorporate into the Beta Features or the Software, any changes, suggestions, or comments made by Subscriber; Subscriber further waives any and all proprietary right or interest in any such changes, suggestions, or comments communicated by Subscriber to Magentrix and assigns to Magentrix any and all rights therein.

### **11.2 Beta Features.**

Subscriber acknowledges that the Beta Features are test versions of certain features of the Software which have not been released for commercial use, that some Beta Features may be disabled or otherwise fail to function properly, that any Beta Features as a whole may fail to function in accordance with its specifications and that the specifications of all Beta Features are subject to change and may be different from the specifications of the final version of the product. Magentrix makes no warranties or representations concerning the pricing or future availability, if any, of the Beta Features.

### **11.3 Limitation of Liability With Respect to Beta Features**

Without limiting the generality of the Limitation of Liability Section set forth above, Magentrix shall have no liability to Subscriber or any other party, whether in contract, tort, or negligence, for any claim, loss, or damage, including but not limited to lost profits or systems interruption or damage, business interruption, equipment damage, or for any indirect, special, incidental, or consequential damages of any kind or nature whatsoever arising out of or in connection with Subscriber's use of or inability to use the Beta Features. Without limiting the foregoing, Subscriber agrees that Magentrix shall have no liability for errors or omissions in the output of the Beta Features, whether such errors or omissions are caused by errors or inaccuracies in the conversion of data as inputs to the Beta Features, in the processing of such data by the Beta Feature or other the Software, in the display of such data, or otherwise. For damage, in any way arising out of or related to the Beta Features, Magentrix' maximum liability shall not exceed one hundred dollars.

## **12 PRIVACY AND DATA PROTECTION**

### **SECTION A- GENERAL**

#### **Clause 1 - Purpose and scope**

- (a) The purpose of these standard contractual clauses is to ensure compliance with the requirements of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation) for the transfer of data to a third country.
- (b) These Clauses apply with respect to the transfer of Personal Data.

#### **Clause 2 - Interpretation**

- (a) Where these Clauses use terms that are defined in Regulation (EU) 2016/679, those terms shall have the same meaning as in that Regulation.

- (b) These Clauses shall be read and interpreted in the light of the provisions of Regulation (EU) 2016/679.
- (c) These Clauses shall not be interpreted in a way that conflicts with rights and obligations provided for in Regulation (EU) 2016/679.

### **Clause 3 - Hierarchy**

In the event of a contradiction between these Clauses and the provisions of related agreements between the parties, existing at the time these Clauses are agreed or entered into thereafter, these Clauses shall prevail.

## **SECTION B – OBLIGATIONS OF THE PARTIES**

### **Clause 4 - Data protection safeguards**

The Subscriber warrants that it has used reasonable efforts to determine that Magentrix is able, through the implementation of appropriate technical and organizational measures, to satisfy its obligations under these Clauses.

#### **Clause 4.1 Instructions**

- (a) Magentrix shall process the Personal Data only on documented instructions from the Subscriber. The Subscriber may give such instructions throughout the duration of the contract.
- (b) Magentrix shall immediately inform the Subscriber if it is unable to follow those instructions.

#### **Clause 4.2 Purpose limitation**

Magentrix shall process the Personal Data only for the specific purpose(s) of the transfer, as set out in this Agreement, unless on further instructions from the Subscriber.

#### **Clause 4.3 Transparency**

On request, the Subscriber shall make a copy of these Clauses available to the Data Subject free of charge. To the extent necessary to protect business secrets or other confidential information, the Subscriber may redact part of the text of these Clauses prior to sharing a copy, but shall provide a meaningful summary where the Data Subject would otherwise not be able to understand the its content or exercise his/her rights. On request, the parties shall provide the Data Subject with the reasons for the redactions, to the extent possible without revealing the redacted information. This Clause is without prejudice to the obligations of the Subscriber under Articles 13 and 14 of Regulation (EU) 2016/679.

#### **Clause 4.4 Accuracy**

If Magentrix becomes aware that the Personal Data it has received is inaccurate, or has become outdated, it shall inform the Subscriber without undue delay. In this case, Magentrix shall cooperate with the Subscriber to erase or rectify the data.

