



**BY INSTALLING, DOWNLOADING, COPYING OR OTHERWISE USING THE SERVICES AND SOFTWARE (AS BOTH ARE DEFINED BELOW), YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA. IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, DO NOT INSTALL, DOWNLOAD, COPY OR USE THE SOFTWARE OR SERVICES. THIS EULA SUPERSEDES ALL PRIOR ORAL AND WRITTEN AND ALL CONTEMPORANEOUS ORAL NEGOTIATIONS, COMMITMENTS AND UNDERSTANDINGS OF THE PARTIES. THIS EULA SUPERSEDES ALL TERMS AND CONDITIONS CONTAINED IN ANY PURCHASE ORDER, ORDER ACKNOWLEDGMENT FORM, INVOICE OR OTHER BUSINESS FORM SUBMITTED HEREAFTER BY EITHER PARTY TO THE OTHER.**

This End User License Agreement (the “**Agreement**”) is made between Megaventory Inc., a Delaware corporation (“**Megaventory**”), and Customer (as defined below).

### RECITALS

- A. Megaventory has developed certain software applications and platforms that it makes available to subscribers via the Internet, namely Megaventory.com, on a pay-per-use basis.
- B. The Customer wishes to use Megaventory’s Services (as defined below).
- C. Megaventory has agreed to provide and the Customer has agreed to use Megaventory’s Services subject to the terms and conditions of this Agreement.

### DEFINITIONS

- A. As used in this Agreement, the following terms shall have the meaning as set forth below:

“**Authorized Users**” shall mean those employees, agents and independent contractors of the Customer who are authorized by the Customer to use the Services and the Documentation, as further described in Section 2.2(d).

“**Business Day**” shall mean any day which is not a Saturday, Sunday or a public holiday in the United States of America.

“**Change of Control**” shall mean the direct or indirect acquisition of either the majority of the voting stock, or of all, or substantially all, of the assets, of a party by another entity in a single transaction or a series of transactions.

“**Confidential Information**” shall mean information that is proprietary or confidential and is either clearly labeled as such or identified as Confidential Information as detailed in Section 11.5 and 11.6.

“**Customer**” shall mean the legal entity or individual that enters into this Agreement on

the Electronic Registration Form.

**“Customer Data”** shall mean the data inputted by the Customer, Authorized Users, or Megaventory on the Customer’s behalf for the purpose of using the Services or facilitating the Customer’s use of the Services.

**“Documentation”** shall mean the information made available to the Customer by Megaventory online via [https://www.megaventory.com/Megaventory\\_Manual.pdf](https://www.megaventory.com/Megaventory_Manual.pdf) or such other web address that sets out a description of the Services and the user instructions for the Services.

**“Effective Date”** shall mean the date of this Agreement when signed or executed by Customer.

**“Initial Subscription Term”** shall mean the initial term of this Agreement as set out in Schedule 2 attached hereto.

**“Normal Business Hours”** shall mean 8:00am to 6:00pm Greenwich Mean Time (United Kingdom time) time, each Business Day.

**“Renewal Period”** shall mean the period described in Section 14.1.

**“Services”** shall mean Megaventory’s online subscription services as described on Megaventory’s websites and provided by Megaventory to the Customer under this Agreement via Megaventory.com, or any other website notified to the Customer by Megaventory from time to time, as more particularly described in the Documentation.

**“Software”** shall mean the online software applications provided by Megaventory as part of the Services.

**“Subscription Fees”** shall mean the subscription fees payable by the Customer to Megaventory for the User Subscriptions, as set out in <http://www.megaventory.com>

**“Subscription Term”** shall have the meaning given in Section 14.1.

**“Support Services Policy”** shall mean Megaventory’s policy for providing support in relation to the Services as made available in this Agreement.

**“User Subscriptions”** shall mean the user subscriptions purchased by the Customer pursuant to Section 9.1 that entitle Authorized Users to access and use the Services and the Documentation in accordance with this Agreement.

