

Customer License & Services Agreement

This Customer License & Services Agreement (“**Agreement**”) is entered into and effective as of the Effective Date defined on the signature page hereof by and between the Customer signing below (“**Customer**”) and Nectar Services Corp. (“**Nectar**”). Customer and Nectar are each referred to herein as a “**Party**” and, together, the “**Parties**”.

This Agreement governs the use of all Products and Services (defined below) that are used by or on behalf of Customer, whether acquired directly from Nectar or through a Nectar Partner (defined below).

For good and valuable consideration, the receipt of which is hereby acknowledged, Customer and Nectar hereby agree as follows:

1. CERTAIN DEFINITIONS.

- “**Customer Data**” means the electronic data processed through use of the Products, which includes Personal Data that is contained in the contents of the emails sent by or to Permitted Users.
- “**Data Hosting Jurisdiction**” means the country where Customer Data will be stored.
- “**Documentation**” means the applicable Nectar Products and Services documentation that is available at <https://support.nectarcorp.com>.
- “**Intellectual Property**” and related Definitions.
 - “**Intellectual Property**” means any and all copyrights, trademarks, trade names, service marks, logos, taglines, domain names, patents, trade secrets, software programs, inventions, methodologies, and other intangible proprietary information, in each case in or relating to Nectar, the Products or the Services.
 - “**Intellectual Property Rights**” means Nectar’s rights in and to the Intellectual Property and otherwise in and to the Products and Services, worldwide, including any right to apply for or register any Intellectual Property, whether now existing or hereafter coming into existence.
 - “**Nectar Marks**” mean Nectar’s copyrights, trademarks, trade names, service marks, logos, taglines, and domain names associated with Nectar, the Products or Services.
 - “**Proprietary Notices**” mean patent, copyright, trademark, confidentiality and like statutory or information notices of Intellectual Property Rights or similar restrictions placed on the Products, Services and Documentation.
- “**Order**” means a transactional document (*such as a quote, purchase order or a statement of work*) that is provided to the Customer by either Nectar or its Partner, the terms of which are governed by this Agreement and accepted for fulfilment by Nectar, that orders Products and/or Services from Nectar or one of its Partners.
- “**Partner**” means an independent company that is authorized by Nectar to market and sell its Products and Services. This includes Nectar authorized or approved partners, resellers and distributors.
- “**Permitted User**” means an individual who is Customer’s Personnel, or the Personnel of a contractor of Customer, that in each case Customer has authorized such Personnel to use an RTU License purchased by Customer. The number of Permitted Users is set forth in an Order.
- “**Perpetual License**” means a license to use certain Nectar Products in perpetuity, as further described in the Ordering Appendix, and subject to the terms and conditions set forth herein.
- “**Personal Data**” means Customer Data that relates to an identified or identifiable natural person (a “**Data Subject**”) which is comprised of non-sensitive contact information data i.e., name, phone number, email address and IP address.
- “**Personnel**” of an entity means a human being that is an employee, officer, director, partner, representative, agent or other similar personnel member of that entity.
- “**Products**” mean Nectar’s proprietary unified communications network monitoring software, including without limitation, all “software as a service” products and including all updates, bug fixes, upgrades, new versions, and such other and successive software as Nectar may subsequently develop for licensing and distribution.
- “**RTU License**” means a *right to use* license that is issued to Customer pursuant to an Order.

- **“Services”** mean Professional Services, Support Services and Training Services.
 - **“Professional Services”** mean the professional services that Nectar provides directly to Customer or indirectly through a Partner to Customer, in connection with Customer’s use of the Products.
 - **“Support Services”** or **“Support”** means the on-going support services that Nectar provides, directly to Customer or indirectly through a Partner to Customer, in connection with Customer’s use of the Products. Support Services do not include any support or other services that Partner may separately provide to Customer independent of Nectar.
 - **“Training Services”** means training services that Nectar provides, directly to Customer or indirectly through a Partner to Customer, in connection with Customer’s use of the Products.
- **“Software Hosting Jurisdiction”** means the country(ies) where the Products will be situated (e.g., Customer’s data center or its Partner’s data center).
- **“SOW”** means a Statement of Work for Services.
- **“Subscription License”** means a license to use Nectar Products for a defined period or Term, as further described in the Ordering Appendix attached hereto, and subject to the terms and conditions set forth herein.

2. **ORDERING OF PRODUCTS AND SERVICES.**

Customer may order Products and Services pursuant to the Ordering Appendix attached hereto, which is an integral part of this Agreement.

3. **CUSTOMER PAYMENT TERMS; EARLY TERMINATION FEES.**

Customer’s payment terms and related matters are set forth in the Payment Terms Appendix attached hereto, which is an integral part of this Agreement.

Customer’s fees for early termination of licenses/support are set forth in the Early Termination Appendix attached hereto, which is an integral part of this Agreement.

4. **LICENSE RIGHTS AND RESTRICTIONS.**

4.1 License Grant to Customer. Subject to Customer’s compliance with the terms and conditions contained in this Agreement, Nectar grants to Customer a non-exclusive and non-transferable right to access and use the Products detailed in an Order, in accordance with the applicable RTU License, through its Permitted Users, for Customer’s internal business operations only; provided, that Customer shall ensure that all of its Permitted Users abide by the terms of this Agreement, and Customer shall be liable for any breach by its Permitted Users of such terms.

4.2 Reservation of Rights; Nectar’s Rights. Except as authorized under this Agreement, Nectar retains and reserves all rights in the Products and Services, including all Intellectual Property Rights. Customer acknowledges that, as between Nectar on the one hand, and Customer and any of its Permitted Users on the other, that (i) Nectar is the exclusive owner of all the Intellectual Property and has the exclusive right to protect and enforce its Intellectual Property Rights; (ii) Customer shall not (and shall ensure that its Permitted Users do not) assert any claim of ownership or authorship to any of the Intellectual Property, or otherwise interfere with or disparage Nectar’s Intellectual Property Rights; and (iii) any and all goodwill derived from Customer’s use of the Intellectual Property or use, distribution and sale of the Products and Services shall inure to the benefit of Nectar. Without limiting the foregoing, Nectar retains ownership of all Product copies, whether embedded in another product or separate. Customer has no right to receive any source code with respect to the Products or Services.

4.3 All Products are Licensed from Nectar, Not Sold. Notwithstanding any other term in this Agreement or any Documentation, all Products are, and can only be, licensed directly from Nectar (via an RTU) and are not sold or sub-licensed. With respect to the Products, the terms “sale”, “purchase”, “distribute” and similar words and phrases used in this Agreement or the Documentation refer to such licensing by Nectar.

4.4 License Restrictions. Customer shall not:

- A. Make any copies or duplicates of the Products without the prior written consent of Nectar, except for one copy for disaster recovery purposes.

