

Master Lease Agreement

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IBM and Customer (as hereinafter defined) may from time to time execute Schedules pursuant to, and incorporating the terms of, this Master Lease Agreement ("Master Agreement") and such other terms and conditions as the Parties may agree to.

1. **Definitions.** Unless otherwise defined, the following capitalized terms shall have the following meanings when used in any document incorporating the terms of, or referring to, this Master Agreement.

"Agreement" means, with respect to a Schedule, the Schedule executed by the Parties as such Schedule incorporates the terms of this Master Agreement, and as each may be amended or modified from time to time in writing;

"Alteration" means any change to an item of Equipment, including, without limitation, features and conversions installed on Equipment after the Commencement Date;

"Amount Funded" means the amount, if specified, as the "Amount Funded" on the Schedule;

"Assignment" means the assignment of any rights and/or obligations under this Agreement from one Entity to another;

"Average Rent" means, as with respect to any Term, the average amount of Rent, calculated on a per-month basis, payable to IBM with respect to such Equipment during the immediately preceding Term;

"Business Day" means any calendar day, except a Saturday, Sunday or any other calendar day on which banks are authorized or required by law to close in the country where IBM is located;

"Certificate of Acceptance" or "COA" means a certificate in a form acceptable to IBM, and signed by Customer, denoting Customer's acceptance of the Products and authorizing IBM to pay Supplier;

"Commencement Date" means the date the Lease commences in accordance with the Section 5;

"Conditions Precedent" means, with respect to a Schedule, all statements, certificates, documents, instruments, and additional terms and conditions required by IBM under this Master Agreement and the Schedule to be provided or satisfied on or prior to the Commencement Date;

"Customer" means, with respect to a Schedule, the Entity that signs the Schedule as Customer;

"Default" means an Event of Default or any event that upon notice or lapse of time or both would constitute an Event of Default;

"End of Lease Date" means the date that the Term of the Lease expires, terminates or is cancelled;

"End of Lease Notice" means the notice delivered by Customer to IBM in writing, or as otherwise agreed to by the Parties, specifying the end of Lease option selected by Customer;

"End of Lease Purchase Option" means, if an applicable End of Lease Purchase Option is designated by IBM, an option for Customer to purchase an item of Equipment at a purchase price equal to either:

- a. the amount specified by IBM, or
- b. the percentage specified by IBM of the "Amount Funded" listed on the Schedule, or
- c. the Fair Market Value of such Equipment;

"Entity" means any limited liability company, association, firm, corporation, partnership, trust, joint venture, unincorporated organization or other entity whatsoever;

"Equipment" means a hardware device, its features, conversions, upgrades, elements, or accessories, or any combination thereof or any other item of equipment that is specified on the Lease table of a Schedule, which is leased by IBM to Customer hereunder;

"Fair Market Value" or "FMV" means the fair market value of Equipment as determined by IBM to be the amount that would be realized for the Equipment qualified for manufacturer's maintenance in an arm's length sale between a willing buyer and a willing seller, under no compulsion by either party to perform the sale;

"Guarantor" means an Entity providing a guarantee of Customer's obligations arising under this Agreement;

"IBM" means Oy IBM Finland Ab;

"Initial Payment Term" means the term consisting of the number of consecutive Payment Periods specified on the Schedule beginning with the initial Payment Period;

"Initial Term" means, with respect to a Product, the initial term of the Lease for such item, commencing on the applicable Commencement Date and expiring at the end of the Initial Payment Term;

"Lease" means a lease of Products under this Agreement as specified on the Lease table on the Schedule;

"Licensor" means the Entity who licenses the Program License to the Customer;

"Part" means any original component or element of Equipment or any replacement to such original component or element provided under warranty or maintenance service or in connection with an Alteration;

"Party" means either Customer or IBM; and **"Parties"** means Customer and IBM;

"Payment" means the amount payable as the Rent under a Lease and/or any other amounts payable under this Agreement;

"Payment Period" means the period specified in a Schedule as the "Payment Period" and is the period for which a payment of Rent is due and payable (e.g., Month, Quarter);