**“Virus”** shall mean any thing or device (including any software, code, file or program) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation

of any program or data, including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

## **Technical Support Policy and Terms**

### **1.1 Technical Support Defined**

Technical support consists of operational assistance and support provided by Megaventory Inc. in its reasonable judgment, in order that (i) the Service provided under this End User License Agreement (“Agreement”) may operate satisfactorily, and (ii) -if applicable- Customer installed Megaventory client software, necessary for the delivery of such Service, operates according to the related documentation. Technical support will be performed in a timely and professional manner by qualified support engineers in accordance with this Technical Support Policy and Terms (the "Policy").

Megaventory will provide technical support as long as Customer is current in payment of applicable fees according to the Agreement, and is otherwise materially compliant with the terms and conditions of the Agreement for the applicable subscription Term.

Customer may be required to upgrade to third-party-supported applications, and operating systems as instructed by Megaventory qualified support engineers in order to continue receiving technical support services from Megaventory under this Policy.

Customer will utilize telephone, Online Support Forms or other site or notification mechanisms, as Megaventory may designate from time to time, to notify Megaventory of system availability issues, or request other in-scope technical support assistance.

In order to receive technical support, Customer technical support requests must contain all pertinent information, in English, including but not limited to, Customer login URL, problem severity, problem description, screenshots (where applicable) and a technical contact familiar with Customer environment or the problem to be solved. Customer must make best efforts to execute diagnostic routines if provided by Megaventory and inform Megaventory of the results. Customer must make reasonable efforts to communicate with Megaventory in order to verify the existence of the problem and provide information about the conditions under which the problem could be duplicated.

Due to the specific business use case complexities in an implementation, Technical Support does not cover assistance with implementation specific exercises, including but not limited to training, education, specific business use case implementation guidance, best practices and installation/upgrade of any third party application. Such support services may be made available under a separate agreement between the Customer and Megaventory.

### **1.2 Service Availability Issues**

Megaventory will use reasonable efforts to meet the Service Level Objectives (SLO) stated in the table in section Schedule 1.2 Operational Service Support.

### **1.3 Premium Technical Support Defined**

Premium Technical Support covers certain paid services offered by Megaventory. Such services include but are not limited to the following: assistance with system design, general consulting services, correcting or modifying customer operational data due to data entry errors caused by the Customer and support for 3rd party products or 3rd party software.

Payment for Premium Technical Support is in the form of a flat hourly fee of 100 USD/hour.

## **USER SUBSCRIPTIONS**

### **2.1 User Subscriptions.**

Subject to the Customer purchasing the User Subscriptions in accordance with Section 3.3 and 9.1, the restrictions set out in this Section and the other terms and conditions of this Agreement, Megaventory hereby grants to the Customer a non-exclusive, non-transferable right to permit the Authorized Users to use the Services and the Documentation during the Subscription Term solely for the Customer's internal business operations.

### **2.2 Authorized Users.**

In relation to the Authorized Users, the Customer understands and agrees that:

(a) the maximum number of Authorized Users that it authorizes to access and use the Services and the Documentation shall not exceed the number of User Subscriptions it has purchased from time to time;

(b) it shall permit Megaventory to audit the Services in order to establish the name and password of each Authorized User. Such audit may be conducted no more than once per calendar quarter, at Megaventory's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

(c) if any of the audits referred to in Section 2.2(b) reveal that the Customer has underpaid Subscription Fees to Megaventory, the Customer shall pay to Megaventory an amount equal to such underpayment as calculated in accordance with the prices set out in <http://www.megaventory.com> within 5 Business Days of the date of the relevant audit.

### **2.3 Prohibited Actions.**

The Customer shall not run harmful scripts to access data that are not made available to him under normal operation. If the client comes across any vulnerabilities of the software/application

he should report those immediately to Megaventory and not proceed further accessing this vulnerabilities. Moreover, the Customer shall not access, store, distribute or transmit any Viruses, or any material during the course of its use of the Services that:

- (a) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity;
- (c) depicts sexually explicit images;
- (d) is discriminatory based on race, gender, color, religious belief, sexual orientation, disability, or any other illegal activity; or
- (e) causes damage or injury to any person or property;

Megaventory reserves the right, without liability to the Customer, to disable the Customer's access to any material that breaches the provisions of this clause.