- B. Host or allow the hosting of any of the Products in any place other than the Software Hosting Jurisdiction without the prior written consent of Nectar.
- C. Disassemble, reverse assemble, decompile, reverse compile, reverse engineer or otherwise attempt to derive source code (or the underlying ideas, algorithms, structure, or organization) from any Product.
- D. Modify or create derivative works of any of the Products (including without limitation, any translations, transformations, adaptations or other recast or altered versions) for any purpose; and, in addition to any other remedies available to Nectar at law or equity for violation of this Section 4.4.E., and in the event any such derivative works are made, they shall be 100% owned by Nectar, and Customer shall sign any documentation required by Nectar to establish such ownership.
- E. Use, copy, sell, sub-license, lease, rent, loan, assign, convey or otherwise transfer any Product or Service, except as expressly authorized by Nectar.
- F. Distribute, disclose, or allow use of any Product or Service in any format, through any time-sharing service, service bureau, network or by any other means, to or by any third parties.
- G. Use or access the Products or Services for the purpose of building a competitive service with comparative features.
- H. Use or access the Products or Services for the purpose of comparative analysis (including, but not limited to, benchmarking) intended for use outside Customer's organization.
- I. Use the Products or Services in any manner that violates any applicable law or regulation (including, but not limited to, where Customer is required to obtain permissions or authorizations to permit Nectar to perform its obligations hereunder).
- J. Refrain from utilizing and implementing, or otherwise fail to utilize and implement, security procedures that are no less than industry standard to protect the Products, Services and Nectar's environment from any pre-programmed devices, such as "viruses", "time bombs", "worms", "Trojan horses", malicious code, disabling devices or other similar components.
- K. Engage in any activity that could reasonably be expected to interfere with or disrupt the Products or Services (for example, an activity that causes Nectar to be blacklisted by any internet service provider).
- L. Delete, alter, obscure, add to or fail to reproduce in and on any Product, Service or Documentation, any Nectar Mark or other Proprietary Notice provided by Nectar.
- M. Use, register or attempt to register with any agency or in any jurisdiction, any of the Nectar Marks or any other mark which is confusingly similar therewith; or permit or encourage any third party to do any of the foregoing.
- N. Otherwise access or use the Products or Services, except in furtherance of this Agreement and subject to the terms and conditions contained herein.

4.5. Access Control. Customer is solely responsible for the acts or omissions of any persons or entities that obtain access to the Products or Services through Customer or its Permitted Users, or the systems of Customer or its Permitted Users. Customer will promptly notify Nectar, in writing, if it becomes aware of any unauthorized access or use. Without limiting the foregoing, Customer shall implement and maintain reasonable and appropriate security controls to ensure that its RTU License user accounts are used only by the Permitted Users to whom they are assigned, pertaining to each RTU License user's multiple devices or endpoints (e.g., phones, video, headsets, etc.) for which Nectar will monitor and process such data. Customer will designate one or more administrators responsible for such access control.

4.6. Nectar Monitoring of Customer RTU License Usage. Nectar internally monitors the monthly usage of each Customer that has been issued an RTU License to ensure that Customer is not using the Products in excess of the RTU quantities authorized. In the event such monitoring of RTU License usage determines that Customer is using the Products in excess of the RTU quantities authorized, Nectar will provide a copy of its RTU License Usage Report to Customer, and Nectar will either invoice its direct Customer or instruct its Partner to invoice Customer, and Customer will be required to pay applicable charges for the excess quantities (which may be billed retroactively, but shall not exceed 1 year of service). Such invoicing will typically be on a quarterly true-up basis.

4.7 Export Controls.

- A. Customer shall not allow any Nectar Products to be used or accessed by: (a) any person or entity if Customer knows or has reason to know that the Nectar Products will be re-exported, sold or otherwise transferred in violation of U.S. or other nation's laws or regulations, or (b) any person or entity appearing on any of the Bureau of Export Administration Regulations ("EAR") lists of prohibited persons or entities, including but not limited to,

the Table of Denial Orders, or on the Specially Designated Nationals List administered by the U.S. Treasury Department Office of Foreign Assets Control; (c) any person or entity located in Cuba, Iran, North Korea, Sudan, Syria or any other country where U.S. origin items, software or technology may not be exported under the EAR from time to time; or (d) any person, company or other entity if Customer knows that such Nectar Products are for use in connection with design, development, production, stockpiling or weapons use of nuclear, chemical or biological weapons or missile delivery systems for these, or at a facility at which such activities are taking place.

- B. Customer understands that the foregoing obligations are legal requirements and agrees that they shall survive any Term or termination of this Agreement. Nectar shall have the right to immediately terminate this Agreement for cause in the event of breach by Customer of any provisions of this Section 4.7 (Export Controls), in addition to other remedies at law or equity.

4.8 Irreparable Harm; Nectar's Rights. Customer acknowledges and agrees that any breach of Section 4.4 (License Restrictions) will result in immediate and irreparable harm to Nectar and will entitle Nectar to injunctive or other equitable relief, in addition to any other remedies available to Nectar at law or equity. Without limiting the foregoing, any breach of Section 4.4 C, D, E, F, G, H, and M will immediately terminate the licenses and use rights granted herein, and any breach of Section 4.4, A, B, I, J, K, L, and N will terminate the licenses and use rights granted herein if, upon written notice, is not cured within five (5) business days of its receipt. Upon termination, any other right of Customer to make use of Nectar's Intellectual Property shall also terminate, and Nectar shall be entitled to, at its option, terminate this Agreement and/or any implicated RTUs.

5. CERTAIN NECTAR OBLIGATIONS RELATING TO PRODUCTS, SERVICES AND/OR SUPPORT.

5.1 In General. Nectar will provide purchased licensed Products, Support and/or Services to Customer (or to Partner for the benefit of Customer) in accordance with this Agreement, the applicable Order and/or SOW, and the Documentation.