"Payment Type" means the Payment Type specified in a Schedule as the "Payment Type". If the Payment Type is designated as 'Advance', then the Repayments therefore shall be due and payable on the first day of each Payment Period for the number of Repayments specified, beginning with the initial Payment Period. If the Payment Type is designated as 'Arrears', then the Repayment therefore shall be due and payable on the last day of each Payment Period for the number of Repayments specified, beginning with the initial Payment Period;

"Planned Commencement Month" means the month indicated on the Schedule as the "Planned Commencement Month";

"Product(s)" means Equipment, Program Licenses and services according to local tax law;

"Program License" means a license of software that is specified on the Lease table of a Schedule, which is leased by IBM to Customer hereunder;

"Program" means a software that is specified on the Lease table of a Schedule, which is leased by IBM to Customer hereunder;

"Renewal Term" means, with respect to Equipment, the term of the Lease for such Equipment consisting of a number of consecutive Payment Periods commencing on the day immediately following the last day of the preceding Term for such Equipment and expiring at the end of the last Payment Period in the Renewal Term. The number of Payment Periods in a Renewal Term shall be specified on the Schedule under "Renewal Term", or otherwise agreed to in writing by the Parties;

"Rent" means the amount due and payable each Payment Period for the lease of Equipment and/or a Program License and any related services; Rent for the Initial Term is the amount specified in the Schedule as "Rent" or which can be determined by multiplying the Rate as specified in the Schedule with the purchase price of the financed products;

"Supplier" means the Entity (which for the avoidance of doubt can be either IBM or a third party) supplying Product under a Supply Agreement;

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“Supply Agreement” means the agreement between Supplier and Customer for the acquisition or licensing of a Product;

“Schedule” means a document that refers to and incorporates the terms and conditions of this Master Agreement and contains the details of the Lease that is the subject matter to that Schedule;

“Term” means, with respect to a Lease, the Initial Term, any Renewal Term, or the term of any automatic extension under Section 15.1, as applicable; and

“Validity Date” means the date specified by IBM in a Schedule as the “Validity Date”.

2. Agreement Structure

2.1 An “Agreement” hereunder shall consist of this Master Agreement, the Schedule, and their applicable attachments and represents the complete and exclusive agreement between the Parties regarding the subject matter of the Schedule, and replaces any prior oral or written communications between the Parties relating thereto. Each Lease is effective when the Schedule containing such Lease is executed by the Parties thereto.

2.2 If there is a conflict of terms among the documents, the order of precedence will be as follows (from highest to lowest priority):

- a. attachments to the Schedule;
- b. the Schedule;
- c. attachments to this Master Agreement; and
- d. this Master Agreement.

2.3 This Master Agreement sets out the general terms and conditions under which, from time to time, IBM may lease Products to Customer and Customer may lease Products from IBM. For each Lease, Customer agrees to pay Rent in the amounts and on the due dates specified hereunder, and to pay such other Payments as they may become due and payable hereunder.

3. Payment and Taxes

3.1 The initial Payment Period for a Lease shall begin on the first day of the month following the Commencement Date. Customer will remit each Payment payable hereunder to the bank account specified in the invoice sent by IBM. If any Payment is due on a non-Business Day, then such Payment shall become due and payable on the next Business Day.

3.2 For any Payment not paid in full by its due date, Customer also agrees to pay late payment interest in accordance with the Finnish Interest Act (1982/633) from due date until the actual date such Unpaid Amount is paid in full (the “Late Payment Fee”).

3.3 Customer agrees that, upon the Commencement Date Customer’s obligations under this Agreement become irrevocable and independent of acceptance of the Product or any claims under the Supply Agreement, and Customer’s obligation to make all Payments in full when due, becomes absolute and unconditional, without set off, counterclaim, withholding or deduction and irrespective of errors or deficiencies in or the performance or the quality of the Product, or the performance by the Supplier, or any third party.

3.4 Customer is responsible for any taxes and charges arising in respect of any Lease and/or any Product, except for IBM’s corporate income tax.