#### 2.4 Limited Use.

The Customer shall not:

- (a) except as may be allowed by any applicable law that is incapable of exclusion by Agreement between the parties;
- (i) and except to the extent expressly permitted under this Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or
- (ii) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or
- (b) access all or any part of the Services and Documentation in order to build a product or service that competes with the Services and/or the Documentation; or
- (c) use the Services and/or Documentation to resell similar services to third parties; or
- (d) subject to Section 19.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorized Users, or
- (e) attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this Section; and



## **2.5 Unauthorized Access.**

The Customer shall use all reasonable endeavors to prevent any unauthorized access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorized access or use, promptly notify Megaventory.

## **2.6 Customer Only.**

The rights provided under this Section are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer, unless otherwise agreed to in writing.

# **ADDITIONAL USER SUBSCRIPTIONS**

## **3.1 Additional User Subscriptions Purchases.**

Subject to Section 3.2 and 3.3, the Customer may, from time to time during any Subscription Term, purchase additional User Subscriptions in excess of the number set out in <http://www.megaventory.com> and Megaventory shall grant access to the Services and the Documentation to such additional Authorized Users in accordance with the provisions of this Agreement.

## **3.2 Notification.**

If the Customer wishes to purchase additional User Subscriptions, the Customer shall do this via his account profile from within the Megaventory application. This is an automated process.

## **3.3 Payment.**

Customer shall pay to Megaventory the relevant fees for such additional User Subscriptions as set out in the megaventory website at <http://www.megaventory.com> and, if such additional User Subscriptions are purchased by the Customer part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable). Megaventory shall not be responsible for any delays of payment from third-party intermediaries (i.e. PayPal, Bank wires, etc.).

# **SERVICES**

## **4.1 Provision of Services.**

Megaventory shall, during the Subscription Term, provide the Services and make available the Documentation to the Customer on and subject to the terms of this Agreement.

## **4.2 Service Level Agreement.**

Megaventory shall use commercially reasonable endeavors to make the Services available pursuant to the terms of the Service Level Agreement attached hereto as Schedule 1.

## **4.3 Customer Support.**

Megaventory will, as part of the Services and at no additional cost to the Customer, provide the Customer with Megaventory's standard customer support services during Normal Business Hours in accordance with Megaventory's Support Services Policy in effect at the time that the Services are provided. Megaventory may log into Customer's account or any Authorized User's account for maintenance, troubleshooting, or support purposes. Megaventory may amend the Support Services Policy in its sole and absolute discretion from time to time. The Customer may purchase enhanced support services separately at Megaventory's then current rates.

## **CUSTOMER DATA**

### **5.1 Ownership.**

The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

### **5.2 Archiving.**

Megaventory shall store Customer Data but shall bear no responsibility for Customer Data loss or damage. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for Megaventory to use reasonable commercial endeavors to restore the lost or damaged Customer Data.

## **THIRD PARTY PROVIDERS**

### **6.1 Third Party Providers.**

The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, and purchase products and services from, third parties via third-party websites and that it does so solely at its own risk. Megaventory makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, and any contract entered into by the Customer, with any such third party. Any contract entered into and any transaction completed via any third-party website is between the Customer and the relevant third party, and not Megaventory. Megaventory recommends that the Customer refers to the third party's website terms and conditions and privacy policy prior to using the relevant third-party website. Megaventory does not endorse or approve any third-party website nor the content of any of the third-party website made available via the Services.

## MEGAVENTORY'S OBLIGATIONS

### 7.1 Obligations.

Megaventory undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

### 7.2 Limitation of Obligations.

The undertaking of Section 7.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Megaventory's instructions, or modification or alteration of the Services by any party other than Megaventory or Megaventory's duly authorized contractors or agents. If the Services do not conform with the foregoing undertaking, Megaventory will, at its expense, use all reasonable commercial endeavors to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in Section 7.1. Notwithstanding the foregoing, Megaventory:

(a) does not warrant that the Customer's use of the Services will be uninterrupted or error free, nor that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

(b) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the Internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

### 7.3 Non-Exclusivity.

This Agreement shall not prevent Megaventory from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

### 7.4 Warranties.

Megaventory warrants that it has and will maintain all necessary licenses, consents, and permissions necessary for the performance of its obligations under this Agreement.