5.2 Product Warranties. Nectar hereby represents and warrants that:

- A. **Updates.** Updates provided to Customer shall not materially degrade the functionality, capabilities or features of the Products.
- B. **Limited Performance Warranty.** For a period of ninety (90) days following delivery of the RTU License, the related Product and updates will perform in all material respects in accordance with its published Documentation. Where maintenance has been purchased, the foregoing warranty shall last through the end of the Maintenance Term.
- C. **Repair of Material Errors.** Upon written notification from Customer of a breach of the Warranties provided in this Section 5.2, Nectar shall first attempt to repair the problem by providing a patch to remedy the issue. In the event that the issue cannot be rectified through a patch, Nectar will create and release a new update to address the issue. However, prior to such release, Nectar shall "roll-back" to the prior in-use version in order to restore functionality. Thereafter, the new updated release shall be implemented. In the event Nectar cannot rectify the issue with either a patch or a new update, it shall, with respect to the affected Product, refund a pro rata portion of Customer's prepaid annual License and Support fees (for a Subscription License) or annual Support fees (for a Perpetual License). The foregoing actions described in this Section 5.2, shall be Nectar's entire liability and Customer's sole remedy in connection with any and all breach of the warranty in this Section 5.2, and Nectar shall have no further obligations or liability with respect thereto.
- D. **No Virus, disabling device, etc.** Nectar has utilized and implemented security procedures that are no less than industry standard to protect its Products from any pre-programmed devices, such as "viruses", "time bombs", "worms", "Trojan horses", malicious code, disabling device or other similar component.
- E. **Professional Services in General.** Nectar will perform Professional Services in a professional and workmanlike manner, consistent with industry standards. All Professional Services work will be governed by this Agreement and the SOW that was signed for the Customer's project by either Customer (for Nectar direct transactions) or by the Partner (on Customer's behalf). Changes to the scope of work set forth in the SOW shall require a written and mutually agreed upon change order document between the applicable Parties.
- F. **Conformance to SOW.** As further amplified in the SOW, in the event that Nectar's performance of the Professional Services does not conform to the terms of the applicable SOW, Customer will notify Nectar, in writing, of such failure within fifteen (15) days after delivery of the Professional Services ("**Acceptance Period**"). Promptly after receipt of Customer's written notice, Nectar will re-perform the non-conforming Professional Services at no additional cost to Customer. In the event Nectar cannot rectify the issue, it

shall, with respect to the affected Service, refund up to 1 year's amount of the relevant Service fees paid to Nectar. The foregoing actions described in this Subsection 5.2.F. shall be Nectar's entire liability and Customer's sole remedy in connection with such non-conformance or any and all breaches of the warranty in this Subsection 5.2.F. above, and Nectar shall have no further obligations or liabilities with respect thereto. Nectar shall not be deemed in breach of its obligations under this Subsection 5.2.F. to the extent that Nectar is delayed or prevented from performing due to an act or omission of Customer or Partner (as the case may be). For clarification, after the Acceptance Period, any additional Professional Services requested will be subject to a new Order.

- G. **No Other Warranties.** Subject to the foregoing limited warranties, and in all other respects, any and all Products and Services are provided on an "AS IS" basis and use of them by Customer and its Permitted Users are at such persons' and entities' own risk. Nectar does not make, and hereby disclaims, any and all other warranties of any kind, whether express or implied, including, but not limited to, any warranty of fitness for a particular purpose, merchantability, title or non-infringement, or any warranty arising from any course of dealing, usage or trade practice. Without limiting the foregoing, Nectar provides no representations, warranties, guarantees or indemnities of any kind with respect to any hardware that runs or interacts with the Products.

5.3 **Infringement Indemnity.**

- A. Nectar will defend, indemnify and hold harmless Customer and its Personnel (each, an "**Indemnified Party**") against any third-party claim, suit, proceeding or regulatory action ("**Claim**") alleging that any Product, when used in accordance with this Agreement, infringes or violates any copyright, trade secret, trademark or service mark, or patent (each an "**Infringement**" or "**Infringing**") issued in the applicable Software Hosting Jurisdiction or Data Hosting Jurisdiction, as the case may be; provided that: (i) Nectar shall have sole control of the defense and/or settlement of such Claim (except Customer may participate in the defense and/or settlement of any such Claim with counsel of its own choosing, and at its own expense); (ii) Customer notifies Nectar promptly, in writing, of each such Claim (provided that any delay or failure of notice shall not relieve Nectar of its obligations, except to the extent prejudiced thereby) and shall give Nectar all information known to Customer relating thereto; and (iii) Customer will cooperate with any reasonable request of Nectar in the settlement or defense of any such Claim.
- B. If all or any part of the Products are, or in the opinion of Nectar may become the subject of any Claim for Infringement, or in the event of any adjudication that the Products or any parts thereof are Infringing, or if the use of the Products or any part thereof is enjoined, Nectar may, at its expense and discretion do one or more of the following things: (A) procure for Customer the right to use the Products; (B) replace or modify the Products or the affected part of the Products to make it non-Infringing; or (C) if none of the foregoing remedies are commercially feasible, terminate the relevant license rights set forth in this Agreement and provide Customer a refund for any fees paid for the remainder of the Support Term for such Products.
- C. Nectar shall have no obligations under this Section 5.3. (Infringement Indemnity) to the extent that a Claim or part thereof is based upon:
1. the use of any prior version of the Products, if such Infringement would have been avoided by the use of the then-current version which Nectar has provided to Customer;
 2. the combination, operation or use of a Product with software or data which was not provided or endorsed by Nectar in the Product's written technical Documentation, and if such Infringement would have been avoided in the absence of such combination, operation, or use; or
 3. modification of a Product by anyone other than Nectar or a third party acting on Nectar's behalf.
- D. This Section 5.3. (Infringement Indemnity) sets forth Nectar's entire liability and Customer's sole remedy in connection with (i) any Claim of Infringement; and (ii) any other Claim relating to any Intellectual Property Rights inherent in or connected to the Products and Services or their use. Any and all implied indemnification obligations that may apply to this Agreement are hereby excluded.

5.4 **Support Services.** For Support Services provided by Nectar, Nectar will provide Support and Service Levels as described in the "**Support Description**" and "**Service Levels**" sections available at: <https://support.nectarcorp.com>.

5.5 **Training.** Nectar may provide Training as described in an Order or SOW.

6. LIMITATIONS OF LIABILITY

6.1 Disclaimer of other Representations, Warranties, Guarantees, etc.

EXCEPT AS EXPLICITLY SET FORTH ELSEWHERE IN THIS AGREEMENT, NECTAR HEREBY DISCLAIMS ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS, IMPLIED, STATUTORY OR OTHERWISE: (1) CONCERNING ANY PRODUCTS, SERVICES, THE DOCUMENTATION OR OTHER DOCUMENTS OR MATERIALS PROVIDED BY NECTAR, OR ITS PARTNERS OR AFFILIATES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT; (2) THAT THE PRODUCTS OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR OTHERWISE MEET CUSTOMER'S REQUIREMENTS; OR (3) ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE.

6.2 Exclusion of Certain Damages.

EXCEPT AS PROVIDED IN SECTION 6.4 (EXCEPTIONS), IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY: (A) INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) LOSS OF PROFITS; (C) LOSS OF ANTICIPATED SAVINGS; OR (D) LOST MANAGEMENT TIME OF ANY KIND WHATSOEVER; IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE PRODUCTS OR SERVICES PROVIDED OR AGREED TO BE PROVIDED BY NECTAR, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR HAD REASON TO KNOW OF THE POSSIBILITY THEREOF.