4. Supplier

For each Product, Customer represents that it has the right to assign to IBM, and hereby assigns to IBM, effective upon signing the Schedule, but subject to the occurrence of the Commencement Date, its right to purchase from and its obligation to pay its Supplier the purchase price or license fee of the Product up to the amount agreed by IBM to be funded. All other obligations as defined in the Supply Agreement between Customer and Supplier governing the acquisition or licensing of the Product shall remain with Customer. Nothing in this Agreement shall affect any remedies Customer may have under the Supply Agreement against the Supplier, Licensor, manufacturer of the Equipment, or any third party. Customer shall make any claim solely against the Supplier, Licensor, manufacturer of the Equipment, or any

third party under the Supply Agreement if the Product is unsatisfactory for any reason, and Customer will inform IBM of any legal proceedings beforehand.

The Parties agree that during the Term of the Lease, as long as Customer is not in default, Customer shall have the non-exclusive benefit of any warranties for such Product made available to IBM under the Supply Agreement as the owner of the Equipment and that Customer is authorized to act on IBM’s behalf and for IBM’s benefit, concerning any warranty service for the Equipment, to the extent permitted under the Supply Agreement or as otherwise agreed to by the Supplier. The aforementioned authority shall not detract from IBM’s rights in relation to the Product.

5. Lease Commencement

5.1 The Lease will commence on the Commencement Date provided that:

- a. the Schedule is duly executed by Customer and received by IBM on or prior to the Validity Date and is accepted by IBM;
- b. Customer has satisfied all of the Conditions Precedent; and
- c. no Default has occurred.

If any of the foregoing conditions are not satisfied, IBM shall have no obligation or liability with respect to the Agreement or the Product, including any obligation to pay the purchase price of the Product. However, IBM, in its sole discretion, may commence the Lease or issue a new Schedule to Customer. If the Commencement Date occurs after the end of the Planned Commencement Month, IBM is entitled to change the Rent. Such change shall become effective upon IBM’s notification to the Customer.

5.2 Provided that the conditions in Section 5.1 above have been satisfied, the Commencement Date for a Lease will be:

- a. for Equipment and Program Licenses supplied by IBM, the shipment date from relevant factory site of such Equipment and the date of delivery for Program Licenses (delivery meaning such as provision of right to download the Program) unless Customer notifies IBM in writing that it has not accepted the Equipment and/or Program License within ten (10) days of receipt thereof by Customer. If services are included in the Schedule the Commencement Date is the start date of the service, as stated in the Supply Agreement, provided the Customer has not, as described above, notified IBM of its rejection of the Equipment and/or Program Licenses;
- b. for any other leased Product, the date Customer accepted the Product as specified by Customer on a duly executed Certificate of Acceptance, provided that such Certificate of Acceptance is returned to IBM within ten days after the date specified on the Certificate of Acceptance as the acceptance date.

6. Ownership

6.1 IBM is the owner of the Equipment and Customer shall have no right, title or interest therein except as specified in this Agreement. If, for any reason Customer does acquire title to the Equipment including any Parts thereof, then Customer shall be deemed to have transferred such title to IBM immediately and will, at its own cost and expense, use all reasonable endeavors to do such further acts and execute such documents as may be necessary to give effect to such transfer. Customer agrees to protect IBM’s ownership against claims arising directly or indirectly from Customer’s possession or use of the Equipment.

The Equipment is and shall at all times be and remain personal property and shall not become a fixture or realty. Customer shall not be entitled to pledge, sell or otherwise burden the Equipment in question, except that Customer receives title of the Equipment subject to the exercise of a Purchase Option.

Except as otherwise expressly provided in the Schedule with respect to the lease of Program Licenses, for any software installed on the Equipment, including preloaded software, Customer shall enter into a separate software license or other agreement with the software

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licensor for the use of the software and such software shall remain the property of the licensor and be governed by the software license between licensor and Customer. Such software license shall not be affected by or subject to the Lease and, with respect to the software license, IBM shall have no rights or obligations thereunder, including any rights to limit Customer's use of such software.

6.2 Disclaimer of Warranties

Except as expressly stated in this Agreement, as between IBM and Customer, IBM makes no warranty, express or implied, as to any matter whatsoever, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, non-interference, non-infringement or the like.

