

## Vertafore Standard Terms

These Vertafore Standard Terms (“**Standard Terms**”) are incorporated into the Order executed by Customer and Vertafore.

CUSTOMER AGREES THAT THE AGREEMENT IS LIKE ANY WRITTEN NEGOTIATED AGREEMENT SIGNED BY CUSTOMER. BY EXECUTING THE ORDER, OR BY DOWNLOADING, COPYING, INSTALLING OR USING VERTAFORE SOLUTIONS, CUSTOMER AGREES TO BE BOUND BY THE AGREEMENT AND ACCEPTS ALL OF THE PROVISIONS OF THESE STANDARD TERMS. THE AGREEMENT IS ENFORCEABLE AGAINST ANY PERSON OR ENTITY THAT INSTALLS OR USES VERTAFORE SOLUTIONS ON BEHALF OF THEMSELVES OR THE USER.

**1. Introduction.** Vertafore develops, licenses and provides proprietary information technology, information solutions and related services for the insurance and securities industry. Customer has ordered a Vertafore Solution pursuant to a signed Order. Upon execution of the Order, these Standard Terms apply to all previously ordered Vertafore Solutions that co-terminate. Capitalized terms used but not defined in an Order have the meanings as set forth in Section 19 of these Standard Terms. Any terms and conditions provided by Customer on a purchase order or other document not expressly incorporated into the Agreement shall not be valid. In the event of any conflict between the agreement documents, the inconsistency shall be resolved by giving precedence in the following order and where applicable: (i) the Order, including the Services Addenda; (ii) the Third Party Terms, as updated from time to time (available at <http://online.vertafore.com/ThirdPartyTerms>); (iii) additional Solution Terms available at <http://online.vertafore.com/terms>, as updated by Vertafore from time to time; (iv) these Standard Terms including any riders, addendum, schedule or exhibits added to the Standard Terms; then (v) click-through or other terms residing within the Vertafore Solution. Updates to Third Party Terms and Solution Terms during the Term will be applicable as of the date the update is made.

## **2. Vertafore Solutions.**

**2.1. License Grant.** Subject to Customer's compliance with the Agreement, including payment of all Charges due, Vertafore grants to Customer a revocable, limited, non-exclusive, non-transferable License to use the Vertafore Solution according to the License Metric specified in the applicable Order solely in connection with Customer's internal business operations and data processed by Customer's Users for the Term specified in the applicable Order.

**2.1.1. Online Services.** Online Services are licensed according to the License Metric in Subsection 2.3. Subject to the License Metric and quantity specified on the Order, Users may access the Online Services and display and reproduce the Documentation (including by printing the electronic version) as reasonably required to permit the Users to exercise the License rights. Customer may display and print reasonable portions of the information received from the Online Services for internal business purposes only. Maintenance is included with Online Services.

**2.1.2. In-House Software.** Subject to the License Metric and quantity specified on the Order, the License for In-House Software shall permit Customer to (i) install and use applications solely on a designated number of servers, workstations, or computers set forth on the Order; (ii) reproduce a single copy of the In-House Software solely as reasonably necessary for customary back-up and disaster recovery purposes; and (iii) display and reproduce the Documentation (including by printing the electronic version) as reasonably required to exercise the rights expressly granted in this Subsection 2.1.2. Maintenance can be purchased separately on a subscription basis for In-House Software.

**2.2 Users.** As specified on the applicable Order, the License may be restricted to a specific number of Users. Each User must be assigned a Login which may only be used by one (1) individual. Users are not permitted to share any Logins among multiple individuals or with any unauthorized users. Customer shall maintain the confidentiality of all Login information on behalf of its Users.

**2.3 License Metric.** Use of and access to the Vertafore Solutions is limited to, and Charges will reflect, the License Metric. Customer must purchase additional quantities, at then current rates, in the event the Customer's needs or usage exceed the License Metric or quantity specified on the applicable

Order(s). Unless stated otherwise in the Order or Solution Terms, Charges are based on the License Metric and quantities purchased and not actual usage and there shall be no adjustments or refunds to the Charges for any unused Licenses.

**2.4 License Restrictions.** Customer is prohibited from: (i) copying, framing, mirroring, modifying, displaying, transferring, transmitting or otherwise distributing or providing the Vertafore Solutions to any third party; (ii) creating derivative works from the Vertafore Solutions; (iii) reverse engineering, decompiling or otherwise attempting to create descriptions or Documentation from the object code of the Vertafore Solutions; (iv) allowing use of the Vertafore Solutions for any purpose not expressly permitted in the Agreement; (v) selling, reselling, distributing, transferring, sublicensing, using or exploiting the Vertafore Solutions to provide application hosting or business process outsourcing or any other similar or related services to any individual or entity, or function as a service bureau or application service provider; (vi) removing proprietary rights notices, asset tags, brand labels or marks placed on the Vertafore Solutions, or Third Party Solutions; (vii) attempting to circumvent or compromise the security features of the Vertafore Solutions or introducing any viruses, worms or other disabling code into the Vertafore Solutions; (viii) using an automated machine or robotic process to access or use the Vertafore Solutions; or (ix) using the Vertafore Solutions to create a competitive product or service. Customer is solely responsible for obtaining the proper hardware and software necessary to operate the Vertafore Solutions as further described in the Documentation.