6.3 Liability Caps.

EXCEPT AS PROVIDED IN SECTION 6.4 (EXCEPTIONS), EACH PARTY'S MAXIMUM LIABILITY WITH RESPECT TO ANY AND ALL CAUSES OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE PRODUCTS OR SERVICES (COLLECTIVELY, "**GENERAL CLAIMS**"), WHETHER IN CONTRACT, TORT, STATUTE OR OTHERWISE, WILL BE LIMITED TO AN AMOUNT EQUAL TO THE FEES PAID OR PAYABLE BY CUSTOMER TO NECTAR (OR PARTNER AS THE CASE MAY BE) FOR THE APPLICABLE PRODUCTS AND SERVICES DURING THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO THE GENERAL CLAIM.

6.4 Exceptions.

THE DISCLAIMERS, EXCLUSIONS AND LIABILITY CAPS SET FORTH IN THIS SECTION 6 (LIMITATIONS OF LIABILITY) DO NOT EXCLUDE OR LIMIT: (I) ANY STATUTORY OR IMPLIED GUARANTEE, CONDITION OR WARRANTY THAT MAY NOT BY OPERATION OF LAW BE EXCLUDED OR LIMITED; (II) ANY DAMAGES THAT ARE A DIRECT RESULT OF A PARTY'S GROSS NEGLIGENCE, FRAUD OR WILFUL MISCONDUCT; (III) ANY DAMAGES PERTAINING TO DEATH OR PERSONAL INJURY; (IV) ANY LIABILITY OF NECTAR UNDER SECTION 5.3 (INFRINGEMENT INDEMNITY); (V) ANY LIABILITY OF CUSTOMER FOR VIOLATION OF SECTION 4 (LICENSE RIGHTS AND RESTRICTIONS), OR (VI) ANY LIABILITY UNDER THE ATTACHED APPENDIX 1, SECTION 2 (CONFIDENTIALITY OBLIGATIONS). IN ADDITION, ALL DATA CLAIMS (AS DEFINED IN APPENDIX 1), AND ALL RELATED EXCLUSIONS AND LIMITATIONS THERETO, SHALL BE GOVERNED BY APPENDIX 1, SECTION 1 (DATA PROTECTION AND SECURITY).

7. TERM AND TERMINATION; SUSPENSION.

7.1 Term. This Agreement will be effective as of the Effective Date set forth on the signature page hereof, and shall continue until terminated as set forth herein.

7.2 Termination.

- A. For Breach. Either Party may terminate this Agreement, if upon giving written notice to the other Party that such Party has committed a material breach of any term of this Agreement or related Order(s) and has not cured such breach within thirty (30) days of its receipt of such written notice of the breach. Additionally, if Customer has purchased the Products, Support and/or Services through a Partner, Nectar may terminate this Agreement and all related Orders if Customer has not paid Partner in a timely manner and has not cured such non-payment within fifteen (15) days of its receipt of written notice from Partner /or Nectar.
- B. For Bankruptcy. Either Party may terminate this Agreement immediately on giving written notice to the other Party if the other Party: (i) becomes insolvent; (ii) is generally unable to pay, or fails to pay, its debts as they become due; (iii) files, or has filed against it, a petition for voluntary or involuntary bankruptcy pursuant to any insolvency law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.

7.3 Effect of Termination; Survival. Upon termination of this Agreement for any reason: (i) Customer's right to use the Products and Services, including all RTU Licenses, shall terminate, and Customer shall not be permitted to purchase any additional Products or Services (including Support), and Nectar shall have no further obligation to provide any Products or Services (including Support) to the Customer. All other terms of this Agreement shall survive.

7.4 Suspension of Products, Support and/or Other Services. Notwithstanding any other right Nectar has under this Agreement, Nectar may, at its option, suspend the Products, Support or other Services in the event Customer fails to pay any undisputed amount within fifteen (15) days of Nectar's (or Partner's) written notice to Customer of such failure to pay. Additionally, in the event Customer's account is the subject of denial-of-service attacks, hacking attempts or other malicious activities, or Customer's activities reasonably appear to be in breach of, or potential breach of Section 4 (License Rights and Restrictions), Nectar may suspend the Products, Support or other Services until these issues are resolved. Nectar will provide advance written notice to Customer of such suspension where reasonably practicable.

8. NECTAR'S OWNERSHIP OF CERTAIN DATA.

8.2 Aggregated Data and Threat Data. Notwithstanding any provision herein to the contrary, Nectar owns: (i) the aggregated data derived from the Products as aggregated with usage data from Nectar's other customers, partners, distributors and resellers, including, without limitation, utilization statistics, reports, logs and information regarding spam, viruses or other malware processed by the Products ("**Aggregated Data**"); and (ii) all data identified through the Products as malicious, such as that which may perpetuate data breaches, malware infections, cyberattacks or other threat activity ("**Threat Data**"). Customer agrees that Nectar may process Aggregated Data or Threat Data for its business purposes and/or may share Aggregated Data or Threat Data with its Partners (including its distributors & resellers) for the purpose of updating and improving its security measures, policies and programs for the protection and benefit of all Nectar Customers. Nectar represents and warrants that neither Aggregated Data nor Threat Data will include any identifiable Personal or Customer Data.

8.3 Feedback. Nectar owns an unlimited right to any Feedback in any present or future form or format for use in any manner that Nectar deems appropriate, without monetary or other compensation to Customer. "**Feedback**" means any communications provided to Nectar by Customer that suggest or recommend changes to the Products, Services and/or Support, but which will not include any Personal or Customer Data.

9. DATA PROTECTION AND CONFIDENTIALITY.

The Data Appendix attached hereto is incorporated by reference and forms an integral part of this Agreement.

10. GENERAL.

10.1 Notices. Any business communications in connection with this Agreement may be provided by email. Any legal notices relating to this Agreement must be provided, in writing, and sent to the receiving Party at the address set out either herein, in the applicable Order, or any address later provided by such Party. All such notices will be sent by major commercial delivery courier service or mailed in a manner that requires recipient's signature.

10.2 Publicity. Nectar may reference Customer in its customer lists, publicity and advertisements so long as the name is placed within a reference to at least 5 other named customers and given no further prominence than any other customer on the list. Except as set forth in the preceding sentence, neither Customer nor Nectar shall reference the other in any advertisement or publicity without the other's prior written consent.

10.3 Force Majeure.

- A. Except for any payment obligation hereunder, which shall not be limited, delayed, diminished or otherwise affected by this Section 10.3, no Party shall be liable for any delay or default in performing hereunder if such delay or default is caused by a Force Majeure Event; provided that, as a condition to such non-liability (i) such Party shall give the other Party reasonably prompt written notice of the delay or default and of the nature of the Force Majeure Event, and (ii) the suspension of performance shall be no longer duration and no greater in scope than is reasonably required by the Force Majeure Event.
- B. Notwithstanding anything to the contrary herein, if the Party claiming the Force Majeure Event is not able to perform under this Agreement for sixty (60) continuous days, then the other Party shall have the option of terminating this Agreement upon providing written notice to the claiming Party.