7. Quiet Enjoyment

IBM covenants to Customer that IBM will not interfere with Customer's quiet enjoyment of the Equipment and/or Program License during the Term of the Lease as long as no Event of Default shall have occurred.

8. Liens and Charges

Customer hereby agrees to ensure that the Equipment shall at all times be kept free from any lien, charge or encumbrance of any kind, except those created by or through IBM.

9. Inspection and Marking

Customer shall permit IBM, upon prior notice, to inspect any Equipment, Parts, and maintenance records during Customer's normal business hours and subject to Customer's normal security procedures. Upon IBM's request or if Customer is not the owner of the location where the Equipment is installed, then Customer will immediately affix identifying labels, plates or tags to the Equipment or Part(s) identifying IBM as the owner of such item(s).

10. Maintenance and Use

Customer shall keep each item of Equipment in good condition and working order, ordinary wear and tear excepted, and shall operate it safely in a proper environment as defined by the manufacturer and/or Supplier and in compliance with all applicable laws and regulations. As it relates to any software, embedded or otherwise, Customer agrees to comply with the terms of the software license and this Agreement.

11. Insurance

11.1 Customer shall be responsible for loss or damage to the Equipment and to carry primary property damage insurance covering the Equipment.

11.2 Upon the Commencement Date and up to the time the Equipment is received by IBM at its designated return location, Customer shall keep the Equipment insured, at its expense, against all risks of loss or damage from every cause whatsoever for not less than the full replacement value thereof. If there is loss or damage to, or theft of, Equipment, Customer will within five business days notify IBM and either:

- a. within sixty Business Days repair the Equipment, passing to IBM full legal and beneficial title to any replacement parts, or
- b. pay an amount equal to (i) any and all Rent and other amounts, in each case, due or to become due under this Agreement with respect to such Equipment, and (ii) the Equipment's purchase price in accordance with the End of Lease Purchase Option if specified on the Schedule or, if such End of Lease Purchase Option is not specified on the Schedule, then the end of Term FMV for such Equipment. Thereafter the portion of the Lease with respect to such Equipment shall be terminated and neither IBM nor Customer shall have any further obligations with respect to such Equipment.

12. Alterations

Customer may only modify or alter Equipment subject to the following provisions:

- a. any Parts owned by IBM that are removed as a result of an Alteration shall remain IBM's property and shall not be disposed

of, exchanged, transferred or sold by Customer without IBM's prior written consent. The foregoing shall not apply to Parts removed due to a warranty repair or an engineering change by the manufacturer of the Equipment or its authorized service provider utilizing the manufacturer's genuine parts;

- b. prior to return to IBM, Customer shall remove any Alterations not owned by IBM and restore the Equipment to its original condition using any removed IBM owned Part(s). For the avoidance of doubt, the obligation to restore the Equipment to its original condition also includes an obligation to remove all Customer installed passwords;
- c. if the Alteration is not removed or Equipment is returned other than in its original condition using any removed IBM owned Part(s), then Customer agrees to pay to IBM, unless otherwise agreed to in writing, an amount equal to any diminution in value of Equipment or the cost to restore the Equipment to its original condition, qualified for the manufacturer's maintenance agreement service, if available, or, if not available, then in good condition and working order, ordinary wear and tear excepted;
- d. all Parts or Alterations not owned by IBM that are not removed before return of the Equipment to IBM shall become IBM's property, without charge, free and clear of all liens and encumbrances.

If required of the owner of the Equipment by the Equipment manufacturer, IBM agrees to (i) allow installation of any changes, additions, and/or capacity monitoring hardware or software on the Equipment, or permit manufacturer to monitor Equipment capacity; and (ii) comply with any other terms between Customer and Equipment manufacturer, including, but not limited to, those that relate to Equipment capacity.

13. Leases for Alterations

Upon Customer's request, IBM may agree to lease new or used Alterations to Equipment that are or have been offered for sale by the manufacturer of the Equipment and that contains no Part that has been changed or altered since its original manufacture. Leases for Alterations will be at then current terms and conditions and must be coterminous with the Lease of the underlying Equipment and Customer's selection of its end of Lease options for the underlying Equipment, as set forth in Section 15, shall apply to the applicable Alterations.