#### **Clause 4.5 Duration of processing and erasure or return of data**

Processing by Magentrix shall only take place for the duration of this Agreement. After the end of the provision of the processing services, Magentrix shall, at the choice of the Subscriber, delete all Personal Data processed on behalf of the Subscriber and certify to the Subscriber that it has done so, or return to the Subscriber all Personal Data processed on its behalf and delete existing copies. Until the data is deleted or returned, Magentrix shall continue to ensure compliance with these Clauses. In case of local laws applicable to Magentrix that prohibit return or deletion of the Personal Data, Magentrix warrants that it will continue to ensure compliance with these Clauses and will only process it to the extent and for as long as required under that local law. This is without prejudice to Clause 10, in particular the requirement for Magentrix under Clause 10(e) to notify the Subscriber throughout the duration of the contract if it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under Clause 10(a).

#### **Clause 4.6 Security of processing**

- (a) Magentrix and, during transmission, also the Subscriber shall implement appropriate technical and organizational measures to ensure the security of the data, including protection against a breach of security leading to accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access to that data (hereinafter 'Personal Data breach'). In assessing the appropriate level of security, the parties shall take due account of the state of the art, the costs of implementation, the nature, scope, context and purpose(s) of processing and the risks involved in the processing for the Data Subjects. The parties shall in particular consider having recourse to encryption or pseudonymisation, including during transmission, where the purpose of processing can be fulfilled in that manner. In case of pseudonymisation, the additional information for attributing the Personal Data to a specific Data Subject shall, where possible, remain under the exclusive control of the Subscriber. Magentrix shall carry out regular checks to ensure that these measures continue to provide an appropriate level of security.
- (b) Magentrix shall grant access to the Personal Data to members of its personnel only to the extent strictly necessary for the implementation, management and monitoring of the contract. It shall ensure that persons authorised to process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

- (c) In the event of a Personal Data breach concerning Personal Data processed by Magentrix under these Clauses, Magentrix shall take appropriate measures to address the breach, including measures to mitigate its adverse effects. Magentrix shall also notify the Subscriber without undue delay after having become aware of the breach. Such notification shall contain the details of a contact point where more information can be obtained, a description of the nature of the breach (including, where possible, categories and approximate number of Data Subjects and Personal Data records concerned), its likely consequences and the measures taken or proposed to address the breach including, where appropriate, measures to mitigate its possible adverse effects. Where, and in so far as, it is not possible to provide all information at the same time, the initial notification shall contain the information then available and further information shall, as it becomes available, subsequently be provided without undue delay.
- (d) Magentrix shall cooperate with and assist the Subscriber to enable the Subscriber to comply with its obligations under Regulation (EU) 2016/679, in particular to notify the competent supervisory authority and the affected Data Subjects, taking into account the nature of processing and the information available to Magentrix.

#### **Clause 4.7 Sensitive data**

Where the transfer involves Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, or biometric data for the purpose of uniquely identifying a natural person, data concerning health or a person's sex life or sexual orientation, or data relating to criminal convictions and offences (hereinafter 'sensitive data'), Magentrix shall apply the specific restrictions and/or additional safeguards reasonably necessary.

#### **Clause 4.8 Onward transfers**

Magentrix shall only disclose the Personal Data to a third party on documented instructions from the Subscriber. In addition, the data may only be disclosed to a third party located outside the European Union (in the same country as Magentrix or in another third country, hereinafter 'onward transfer') if the third party is or agrees to be bound by these Clauses, or if:

- (i) the onward transfer is to a country benefitting from an adequacy decision pursuant to Article 45 of Regulation (EU) 2016/679 that covers the onward transfer;
- (ii) the third party otherwise ensures appropriate safeguards pursuant to Articles 46 or 47 Regulation of (EU) 2016/679 with respect to the processing in question;
- (iii) the onward transfer is necessary for the establishment, exercise or defence of legal claims in the context of specific administrative, regulatory or judicial proceedings; or



- (iv) the onward transfer is necessary in order to protect the vital interests of the Data Subject or of another natural person.

Any onward transfer is subject to compliance by Magentrix with all the other safeguards under these Clauses, in particular purpose limitation.

#### **Clause 4.9 Documentation and compliance**

- (a) Magentrix shall promptly and adequately deal with enquiries from the Subscriber that relate to the processing under these Clauses.
- (b) The parties shall be able to demonstrate compliance with these Clauses. In particular, Magentrix shall keep appropriate documentation on the processing activities carried out on behalf of the Subscriber.
- (c) Magentrix shall make available to the Subscriber all information necessary to demonstrate compliance with the obligations set out in these Clauses and at the Subscriber's request, allow for and contribute to audits of the processing activities covered by these Clauses, at reasonable intervals or if there are indications of non-compliance. In deciding on a review or audit, the Subscriber may take into account relevant certifications held by Magentrix.
- (d) The Subscriber may choose to conduct the audit by itself or mandate an independent auditor. Audits may include inspections at the premises or physical facilities of Magentrix and shall, where appropriate, be carried out with reasonable notice.
- (e) The parties shall make the information referred to in paragraphs (b) and (c), including the results of any audits, available to the competent supervisory authority on request.