- C. A “**Force Majeure Event**” means an act God, act of nature, or other natural disaster (including fire, flood, earthquake, storm, plagues, epidemics, pandemic, outbreaks of disease, or any other health crisis or emergency, including quarantine, lockdown, or other employee restrictions), war, terrorism or similar hostilities (whether declared or not); strikes and walkouts; nationalization, embargo or similar governmental action (including new laws, regulations and rulings); and other similar events that are, in each case, both proximately caused by events beyond the reasonable control of the Party claiming the Force Majeure Event and occurring without its fault or negligence.

10.4 Assignment. Customer and/or Nectar may assign this Agreement in whole or in part to a successor in interest in the event of a sale or merger of either Customer or Nectar. Otherwise, Customer may not assign this Agreement or any Orders, Products, Support or Services, in whole or in part, without Nectar’s prior written consent. This Agreement will be binding upon the Parties and any authorized assigns.

10.5 Entire Agreement. This Agreement represents the entire agreement between the Parties and shall supersede all prior understandings, negotiations, proposals, or communications, written or oral, between the Parties, with respect to the subject matter hereof. Without limiting the foregoing, each Party acknowledges and agrees that: (i) no reliance is placed on any representation not provided in this Agreement; (ii) consent to this Agreement is not conditioned on any promise made by Nectar to deliver any future deliverable such as a feature or functionality; (iii) no Nectar Partner is entitled to modify this Agreement, including the Support Description or Services Levels, or to otherwise make promises, representations, or warranties on behalf of Nectar, without Nectar’s written consent; (iv) no Order, SOW or similar document or other communication will add to, amend, or modify this Agreement; and (v) any purchase order or other terms provided by Customer will be accepted by Nectar for invoicing purposes only.

10.6 Amendment. Any amendment, revision, or other modification to this Agreement must be made, in writing, and shall specifically state that it is amending this Agreement and must be signed by an authorized representative of each Party.

10.7 Counterparts; Severability. This Agreement may be signed and delivered in one or more counterparts, all of which shall constitute one and the same instrument. Facsimile, photo or electronically produced copies of this signed Agreement will legally bind the Parties to the same extent as an original document. If any provision of this Agreement is held to be unenforceable, such provision will be reformed to the extent necessary to make it enforceable, and such holding will not impair the enforceability of the remaining provisions.

10.8 No Third-Party Beneficiaries. This Agreement is entered into solely by and between, and may be enforced only by, Nectar and the Customer. This Agreement will not be deemed to create any third-party rights or obligations.

10.9 Independent Contractors. Each Party to this Agreement will be acting as an independent contractor, and nothing herein will be construed to create a partnership, joint venture, or any type of agency relationship between Nectar on the one hand, and Customer or any Permitted User, on the other.

10.10 Waiver. The failure by a Party to exercise any right hereunder or to insist upon or enforce strict performance of any provision of this Agreement will not waive such Party’s right to exercise that or any other right in the future.

10.11 Governing Law. This Agreement and any disputes hereunder will be governed by the laws of the United States of America (USA), specifically the State of New York, without regard to its conflict of law principles, and any litigation concerning this Agreement shall be submitted to and resolved by a court of competent jurisdiction in the City, County and State of New York, USA. Notwithstanding the foregoing, either Party may seek equitable, injunctive, or declaratory relief to enforce any of its Intellectual Property Rights or rights in the Customer Data or Confidential Information in any court of appropriate jurisdiction. The Parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.

10.12 Waiver of Jury Trial. To the maximum extent permitted by law, Nectar and Customer expressly agree to waive their right to trial by jury and agree that any proceeding hereunder will be tried by a judge without jury or resolved through an arbitration service mutually agreeable to the Parties.

ORDERING APPENDIX
ORDERING OF PRODUCTS AND SERVICES

This Ordering Appendix is an integral part of this Agreement, and subject to its terms.

1. In General.

- A. Customer may purchase Nectar licensed Products and Services, pursuant to an appropriate Order or SOW, either: (a) through a Partner; or (b) directly from Nectar. In either case, this Agreement (including its Appendices and other attachments) governs the relationship between Customer and Nectar with respect to all such Products and Services.
- B. No Order or SOW, either, (a) through a Partner or (b) directly through Nectar, shall be valid or binding on Nectar, and Customer shall have no right to use any Products or Services referenced in an Order or SOW, unless and until: (i) Customer has signed this Agreement and delivered it to Nectar (directly or via a Partner); and (ii) such Order or SOW is accepted by Nectar.
- C. In the event of any conflict between this Agreement and an Order or SOW (or, in the case of Training Services, other signed documentation), this Agreement will control.

2. Ordering Products, Services and Support.

- A. An Order for Products and Support must be signed by Customer and include at least the following:
 - 1. A description of the Products and Support to be provided.
 - 2. The number of Permitted Users.
 - 3. Identification of the country(ies) where the Product(s) will be situated (e.g., Customer's or applicable Partner's data center) (the "**Software Hosting Jurisdiction**").
 - 4. Identification of the country where Customer Data will be stored (the "**Data Hosting Jurisdiction**").
 - 5. The following information for Customer's primary business contact: name, title, email, phone, and mailing address.
 - 6. The following information for Customer's primary technical contact (if different from the primary contact above): name, title, email, phone, and mailing address.
- B. An Order for Professional Services must include an SOW that is signed by Customer.
- C. An Order for Training Services must include an SOW (or other documentation required by Nectar) that is signed by Customer.

3. License Term for Products and Support; Renewals. Customer shall purchase Nectar licensed Products and Support in one of the following ways:

- A. **Perpetual License:** Customer makes a one-time purchase of a Perpetual License. Support for Perpetual Licenses will be billed annually, in advance, and shall renew automatically for each next annual period (each a "**Perpetual License Annual Support Term**"), unless one Party gives the other Party written notice of its intent not to renew at least thirty (30) days prior to the end of the then-current Perpetual License Annual Support Term. **In the event Support is terminated, Customer may only use the Product version number of the last Support term purchased.**
- B. **Subscription License:** Customer makes a purchase of a Subscription License and related Support for a defined duration (the "**Subscription License and Support Term**") – for example, 1 to 5 years. There are no automatic renewals of expiring Subscription Licenses. Customer must contract for a new Subscription License and Support Term.

4. Transition from Existing Partner; Effect on Products, Services and Support. If Customer purchases Products, Support and other Services through a Partner, and elects to transition from its then-current Partner to a new Partner, Customer will notify Nectar and its then-current Partner, of such election, in writing. In that event, Customer agrees that the terms and conditions of this Agreement will continue to apply to Customer's use of the Products, Support and other Services (in addition to the pricing and other terms provided by Customer's new Partner). In the event Nectar terminates its relationship with Customer's then-current Partner, Nectar will notify Customer, in writing, of such Partner termination, and will provide a description of the plan to maintain the Products, Support and other Services through the end of the Term. At the end of such Term, Customer may continue to receive the Products, Support, and other Services through an authorized Partner of its choice.