14. Relocation, Sublease and Assignment

14.1 Relocation

If Customer is not in Default, then Customer may relocate Equipment and/or Program Licenses to another of its business locations in the same country provided such Customer gives IBM prior written notice and remains the end user of the Equipment and/or Program Licenses. Customer is responsible for arranging any relocation. Notwithstanding the foregoing, Customer may relocate Equipment that are mobile personal devices without notice to IBM provided the relocation of such Equipment is the result of temporary trips taken in the ordinary course of business and such Equipment is returned to the original location.

14.2 Sublease and Assignment

Customer may not sublease any Equipment and/or Program License or make an Assignment without IBM's prior written consent. No sublease or Assignment shall relieve such Customer of its obligations under the Lease Any attempt to sublease or to make an Assignment without IBM's prior written consent is void.

14.3 IBM reserves the right to recover reasonable administrative fees and expenses related to any Assignment, sublease or relocation. Customer is responsible for all costs, expenses, duties and taxes involved in any Assignment, sublease, or relocation. Any sublease, relocation or assignment of Equipment and/or Program License shall be subject to all associated software license terms and it is expressly agreed that it is the Customer's responsibility to obtain all necessary approvals.

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15. End of Lease

15.1 At the end of the Lease Term, Customer may select one of the options listed below or as detailed in the Schedule by providing IBM an End of Lease Notice. If Customer fails to give its End of Lease Notice at least 30 days but no more than 180 days prior to the End of Lease Date then the Lease Term will automatically continue on a month to month basis. Such Lease will continue under the same terms and conditions and at the then applicable Average Rent (but for Equipment with a FMV Purchase Option, not less than the fair market rental value as of the End of Lease Date as determined by IBM) until the later of the date that is 30 days after the End of Lease Notice has been received by IBM and the date on which Customer has satisfied all the conditions of such selected end of lease option as described herein. To remind the Customer of its responsibilities stated above, IBM will send an end-of lease information letter in writing, prior to the end of the Lease Term. For the avoidance of doubt, absence of such end-of-lease letter does not relieve the Customer from its responsibilities.

15.2 Renew the Lease

At the end of each Term of the Lease, as long as no Default has occurred and is continuing, Customer may elect to renew the Lease for Equipment and/or the Program License on terms and conditions mutually agreed to between the Parties. In the event Customer provides its End of Lease Notice in accordance with Section 15.1 selecting this option, the Lease will be renewed at the end of the applicable Term on such mutually agreed to terms and conditions.

15.3 Return the Equipment

At the end of each Term of the Lease, Customer may elect to return Equipment on the applicable End of Lease Date under the terms and conditions described in this Section 15 and Section 16. In the event Customer provides its End of Lease Notice in accordance with Section 15.1 selecting this option but fails to return the Equipment on or prior to the applicable End of Lease Date or if Customer returns the Equipment after the End of Lease Date without providing such End of Lease Notice, then Customer shall continue to pay IBM the Average Rent until the last day of the month the Equipment is received by IBM in accordance with Section 16.

15.4 Purchase

At the end of each Term of the Lease and as long as no Default has occurred, if the Equipment and/or the Program License has a Purchase Option specified, then Customer may elect to purchase the Equipment and/or Program License. If Customer provides its End of Lease Notice in accordance with Section 15.1 selecting such Purchase Option, Customer shall pay all amounts due under the Lease to IBM, including any charges related to the End of Lease Purchase Option. Upon receipt of all such amounts with respect to any purchased Equipment, IBM shall transfer to Customer without recourse or warranty of any kind, express or implied all of IBM's right, title and interest in such Equipment, except that IBM shall warrant the Equipment is free and clear of any liens or encumbrances created by or through IBM. If Customer does not pay IBM all such amounts on or prior to the applicable End of Lease Date, then Customer shall continue to pay IBM the Average Rent until receipt by IBM of all such amounts.