#### **Clause 5 - Use of sub-processors**

- (a) Magentrix shall not sub-contract any of its processing activities performed on behalf of the Subscriber under these Clauses to a sub-processor without the Subscriber's prior specific written authorization. Magentrix shall submit the request for specific authorization at least 30 days prior to the engagement of the sub-processor, together with the information necessary to enable the Subscriber to decide on the authorization.
- (b) Where Magentrix engages a sub-processor to carry out specific processing activities (on behalf of the Subscriber), it shall do so by way of a written contract that provides for, in substance, the same data protection obligations as those binding Magentrix under these Clauses, including in terms of third-party beneficiary rights for Data Subjects. The parties agree that, by complying with this Clause, Magentrix fulfils its obligations under Clause

4.8. Magentrix shall ensure that the sub-processor complies with the obligations to which Magentrix is subject pursuant to these Clauses.

- (c) Magentrix shall provide, at the Subscriber's request, a copy of such a sub-processor agreement and any subsequent amendments to the Subscriber. To the extent necessary to protect business secrets or other confidential information, including Personal Data, Magentrix may redact the text of the agreement prior to sharing a copy.
- (d) Magentrix shall remain fully responsible to the Subscriber for the performance of the sub-processor's obligations under its contract with Magentrix. Magentrix shall notify the Subscriber of any failure by the sub-processor to fulfil its obligations under that contract.
- (e) Magentrix shall agree a third-party beneficiary clause with the sub-processor whereby – in the event Magentrix has factually disappeared, ceased to exist in law or has become insolvent – the Subscriber shall have the right to terminate the sub-processor contract and to instruct the sub-processor to erase or return the Personal Data.

#### **Clause 6 - Data Subject rights**

- (a) Magentrix shall promptly notify the Subscriber of any request it has received from a Data Subject. It shall not respond to that request itself unless it has been authorised to do so by the Subscriber.
- (b) Magentrix shall assist the Subscriber in fulfilling its obligations to respond to Data Subjects' requests for the exercise of their rights under Regulation (EU) 2016/679.
- (c) In fulfilling its obligations under paragraphs (a) and (b), Magentrix shall comply with the reasonable instructions from the Subscriber.

#### **Clause 7- Redress**

- (a) Magentrix shall inform Data Subjects in a transparent and easily accessible format, through individual notice or on its website, of a contact point authorised to handle complaints. It shall deal promptly with any complaints it receives from a Data Subject.
- (b) In case of a dispute between a Data Subject and one of the parties as regards compliance with these Clauses, that party shall use its best efforts to resolve the issue amicably in a timely fashion. The parties shall keep each other informed about such disputes and, where appropriate, cooperate in resolving them.
- (c) Where the Data Subject invokes a third-party beneficiary right, Magentrix shall accept the decision of the Data Subject to:
  - (i) lodge a complaint with the supervisory authority in the Member State of his/her habitual residence or place of work, or the competent supervisory authority pursuant to Clause 9;
  - (ii) refer the dispute to the competent courts.

- (d) The parties accept that the Data Subject may be represented by a not-for-profit body, organisation or association under the conditions set out in Article 80(1) of Regulation (EU) 2016/679.
- (e) Magentrix shall abide by a decision that is binding under the applicable EU or Member State law.
- (f) Magentrix agrees that the choice made by the Data Subject will not prejudice his/her substantive and procedural rights to seek remedies in accordance with applicable laws.