PAYMENT TERMS APPENDIX

This Payment Terms Appendix is an integral part of this Agreement, and subject to its terms.

If Customer purchases Products and/or Services through a Nectar Partner, the pricing, invoicing and payment terms will be agreed to between Customer and Partner and this Appendix will not apply.

The following terms will apply only if Customer purchases Products and/or Services directly from Nectar (and not through a Partner):

- A. **Fees and Payment Terms.** Customer will pay any fees set forth in an agreed Order for the purchase of Products, Services and/or Support. Fees are due net thirty (30) days from receipt of the Nectar invoice, which shall include the amount due, including VAT, if applicable. Nectar will provide instructions for payment in the applicable Order or through other reasonable means. Recurring Support fees under the Perpetual License purchase, only, will increase by 5% at the start of each annual renewal term.
- B. **Professional Services Fees.** Fees for any Professional Services to be performed by Nectar shall be invoiced pursuant to the terms of payment set forth in any SOW entered into between the Customer and Nectar. In the event Customer requires Nectar personnel to spend time in Training for access to Customer's systems etc., such time will be invoiced at Nectar's standard Professional Services fees.
- C. **Training Fees.** Fees for any Training Services to be performed by Nectar shall be invoiced pursuant to the terms of payment set forth in any SOW entered into between the Customer and Nectar.
- D. **Disputed Invoices.** If Customer disputes any portion of the amount due, then Customer will notify Nectar, in writing, within ten (10) business days of receipt of the applicable invoice. Such notice will include a description of the basis for Customer's dispute. If only part of an invoice is disputed, then Customer will pay the undisputed amount as provided herein. The Parties will work together in good faith to resolve any such dispute promptly.
- E. **Late Payment.** Customer will be notified in the event payment has not been received in accordance with the terms of this Payment Terms Appendix. If any undisputed amount due is not paid within ten (10) business days of such notice, then Nectar may charge a late payment fee on any unpaid amount due at the rate of one and one-half percent (1.5%) per month or at the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date such amount is paid. In the event any action is taken to pursue collection of any fees payable hereunder, Customer will reimburse Nectar for Nectar's costs associated with such collection, including reasonable legal fees and expenses.
- F. **Taxes.** The fees and any other charges hereunder do not include any taxes, withholdings, levies or duties of any nature (including without limitation, local, state, federal, VAT or foreign taxes) that may be assessed at any time in connection with the Products and Services. Customer is responsible for paying any such taxes, excluding taxes based on Nectar's net income.
- G. **Termination Fees.** The Early Termination Appendix (below) will apply.

EARLY TERMINATION APPENDIX

Early Payment Terms that are Applicable to All Orders and All Customers.

This Early Termination Appendix is an integral part of this Agreement, and subject to its terms.

This Appendix will apply to all Customers, regardless of whether Customer purchases Products and/or Services directly from Nectar or through a Partner.

1. Subscription License. As referenced in the Ordering Appendix, Section 3., Customer elects to purchase a Subscription License and Support Term between 1 and 5 years in duration. In the event Customer elects to terminate its Subscription License prior to the end of its Subscription License and Support Term for reasons other than a bonafide and legally sustainable claim that Nectar is in breach of its Product license obligations hereunder or due to a Force Majeure Event, then Customer shall be responsible for the Termination Fee set forth in A, B or C below (as the case may be), which shall be payable to either Nectar (if a direct Customer) or to the applicable Partner (if a Customer of the Partner):

- A. If the Subscription License is terminated in **Year 1** of a Subscription License and Support Term of 1 or more years in duration, then Customer shall be required to pay 100% of the annual License and Support fees that were designated for payment in Year 1 and which are in excess of any such fees that Customer has already paid for such year (such excess being the “**Termination Fee**”), but shall not owe any further License and Support fees for the remaining duration of the Subscription License and Support Term.
- B. If the Subscription License is terminated in **Year 2** of a Subscription License and Support Term of 2 or more years in duration, then Customer shall be required to pay 75% of the annual License and Support fees that were designated for payment in Year 2 and which are in excess of any such fees that Customer has already paid for such year (such excess being the “**Termination Fee**”), but shall not owe any further License and Support fees for the remaining duration of the Subscription License and Support Term.
- C. If the Subscription License is terminated in **Years 3-5** of a Subscription License and Support Term of 3 or more years in duration, then Customer shall be required to pay 50% of the annual License and Support fees that were designated for payment in such year and which are in excess of any such fees that Customer has already paid for such year (such excess being the “**Termination Fee**”), but shall not owe any further License and Support fees for the remaining duration of the Subscription License and Support Term.

In the event that Customer has paid in advance some or all of the fees for its Subscription License and Support Term, and is terminating prior to the end of such Term, then the pre-paid amounts for the months after the month in which Customer terminated shall be credited to Customer, and such credit shall be used to pay the Termination Fee set forth above; provided that: (a) in the event the credit is insufficient to pay the full Termination Fee, Customer shall pay Nectar (or the Partner, as the case may be) the difference in cash, and (b) in the event there remains an excess credit after the Termination Fee is paid, Customer shall retain that excess credit for future purchases of Nectar Products and Services.

2. Perpetual License. There is no refund for payments made pertaining to the purchase of Perpetual Licenses. If the Perpetual License Customer elects to terminate Support Services (which are pre-paid, annually), then Customer shall only be entitled to a refund as follows: (i) If the existing Perpetual License Annual Support Term is terminated between the period of January 1 and September 30, then Customer shall receive the equivalent of three (3) months as its refund, and is deemed to be Customer's sole Early Termination charges; and (ii) If the existing Perpetual License Annual Support Term is terminated between the period of October 1 and December 31, then Customer shall not be entitled to any such refund.

DATA APPENDIX
Data Protection, Security and Confidentiality

This Data Appendix is an integral part of the Agreement.

1. Data Protection and Security.

1.1 Data Protection – Certain Definitions.

- A. “**Customer Data**” means the electronic data processed through Customer's use of the Products, which includes Personal Data that is contained in the contents of the emails sent by or to Permitted Users.
- B. “**Personal Data**” means Customer Data that relates to an identified or identifiable natural person (a “**Data Subject**”) which is comprised of non-sensitive contact information data i.e., name, phone number, email address and IP address.
- C. “**Processing**” and “**Process**” means any operation or set of operations performed upon Personal Data or sets of Personal Data whether or not by automatic means, such as collection, recording, organization, storage, adaption or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available alignment or a combination of blocking, erasure or destruction.