16. Return of Equipment

Upon expiration, termination or cancellation of the Lease, the Equipment shall be returned to IBM at Customer's expense, fully insured against risk of loss or damage, to a location designated by IBM. Customer shall be responsible for deinstallation, packing, and return of the Equipment and any associated costs. Risk of loss or damage remains with Customer until receipt of Equipment by IBM at its designated location.

Customer is responsible for the removal of all information and data contained within the Equipment, including preloaded software licensed to the Customer, prior to its return. IBM shall have no obligation or liability in respect of any such information or data.

The Equipment shall be complete and in such condition as will qualify the Equipment for the manufacturer's maintenance agreement service, if available, or, if not available, then in good condition and working order (ordinary wear and tear excepted). Customer agrees to pay all costs and expenses incurred by IBM to restore the Equipment to the condition described above.

Customer shall have no further right or interest in the Equipment upon its return.

17. Program Licenses / Services

17.1 For a Program specified in a Schedule IBM grants to Customer a non-exclusive, non-transferable right to use the Program, limited to the Initial term of the Lease. Customer's use of the Program is conditional upon Customer complying with the terms of the Supply Agreement and this Agreement. If IBM becomes aware that Customer is not complying with the terms of the Supply Agreement, IBM may terminate Customer's right to use the Program and require the return of the Program, together with any supporting documentation. Use of a Program after the Initial term shall, to the extent allowed according to the terms of the Supply Agreement, be provided under the terms of the Supply Agreement. Recurring licence charges for such Programs or other additional charges for example as a result of Customer's use of a Program in breach of the Supply Agreement are not included in the Rent. Such charges will have to be paid separately by the Customer. Customer will use the Program exclusively in the country/countries in which the Program is permitted in accordance with the terms of the Supply Agreement.

For a non-IBM Program under a Lease, Customer shall have an agreement in place with the Licensor which entitles IBM to lease the Program to Customer ("Permit").

17.2 If the Schedule includes services for Equipment or Program License, the Rent as specified on the Schedule will include the financing of advance payments or purchase prices payable for services relating to the respective Equipment and/or Program Licenses.

If the Customer wishes to renew the maintenance or service agreement beyond the contract period of the maintenance or service agreement specified in the Schedule, then the charges payable will be invoiced in addition to the Rent as specified in the Schedule.

18. Events of Default

If any of the following events occur it shall be an "Event of Default" by Customer:

- a. Customer fails to pay in full any amount under this Agreement when due and such failure continues for a period of seven days after Customer has received written notice of non-payment from IBM;
- b. Customer fails to perform or breaches any obligation under this Agreement (to the extent not otherwise an Event of Default under any of the other provisions in this Section 18) and such non-performance or breach continues for a period of fifteen (15) days after Customer receives written notice thereof from IBM;
- c. any information provided, or representation made, by or on behalf of Customer or any Guarantor is inaccurate, false, or misleading in any material respect;
- d. Customer sells, assigns, transfers, relocates, subleases or disposes of a Program License, an item of Equipment or a Part, or makes an Assignment in violation of the terms of this Agreement;
- e. any guarantee of this Agreement provided to IBM shall cease to be, or shall be asserted by Guarantor not to be, in full force and effect;
- f. (i) any petition or proceeding is filed by or against Customer or any Guarantor under any bankruptcy, liquidation, insolvency, receivership or similar law, or (ii) Customer or any Guarantor admits in writing its insolvency or inability to pay its debts as they come due;

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- g. Customer or Guarantor becomes insolvent, or suspends or threatens to suspend payment of its debts, or fails to pay its debts arising out of IBM Lease or Financing agreements generally as they become due;
- h. Customer or Guarantor takes any action in connection with its dissolution, liquidation or the winding up of its affairs, including, without limitation, the commencement of any proceeding therefor, ceases doing business as a going concern, or sells or disposes of substantially all its assets or makes a bulk transfer of its assets, or makes an assignment for the benefit of creditors;
- i. Customer or Guarantor defaults under any lease or finance agreement with IBM beyond any applicable cure period.