## CUSTOMER'S OBLIGATIONS

### 8.1 Obligations.

The Customer shall:

(a) provide Megaventory with (i) all necessary cooperation in relation to this



Agreement; and (ii) all necessary access to such information as may be required by Megaventory, in order to render the Services, including but not limited to Customer Data, security access information and configuration services;

(b) comply with all applicable laws and regulations with respect to its activities under this Agreement;

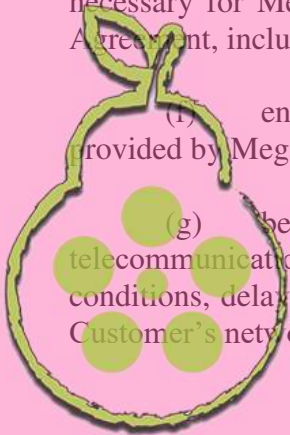
(c) carry out all other Customer responsibilities set out in this agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, Megaventory may adjust any agreed timetable or delivery schedule as reasonably necessary;

(d) ensure that the Authorized Users use the Services and the Documentation in accordance with the terms and conditions of this agreement and shall be responsible for any Authorized User's breach of this Agreement;

(e) obtain and shall maintain all necessary licenses, consents, and permissions necessary for Megaventory, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services;

(f) ensure that its network and systems comply with the relevant specifications provided by Megaventory from time to time; and

(g) be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Megaventory's data centers, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.



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## CHARGES AND PAYMENT

### 9.1 Subscription Fees.

The Customer shall pay the Subscription Fees to Megaventory for the User Subscriptions in accordance with this Section and <http://www.megaventory.com>.

### 9.2 Payment Information and Authorization.

The Customer shall on the Effective Date provide to Megaventory (via its service provider – PayPal) valid, up-to-date and complete credit card details or approved purchase order information acceptable to Megaventory (or PayPal) and any other relevant valid, up-to-date and complete contact and billing details and, if the Customer provides:

(a) its credit card details to Megaventory (or the service provider such as PayPal – See above), the Customer hereby authorizes Megaventory (or such service provider) to bill such credit card:

(i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

(ii) subject to Section 14.1, on each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period;

(b) its approved purchase order information to Megaventory, where Megaventory shall invoice the Customer:

(i) on the Effective Date for the Subscription Fees payable in respect of the Initial Subscription Term; and

(ii) subject to Section 14.1, at least 30 days prior to each anniversary of the Effective Date for the Subscription Fees payable in respect of the next Renewal Period, and the Customer shall pay each invoice within 30 days after the date of such invoice.

### **9.3 Non-Payment.**

If Megaventory has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of Megaventory, Megaventory may, without liability to the Customer, disable the Customer's password, account and access to all or part of the Services, including but not limited to the Customer Data, and Megaventory shall be under no obligation to provide any or all of the Services.

### **9.4 Currency; No Refunds.**

All amounts and fees stated or referred to in this Agreement (i) shall be payable in U.S. Dollars, and (ii) are non-cancelable and non-refundable if payment has been made 30 or more days ago.

### **9.5 Increases in Fees.**

Megaventory shall be entitled to increase the Subscription Fees, the fees payable in respect of the additional User Subscriptions purchased pursuant to Section 3.3 at the start of each Renewal Period upon 30 days' prior notice to the Customer.

## **INTELLECTUAL PROPERTY RIGHTS**

### **10.1 Ownership of Megaventory.**

The Customer acknowledges and agrees that Megaventory (or its licensors) owns all intellectual property rights with respect to the Services and the Documentation. Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, patents, copyrights, database rights, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licenses with respect to the Services or the Documentation.