1.2 Data Security.

A. Nectar accesses and Processes only the following Personal Data:

- **Name** of the person using a communications system monitored by the Products.
- **Phone number** of that person.
- **email address** of that person.
- **IP address** of that person (if applicable).
- **Certain numeric identifiers** of that person that are generated by Customer's systems (e.g., GUID identifier).

B. Nectar Processes the above Personal Data in two ways:

- 1. In connection with call quality and call assurance of a user of a communications system monitored by Nectar Products. For clarification, **Nectar Products do NOT record or process voice or video communications**. Rather, they only Process the above stated *Personal Data*.
- 2. Where Customer's Personnel provide some or all of the above Personal Data when contacting Nectar's Global Support Desk (via email or telephone call) to request that a Support Ticket be opened to address an issue.

C. For certain Nectar Products (e.g., Nectar DXP), Customer may choose to provide Nectar with access to, and request that Nectar Process, additional data contained in Customer's Microsoft Active Directory database (“AD”).

- 1. Nectar cannot and will not access or Process such additional AD data without specific authorization and direction from Customer.
- 2. In the event that Customer authorizes and directs Nectar to Process any such additional AD data that is also Personal Data, then Customer shall be the “data controller” to that data (as defined in Section 1.3 below), and shall ensure that it has received any required authorizations from the relevant Data Subjects prior to authorizing and directing Nectar to Process such Personal Data.
- 3. A list of AD data that Customer may choose to have Nectar Process is set forth in Exhibit 1 to this Data Appendix. During implementation of the relevant Nectar Product, Customer should choose the data from this list that meets Customer's administrative, business, and legal needs.

D. Except as stated above, no other Personal Data, is Processed or accessible by Nectar or its subcontractors.

- E. Nectar will implement and maintain appropriate administrative, technical, organizational, and physical security measures for each of the Products and Services to protect Customer Data, including Personal Data, against unauthorized access, disclosure, or loss.
- F. Customer acknowledges and agrees that in the course of providing the Products, Professional Services, and Support to Customer, it may be necessary for Nectar to access Customer Data to respond to

technical problems or Customer queries and to ensure the proper working of the Products, and that such access may originate from any jurisdiction where Nectar maintains Support personnel.

1.3 **Data Protection Laws.**

- A. As required by law or as otherwise agreed by the Parties, data protection measures may be described in more detail in a data processing agreement, which will be made supplementary to the Agreement (“**Data Processing Agreement**”). In the event of any conflict between the Agreement and the Data Processing Agreement, the Data Processing Agreement shall prevail.
- B. Nectar acknowledges that, as between the Parties, Customer owns and controls the right, title, and interest in and to the Customer Data.
- C. With respect to any Personal Data contained in Customer Data, Customer acts as “**data controller**” and Nectar acts as “**data processor**”, as those terms are defined in the regulations referenced in Subsection D below. Nectar will use and Process the Personal Data solely in accordance with Customer’s Instructions, but solely during the applicable term of the relevant Product or Service. Customer’s “**Instructions**” are embodied in the Agreement and this Data Appendix and Exhibit 1 to this Data Appendix, the applicable Order(s), any applicable Data Processing Agreement, and as may be additionally communicated by Customer to Nectar from time-to-time, in writing.
- D. Nectar will collect and protect the Customer Data in compliance with the applicable data protection laws and regulations of the Data Hosting Jurisdiction, including without limitation, and as applicable, the requirements of the European Economic Area data protection law, the UK Data Protection Act 2018, US Health Insurance Portability and Accountability Act, and the General Data Protection Regulation (GDPR - Regulation (EU) 2016/679). Where permitted by applicable law, Nectar may Process, transfer, or copy Customer Data and Personal Data in the United States or other countries or jurisdictions outside of the country where it was collected. Customer is responsible for providing any requisite notice and obtaining any consent (if required) from Permitted Users for such processing and transfer of Personal Data, including international transfers.
- E. Notwithstanding any provision in this Data Appendix or elsewhere in the Agreement to the contrary, Customer Data may be retained and disclosed by Nectar as required to comply with applicable laws, regulations, subpoenas or court orders or to otherwise enforce its rights under this Agreement. Where allowed by law, Nectar will provide reasonable prior written notice to Customer to permit Customer to seek a protective order and will provide reasonable cooperation in such activities, at Customer’s expense. Nectar will disclose only that information that is reasonably necessary to meet the applicable legal order or requirement.
- F. Cap on Data-Related Claims.
 - 1. Data Claims. “**Data Claims**” means, collectively, any and all causes of action arising out of or relating to Nectar’s breach of the obligations set forth in this Data Appendix, Section 1 (Data Protection and Security), or in any Data Processing Agreement, whether in contract, tort, statute or otherwise.
 - 2. Indemnity. Subject to the liability cap set forth below, Nectar shall at its own cost and expense, defend and indemnify Customer, its officers, directors, shareholders, employees and agents (collectively the “**Indemnified Party**”) against Data Claims; provided that: (i) Nectar shall have sole control of the defense and/or settlement of such Data Claims (except that Customer may participate in the defense and/or settlement of any such Data Claims with counsel of its own choosing and at its own expense); (ii) Customer notifies Nectar promptly, in writing, of each such Data Claim (provided that that any delay or failure of notice shall not relieve Nectar of its obligations except to the extent prejudiced thereby) and shall give Nectar all information known to Customer relating thereto; and (iii) Customer will cooperate with any reasonable request of Nectar in the settlement or defense of any such Data Claims.
 - 3. Liability Cap. Nectar’s maximum liability for any and all Data Claims will be limited to an amount equal to the greater of: (i) USD \$100,000 (or the equivalent in the currency of the applicable Data Hosting Jurisdiction at the time the claim arose) or (ii) two times the fees paid or payable by Customer to Nectar (or the applicable Partner as the case may be) for the applicable Products and Services during the twelve months preceding the event giving rise to the Data Claim.
 - 4. Applicability. The liability cap described above is intended to cover Data Claims only and may not be combined with any other cap in the Agreement in connection with the same set of underlying facts. Customer agrees that the limitations of liability set forth in this Data Appendix, Section 1 (Data Protection and Security) and other parts of the Agreement are also intended to apply to any Data Processing Agreement entered into by the Parties and that such limitations will control in the

event of any conflict between such agreements. Notwithstanding any other provision of this Data Appendix or the Agreement, neither Party's liability is excluded or limited by this Agreement in the event of: (a) death or personal injury; (b) gross negligence, fraud or wilful misconduct; or (c) any other liability which may not lawfully be excluded or limited.