19. Remedies

Following the occurrence of an Event of Default, IBM may:

- a. terminate this Agreement and declare all amounts then due and to become due hereunder and thereunder, including any applicable End of Lease Purchase Option for each item of Equipment not returned to IBM by Customer, immediately due and payable;
- b. take or recover immediate possession of each item of Equipment together with all related software and any Alteration;
- c. require Customer to terminate use of any Program License hereunder, or request Licensor to terminate Customer's right to use such licenses; and
- d. pursue any remedy at law or equity.

No right or remedy is exclusive of any other provided herein or permitted by law or equity; all such rights and remedies shall be cumulative and may be enforced concurrently or individually. Customer shall pay all costs and expenses, including reasonable legal fees, costs and expenses, incurred by IBM in enforcing the terms and conditions of this Agreement.

20. General

20.1 Exclusions

Except with respect to Section 20.11 Indemnity, in no event shall either Party have any liability for indirect or consequential damages, any loss of profits, business, revenue or anticipated savings, loss of use, or any other commercial loss. The foregoing does not limit, amend, modify or alter Customer's obligations to pay Rent, taxes or any other payment obligations (including without limitation, Customer's indemnity obligations) under this Agreement. The limitation of liability in this Section shall in no way affect Customer's rights under the Supply Agreement against Supplier or the manufacturer of the Equipment. The foregoing shall not exclude any liability in respect of death or personal injury resulting from the negligence of either Party, its employees or agents. IBM shall not be liable for any claim, damage or loss arising from the Products. Under no circumstances shall IBM be liable for loss of, or damage to, Customer's records or data.

20.2 Customer Representations and Warranties

Customer represents and warrants to IBM that as of the date it enters into this Agreement and as of each Commencement Date under this Agreement:

- a. it has obtained the necessary internal and external approvals, consents and authorizations to enable it to enter into this Agreement;
- b. the Customer's signatories to this Agreement have the authority to bind the Customer and do so by its signature;
- c. all representations made, and any information supplied to IBM (including those related to its financial status, and each Product, including the prices thereof) are true, accurate and complete;
- d. there exists no material default as to any other agreement to which Customer is a party, and no potential liability of

Customer, legal or otherwise, that might impair its ability to comply with this Agreement; and

- e. Customer has selected each Product listed in the Schedule and accepts responsibility for its use and the results obtained therefrom.

20.3 Security

As a condition of entering into this Agreement, IBM may require security with respect to Customer's obligations as specified in the Schedule, which security must be in form and substance acceptable to IBM. As it relates to any security deposit, IBM may apply such deposit against any payment default or hold it until all of Customer's obligations hereunder are satisfied.

20.4 Survival

All of Customer's representations and warranties shall survive execution and delivery of this Agreement and commencement of any Lease under this Agreement. Customer's obligations under this Agreement, which by their nature would continue beyond the expiration of this Agreement, shall survive the expiration or termination of this Agreement.

20.5 Notices and amendments of this Agreement

Any notice shall be in writing. The Parties consent to the use of electronic means to send and receive communications in connection with our business relationship subject to this Agreement and such communications are acceptable as a signed writing.

No term of this Agreement may be amended, changed, modified, or waived unless agreed in writing between the parties.

20.6 Waiver and Severability

Any failure or delay in exercising a right or remedy at law or in equity shall not constitute a waiver of that right or remedy, nor a waiver of any other rights or remedies, in or under this Agreement, at any time. Any waiver of a right or remedy is required to be in writing signed by the Party waiving such right or remedy. If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions of this Agreement shall not be affected or impaired.

20.7 Benefit of Agreement (Third Party Rights)

Except in the event of a permitted assignment, no term of this Agreement is intended to confer a benefit on, or be enforceable by, any third party or person.

20.8 Announcements and Publicity

Neither Party will make any public announcement relating to this Agreement, or the subject matter therein, without the prior written approval of the other Party, except as required by law or by any legal or regulatory authority, in which case it shall notify the other Party of the announcement as soon as reasonably practicable.

20.9 Accounting

Neither IBM, or the International Business Machine Corporation, nor any other IBM organization or affiliates make any representation whatsoever regarding Customer's accounting treatment applicable to this Agreement. IBM accounts for receivables under this Agreement as financing receivables for US reporting purposes. Summary details are available upon request.