### **Clause 8 - Liability**

- (a) Each party shall be liable to the other party/ies for any damages it causes the other party/ies by any breach of these Clauses.
- (b) Magentrix shall be liable to the Data Subject, and the Data Subject shall be entitled to receive compensation, for any material or non-material damages Magentrix or its sub-processor causes the Data Subject by breaching the third-party beneficiary rights under these Clauses.
- (c) Notwithstanding paragraph (b), the Subscriber shall be liable to the Data Subject, and the Data Subject shall be entitled to receive compensation, for any material or non-material damages the Subscriber or Magentrix (or its sub-processor) causes the Data Subject by breaching the third-party beneficiary rights under these Clauses. This is without prejudice to the liability of the Subscriber and, where the Subscriber is a processor acting on behalf of a controller, to the liability of the controller under Regulation (EU) 2016/679 or Regulation (EU) 2018/1725, as applicable.
- (d) The parties agree that if the Subscriber is held liable under paragraph (c) for damages caused by Magentrix (or its sub-processor), it shall be entitled to claim back from Magentrix that part of the compensation corresponding to Magentrix's responsibility for the damage.
- (e) Where more than one party is responsible for any damage caused to the Data Subject as a result of a breach of these Clauses, all responsible parties shall be jointly and severally liable and the Data Subject is entitled to bring an action in court against any of these parties.
- (f) The parties agree that if one party is held liable under paragraph (e), it shall be entitled to claim back from the other party/ies that part of the compensation corresponding to its/their responsibility for the damage.
- (g) Magentrix may not invoke the conduct of a sub-processor to avoid its own liability.

**Clause 9 - Supervision**

- (a) Magentrix agrees to submit itself to the jurisdiction of and cooperate with the competent supervisory authority in any procedures aimed at ensuring compliance with these Clauses. In particular, Magentrix agrees to respond to enquiries, submit to audits and comply with the measures adopted by the supervisory authority, including remedial and compensatory measures. It shall provide the supervisory authority with written confirmation that the necessary actions have been taken.

**SECTION C – LOCAL LAWS AND OBLIGATIONS IN CASE OF ACCESS BY PUBLIC AUTHORITIES****Clause 10 - Local laws and practices affecting compliance with the Clauses**

- (a) The parties warrant that they have no reason to believe that the laws and practices in the third country of destination applicable to the processing of the Personal Data by Magentrix, including any requirements to disclose Personal Data or measures authorising access by public authorities, prevent Magentrix from fulfilling its obligations under these Clauses. This is based on the understanding that laws and practices that respect the essence of the fundamental rights and freedoms and do not exceed what is necessary and proportionate in a democratic society to safeguard one of the objectives listed in Article 23(1) of Regulation (EU) 2016/679, are not in contradiction with these Clauses.
- (b) The parties declare that in providing the warranty in paragraph (a), they have taken due account in particular of the following elements:
- (i) the specific circumstances of the transfer, including the length of the processing chain, the number of actors involved and the transmission channels used; intended onward transfers; the type of recipient; the purpose of processing; the categories and format of the transferred Personal Data; the economic sector in which the transfer occurs; the storage location of the data transferred;
  - (ii) the laws and practices of the third country of destination– including those requiring the disclosure of data to public authorities or authorising access by such authorities – relevant in light of the specific circumstances of the transfer, and the applicable limitations and safeguards;
  - (iii) any relevant contractual, technical or organizational safeguards put in place to supplement the safeguards under these Clauses, including measures applied during transmission and to the processing of the Personal Data in the country of destination.
- (c) Magentrix warrants that, in carrying out the assessment under paragraph (b), it has made its best efforts to provide the Subscriber with relevant information and agrees that it will continue to cooperate with the Subscriber in ensuring compliance with these Clauses.
- (d) The parties agree to document the assessment under paragraph (b) and make it available to the competent supervisory authority on request.

- (e) Magentrix agrees to notify the Subscriber promptly if, after having agreed to these Clauses and for the duration of the contract, it has reason to believe that it is or has become subject to laws or practices not in line with the requirements under paragraph (a), including following a change in the laws of the third country or a measure (such as a disclosure request) indicating an application of such laws in practice that is not in line with the requirements in paragraph (a).
- (f) Following a notification pursuant to paragraph (e), or if the Subscriber otherwise has reason to believe that Magentrix can no longer fulfil its obligations under these Clauses, the Subscriber shall promptly identify appropriate measures (e.g. technical or organizational measures to ensure security and confidentiality) to be adopted by the Subscriber and/or data importer to address the situation. The Subscriber shall suspend the data transfer if it considers that no appropriate safeguards for such transfer can be ensured, or if instructed by the competent supervisory authority to do so. In this case, the Subscriber shall be entitled to terminate the contract, insofar as it concerns the processing of Personal Data under these Clauses. If the contract involves more than two parties, the Subscriber may exercise this right to termination only with respect to the relevant party, unless the parties have agreed otherwise. Where the contract is terminated pursuant to this Clause, Clause 12(d) and (e) shall apply.