2. Confidentiality Obligations.

2.1 Certain Definitions.

"Confidential Information" means information designated by the Party disclosing such information (**"Disclosing Party"**) as "confidential" or "proprietary" or that a reasonable person would understand to be confidential to the Disclosing Party given the nature of the information. Customer's Confidential Information includes Customer Data. Nectar's Confidential Information includes any information on Nectar's customer portal (currently known as "the Nectar Knowledge Center" and including any successor portal or similar resource) that has not been disseminated by Nectar to the general public; the Security Policies and Programs found at the link in Section 1.2.G of this Data Appendix; and any other information related to the performance, functionality and reliability of its Products and Services.

Notwithstanding the above, Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault of the Party that receives such information from the Disclosing Party (**"Receiving Party"**); (ii) is lawfully in the Receiving Party's possession prior to receipt from the Disclosing Party; (iii) is acquired by the Receiving Party from a third-party without breach of any confidentiality obligation to Disclosing Party; or (iv) is independently developed by Receiving Party without reference to or use of, the Disclosing Party's Confidential Information.

2.2 Certain Obligations and Other Terms.

- A. In addition to any other obligations required of it under this Data Appendix, Section 2 (Confidentiality Obligations) or elsewhere in the Agreement, the Receiving Party will: (i) protect Disclosing Party's Confidential Information against unauthorized use or disclosure using the same degree of care it uses for its own Confidential Information, which in no event will be less than reasonable care; (ii) use Disclosing Party's Confidential Information solely for the performance of the activities contemplated by the Agreement; and (iii) upon written request, return or destroy all copies of the Disclosing Party's Confidential Information that are in its possession or control and certify the same in writing.
- B. The receiving Party may disclose Disclosing Party's Confidential Information only to its Personnel and contractors who are bound by obligations of confidentiality at least as strict as those contained in this Data Appendix, Section 2 (Confidentiality Obligations), and shall be responsible for any breach of this Agreement by such Personnel or contractors.
- C. Notwithstanding the above, it shall not be a breach of this Agreement for Receiving Party to disclose Disclosing Party's Confidential Information (i) pursuant to the prior written consent of Disclosing Party; (ii) as requested or required by interrogatories, requests for information from a governmental, regulatory or supervisory authority, subpoena or similar legal process, or in connection with litigation pertaining hereto (or to otherwise enforce its rights under this Agreement), provided that, where reasonably feasible, Receiving Party shall provide Disclosing Party with notice prior to such disclosure and reasonable assistance in obtaining, through court order, administrative ruling, or otherwise, a limitation or other protection of such Confidential Information; or (iii) that was disclosed to Receiving Party on a non-confidential basis from a source other than Disclosing Party where Receiving Party reasonably believes that (a) the source is not prohibited from making such disclosure and (b) the information is not otherwise confidential to Disclosing Party, provided that upon discovery of the confidential nature of the information, Receiving Party immediately takes action to treat such information as Disclosing Party's Confidential Information hereunder.
- D. Confidential Information is and will remain the exclusive property of the Disclosing Party.

2.3 Equitable Relief.

Each of Customer and Nectar acknowledges that a Disclosing Party's Confidential Information is of a special, unique and extraordinary character, disclosure of which cannot be wholly compensated by monetary damages, and that any disclosure or unauthorized use of the Confidential Information, or other breach or threatened breach of this Data Appendix, Section 2 (Confidentiality Obligations), shall cause the Disclosing Party irreparable injury. Each of Customer and Nectar therefore expressly agree, that in addition to any rights and remedies which a Disclosing Party may have under this Agreement, such Disclosing Party shall be entitled, without the posting of any bond or security, to injunctive and/or other equitable relief to prevent such breach or threatened breach, and/or to otherwise secure the enforcement of any of the terms of this Data Appendix, Section 2 (Confidentiality Obligations).

Exhibit 1 to Data Appendix
Data Processed from Microsoft Active Directory

Azure Active Directory (AD) Data - Options for Implementation

The following data from Azure AD can be processed by Nectar DXP.

During implementation, the Customer must select which of the following AD data categories will be processed, except for the categories on the Required list, which must be selected

Required (must be selected):

Display Name
First Name
Last Name
E-Mail Address
Login Name
Login Name (pre-Windows 2000)
Distinguished Name
Account Enabled
Id
Group Membership

General

Photo
Office Location
Preferred Language

Address

Street Address
City
State/Province
Zip/Postal Code
Country

Telephones

Telephone Number
Mobile Number

Fax Number

Organization

Job Title
Department
Company
Employee ID
Manager
Direct Reports

Account

Create Date
Password Last Set Date
Is Resource Account
On Premises Domain Name
On Premises Immutable Id
On Premises Last Sync Date Time
On Premises Security Identifier
On Premises User Principal Name
Proxy Addresses
User Type

Skype for Business Details

SIP Address

Other

On Premises Extension Attributes

[Continued on next page]

On Premise Active Directory (AD) Data - Options for Implementation

The following data from On Premise AD can be processed by Nectar DXP.

During implementation, the Customer must select which of the following AD data categories will be processed, except for the categories on the Required list, which must be selected.

Required (must be selected):

Display Name
First Name
Last Name
E-Mail Address
Login Name
Login Name (pre-Windows
2000)
Distinguished Name
Deleted?
Group Membership
GUID
USN Changed
When Changed

General

Photo
Middle Name
Office Location
Description
Web Page Address
Notes

Address

Post Office
Street Address
City
State/Province
Zip/Postal Code
Country

Telephones

Telephone Number
Mobile Number
Home Phone
Fax Number
Pager Number
IP Phone Number
Phone Number (Others)
Mobile Number (Others)
Home Phone (Others)

Fax Number (Others)
Pager Number (Others)
IP Phone Number (Others)

Organization

Job Title
Department
Company
Employee ID
Manager
Direct Reports
Assistant

Account

Create Date
Expiry Date
Account Options
Last Logon
Last Logoff
Logon Count
Password Last Set Date
Last Bad Password Entry
Bad Password Entry Count
Account Lockout Time
SID

Skype for Business Details

SIP Address
Line URI
Private Line URI
User Enabled?
Internet Access Enabled
Federation Enabled?
Archiving Enabled?
Primary Home Server
Option Flags
Tenant ID
User Routing Group ID

Profile

Home Folder

Home Drive
Script Path

Other

Personal Title
Initials
C
Logon Hours
Cn
Comment
Country Code
Generation Qualifier
Home Postal Address
Instance Type
Legacy Exchange DN
Logon Workstation
Object Category
Object Class
Object Version
Other Mailbox
Proxy Addresses
SAM Account Type
USN Created
Primary Group
Primary Group ID
Extension Attribute 1
Extension Attribute 2
Extension Attribute 3
Extension Attribute 4
Extension Attribute 5
Extension Attribute 6
Extension Attribute 7
Extension Attribute 8
Extension Attribute 9
Extension Attribute 10
Extension Attribute 11
Extension Attribute 12
Extension Attribute 13
Extension Attribute 14
Extension Attribute 15