20.10 Indemnity

Customer shall indemnify and defend IBM in full against any losses, claims, settlement payments, interest, awards, judgments, damages (including consequential or special damages), fines, fees (including reasonable legal fees and disbursements), expenses and penalties (collectively, "Losses") arising out of or relating to this Agreement or from Customer's possession and use of the Products (specifically excluding any IBM Product that is properly used by Customer for its intended purpose) that are (i) ordered to be paid by IBM by a court, governmental agency, or regulatory body, (ii) incurred or paid by IBM in connection with legal proceedings in respect of third party claims, or (iii) incurred or paid by IBM in connection with any settlement by

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IBM that has been consented to by Customer. This indemnity shall not apply to Losses caused solely by the gross negligence, or willful misconduct of IBM. Customer agrees that upon written demand by IBM, Customer shall assume full responsibility for the defense of such claim.

20.11 Data privacy

IBM and its affiliates, and their contractors and subprocessors, may store and otherwise process business contact information ("BCI") of Customer personnel and authorized users, for example name, business telephone, address, email id's, and identification information, wherever they do business for the purpose of providing products and services or in furtherance of IBM's business relationship with Customer. Where notice to or consent by the individuals is required for such processing, Customer will notify and obtain the consent of any such individuals.

In order to fulfill its obligation under applicable Anti Money Laundering laws and regulations ("AML Legislation") IBM and its affiliates, and their contractors and subprocessors, may store and otherwise process personal information, for example names, addresses, date of birth and identification information, of the persons who are authorized to act on behalf of the Customer and of Customer's beneficial owners according to the definition of the AML Legislation. Such information will solely be used for the purpose of compliance with AML Legislation. Where notice to or consent by the individuals is required for such processing, Customer will notify the individuals and obtain the consent of any such individuals. The IBM Privacy Statement at <https://www.ibm.com/privacy/details/us/en/> provides additional details on IBM's collection and use of personal information.

20.12 Account Data

Account Data is information - other than (i) data, software, and information that Customer provides to IBM to process on behalf of Customer pursuant to an agreement and (ii) BCI - that Customer provides to IBM to enable Customer's acquisition and use of products or that IBM collects using tracking technologies, such as cookies and web beacons, regarding Customer's use of products. IBM and its affiliates, its contractors and subprocessors may use Account Data for example, to enable product features, administer use, personalize experience, and otherwise support or improve use of products. The IBM Online Privacy Statement at <https://www.ibm.com/privacy/details/us/en/> and applicable Attachments or Schedules provides additional details.

20.13 Financial Statements

If not publicly available, then, upon IBM's request, Customer agrees to provide IBM its annual audited financial statements.

20.14 Copies

This Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto may be sent to Customer by IBM in soft copy format, such as a PDF file. Where Customer has printed any such document for signature from such soft copy format, Customer represents and warrants that no changes have been made to the text (including dates and charges). Any such changes are void.

Any copy of this Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto made by reliable means (for example photocopy, image or facsimile) shall in all respects be considered equivalent to an original.

20.15 Use

Products will be used by Customer primarily for its business purposes and not for personal, family or household purposes.

20.16 Counterparts

The Master Agreement, any Schedule, any Certificate of Acceptance, and any documents related thereto may be executed in any number of counterparts, each of which shall constitute an original, but all of which together shall constitute but one and the same document.

20.17 IBM Assignment / IBM Right to Subcontract

IBM may assign or otherwise transfer in whole or part its right, title and interest in this Agreement and the Equipment and/or Program License under this Agreement to any third party.

20.18 IBM's Payment

If Customer fails to pay taxes as required under this Agreement, discharge any liens or encumbrances on the Equipment (other than those created by or through IBM), or otherwise fails to perform any other obligation under this Agreement, IBM may act in Customer's stead so as to protect IBM's interests, in which case Customer shall immediately reimburse IBM the cost thereof.

21. Governing Law

21.1 This Agreement will be governed by, and construed in accordance with the laws of Finland, excluding any regulations regarding choice of laws.