## **Clause 11 - Obligations of Magentrix in case of access by public authorities**

### **Clause 11.1 Notification**

- (a) Magentrix agrees to notify the Subscriber and, where possible, the Data Subject promptly (if necessary with the help of the Subscriber) if it:
  - (i) receives a legally binding request from a public authority, including judicial authorities, under the laws of the country of destination for the disclosure of Personal Data transferred pursuant to these Clauses; such notification shall include information about the Personal Data requested, the requesting authority, the legal basis for the request and the response provided; or
  - (ii) becomes aware of any direct access by public authorities to Personal Data transferred pursuant to these Clauses in accordance with the laws of the country of destination; such notification shall include all information available to the importer.
- (b) If Magentrix is prohibited from notifying the Subscriber and/or the Data Subject under the laws of the country of destination, Magentrix agrees to use its best efforts to obtain a waiver of the prohibition, with a view to communicating as much information as possible, as soon as possible. Magentrix agrees to document its best efforts in order to be able to demonstrate them on request of the Subscriber.
- (c) Where permissible under the laws of the country of destination, Magentrix agrees to provide the Subscriber, at regular intervals for the duration of the contract, with as much relevant information as possible on the requests received (in particular,

- number of requests, type of data requested, requesting authority/ies, whether requests have been challenged and the outcome of such challenges, etc.).
- (d) Magentrix agrees to preserve the information pursuant to paragraphs (a) to (c) for the duration of the contract and make it available to the competent supervisory authority on request.
  - (e) Paragraphs (a) to (c) are without prejudice to the obligation of Magentrix pursuant to Clause 10(e) and Clause 12 to inform the Subscriber promptly where it is unable to comply with these Clauses.

### **Clause 11.2 Review of legality and data minimisation**

- (a) Magentrix agrees to review the legality of the request for disclosure, in particular whether it remains within the powers granted to the requesting public authority, and to challenge the request if, after careful assessment, it concludes that there are reasonable grounds to consider that the request is unlawful under the laws of the country of destination, applicable obligations under international law and principles of international comity. Magentrix shall, under the same conditions, pursue possibilities of appeal. When challenging a request, Magentrix shall seek interim measures with a view to suspending the effects of the request until the competent judicial authority has decided on its merits. It shall not disclose the Personal Data requested until required to do so under the applicable procedural rules. These requirements are without prejudice to the obligations of Magentrix under Clause 10(e).
- (b) Magentrix agrees to document its legal assessment and any challenge to the request for disclosure and, to the extent permissible under the laws of the country of destination, make the documentation available to the Subscriber. It shall also make it available to the competent supervisory authority on request.
- (c) Magentrix agrees to provide the minimum amount of information permissible when responding to a request for disclosure, based on a reasonable interpretation of the request.

## **SECTION D – FINAL PROVISIONS**

### **Clause 12.1 Non-compliance with the Clauses and termination**

- (a) Magentrix shall promptly inform the Subscriber if it is unable to comply with these Clauses, for whatever reason.
- (b) In the event that Magentrix is in breach of these Clauses or unable to comply with these Clauses, the Subscriber shall suspend the transfer of Personal Data to Magentrix until compliance is again ensured or the contract is terminated. This is without prejudice to Clause 10(f).
- (c) The Subscriber shall be entitled to terminate the contract, insofar as it concerns the processing of Personal Data under these Clauses, where:



- (i) the Subscriber has suspended the transfer of Personal Data to Magentrix pursuant to paragraph (b) and compliance with these Clauses is not restored within a reasonable time and in any event within one month of suspension;
- (ii) Magentrix is in substantial or persistent breach of these Clauses; or
- (iii) Magentrix fails to comply with a binding decision of a competent court or supervisory authority regarding its obligations under these Clauses.

In these cases, it shall inform the competent supervisory authority of such non-compliance. Where the contract involves more than two parties, the Subscriber may exercise this right to termination only with respect to the relevant party, unless the parties have agreed otherwise.

- (d) Personal Data that has been transferred prior to the termination of the contract pursuant to paragraph (c) shall at the choice of the Subscriber immediately be returned to the Subscriber or deleted in its entirety. The same shall apply to any copies of the data. Magentrix shall certify the deletion of the data to the Subscriber. Until the data is deleted or returned, Magentrix shall continue to ensure compliance with these Clauses. In case of local laws applicable to Magentrix that prohibit the return or deletion of the transferred Personal Data, Magentrix warrants that it will continue to ensure compliance with these Clauses and will only process the data to the extent and for as long as required under that local law.
- (e) Either party may revoke its agreement to be bound by these Clauses where (i) the European Commission adopts a decision pursuant to Article 45(3) of Regulation (EU) 2016/679 that covers the transfer of Personal Data to which these Clauses apply; or (ii) Regulation (EU) 2016/679 becomes part of the legal framework of the country to which the Personal Data is transferred. This is without prejudice to other obligations applying to the processing in question under Regulation (EU) 2016/679.

### **Clause 13 - Governing law**

These Clauses shall be governed by the law of the country in which the Subscriber is established.

### **13 organizationalorganizationalorganizationalMISCELLANEOUS.**

#### **13.1 Assignment.**

Subscriber may not assign or transfer, by operation of law or otherwise, any of its rights under this Agreement to any third party without Magentrix' prior written consent; any attempted assignment or transfer in violation of the foregoing will be void.

#### **13.2 Waivers.**

All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

#### **13.3 Marketing Activities.**

Subscriber agrees that Magentrix, may with the expressed written consent of the Subscriber,

from time to time identify Subscriber (with its name, logo and/or trademark) as a Magentrix Subscriber on its Website, sales and marketing materials or press releases.

#### **13.4 Governing Law.**

This Agreement will be governed by the laws of the Province of Ontario, Canada, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Any action or proceeding arising from or relating to this Agreement must be brought exclusively in the courts of Ontario and each Party irrevocably submits to the exclusive personal jurisdiction and venue of any such court in any such action or proceeding. This Agreement will be written and construed in the English language.

#### **13.5 Notices.**

Any notice required or permitted by this Agreement shall be in writing and shall be deemed sufficient upon receipt, when delivered personally or by courier, overnight delivery service or confirmed facsimile, or 48 hours after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid, if such notice is addressed to the Party to be notified at such Party's address or facsimile number as set forth in the Order Form, or as subsequently modified by written notice.

#### **13.6 Severability.**

If any provision of this Agreement is adjudicated to be unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

#### **13.7 Independent Contractor.**

Neither Party (nor any agent or employee of that Party) is the representative of the other Party for any purpose, and neither Party has the power or authority as agent, employee or in any other capacity, to represent, act for, bind or otherwise create or assume any obligation on behalf of the other Party for any purpose whatsoever.

#### **13.8 Export.**

Subscriber will comply with all applicable export and import control laws and regulations of the United States, Canada and the foreign jurisdiction, if any, in which the Subscription is used.

#### **13.9 Force Majeure.**

Except for Subscriber's obligations to pay Magentrix hereunder, neither Party shall be liable to the other Party for any failure or delay in performance caused by reasons beyond its reasonable control, including any Internet or electronic communication failures.

#### **13.10 Amendment.**

This Agreement may be amended only by a written document signed by both Parties. The terms on any purchase order or similar document submitted by Subscriber to Magentrix will have no effect.

#### **13.11 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties regarding the subject hereof and supersedes all prior or contemporaneous agreements, understandings, and communication, whether written or oral.

## SCHEDULE A

### MAGENTRIX STANDARD TECHNICAL SUPPORT

We make sure your purchased service is available 24 hours a day, 7 days a week with the exception of:

- Planned down time, which a notification will be sent out at least 24 hours prior to the down time. Downtimes are usually scheduled at overnight during the weekend.
- Any unavailability caused by circumstances beyond our reasonable control such as acts of god, acts of government, floods, fire, earthquakes, civil unrest, acts of terror, Internet service provider failures or delays, or denial of service attacks.

#### Magentrix Standard Support Includes (included in Professional and Enterprise Editions):

- On-line Help Desk (access to knowledge base and help ticket requests)
- Email Support
- Response Time to an incident is:
  - Up to 4 business hours (9am – 5pm EST)
  - During non-business hours, critical issues will be responded to within a maximum of 12 hours.
- Resolution Time is dependent on the nature of the problem
- Critical bug fixes will be applied as soon as they become available
- Non-Critical bugs and features are deployed as part of quarterly updates

**Note:** Support is provided solely to the entity or organization purchasing Magentrix Services.

## SCHEDULE B

### MAGENTRIX PREMIUM SUPPORT

#### Magentrix Premium Support Includes:

- Everything included in Magentrix Standard Support
- Priority One-On-One Phone Support
- Live Remote Support
- Response Time to an incident is:
  - Up to 1 business hour (9am – 5pm EST)
  - During non-business hours, critical issues will be responded to within a maximum of 6 hours.

**Note:** Support is provided solely to Entity or Organization purchasing Magentrix Services.