**2.5 Customer Obligations.** Customer is solely responsible for any and all information, including Customer Data, submitted to Vertafore in connection with the Vertafore Solutions. Customer shall use best efforts to assure that all Customer Data: (i) is accurate, complete, and correct; (ii) does not infringe upon or violate the proprietary or intellectual property rights including trade name, trademark, copyrights, or patent interests of any third party, and that Customer has obtained any necessary consents to share the Customer Data; (iii) does not contain obscene, unlawful, harassing, defamatory, discriminatory, or libelous content.

**2.6 Vertafore Obligations.** To the extent it hosts Customer Data, Vertafore agrees to implement and maintain reasonably appropriate safeguards and security measures designed to meet the requirements of all laws and regulations of the United States, and any state thereof, applicable to Vertafore's use, reuse, non-disclosure and protection of such Customer Data.

### **3. Professional Services.**

**3.1 General.** Professional Services may be performed by Vertafore's employees and/or by Vertafore-approved subcontractors. The successful and timely rendering of the Professional Services requires the good faith cooperation of Customer. Customer shall provide reasonable cooperation to Vertafore, including, without limitation, making available, as may be reasonably required or requested: (i) information concerning Customer's business as it relates to the Professional Services; (ii) qualified personnel of Customer; and (iii) sufficient access to Customer's facilities and systems; provided that the foregoing shall be provided so as not to unreasonably disrupt Customer's business. Where Customer Data is required to perform the Professional Services, and unless specified otherwise in the Services Addendum, Customer must provide such Customer Data in a timely fashion and in no more than ten (10) business days. The Professional Services and Charges are dependent upon such timely cooperation by Customer and Vertafore will not be liable for delays caused by Customer's breach of this Subsection 3.1.

**3.2 Services Addendum.** Some Professional Services may require that Vertafore and Customer agree to a more comprehensive description than that contained in an Order. In such cases, the Parties may include such description in the Services Addendum which may contain an estimated amount for such services.

**3.3 Acceptance.** Unless otherwise specified in the Order, the Professional Services and all resulting deliverables, including Vertafore Solutions in the case of configuration or implementation, shall be deemed accepted by Customer on payment or ten (10) business days after performance or delivery, whichever occurs first. In no event will acceptance or payment be unreasonably withheld, conditioned or delayed.

**3.4 Change Management.** Additions or deletions to the number of resources or changes to the duration or scope of performance under an existing Order and/or Services Addendum shall require the execution of a change Order and/or Services Addendum which amends the original. No change requests by either Party shall take effect until such Order and/or Services Addendum has been accepted and fully executed by the Parties, and the project will continue according to the current Order and/or Services Addendum until any change is effective.

**3.5 Customer Premises.** Wherever possible, the Professional Services will be performed remotely, such as project management, preparation for onsite events, and conversion services. Vertafore's personnel may perform certain Professional Services at Customer's premises from time to time as mutually agreed to by Vertafore and Customer. In such instances, Customer agrees to provide working space and facilities and any other services and materials Vertafore or its personnel may reasonably request in order to perform such Professional Services, and to take reasonable precautions to prevent injury to persons or property, and Vertafore agrees to follow any and all reasonable safety and on-premise policies of Customer so long as such policies are communicated to the Vertafore personnel in a timely fashion.

**3.6 Timeframe and Start of Professional Services.** Unless specified in the Services Addendum, Vertafore will contact Customer within ten (10) business days of the Order Effective Date with the estimated start date for the Professional Services. Professional Services provided on an expedited basis or off hours may require coordination with Vertafore and additional Charges may be required. Scheduling and delivery of final deliverables is dependent upon a mutually agreed timeline and resource availability. All Professional Services must be delivered within twelve (12) months from the Order Effective Date unless expressly stated otherwise in the Order. If an Order includes an implementation, and that implementation is not scheduled within twelve (12) months after the Order Effective Date, then the Order shall expire and all payments made under the Order shall be non-refundable.

**3.6.1 Late Rescheduling.** Where Customer requests Professional Services to be rescheduled within ten (10) or fewer business days prior to the delivery of onsite Professional Services, Vertafore shall be entitled to invoice and Customer agrees to pay a one-time reschedule fee of five thousand dollars (\$5,000 USD) per scheduled onsite Vertafore resource which shall be in addition to the applicable Charges.

#### **4. Ownership.**

**4.1 Vertafore Materials.** Vertafore exclusively owns all right, title and interest in and to the Vertafore Solutions including, but not limited to, (i) De-Identified Data; (ii) associated intellectual property rights; (iii) all improvements or modifications; (iv) all deliverables provided to Customer; and (v) all feedback, suggestions, or ideas provided by Customer relating to the Vertafore Solutions during the course of the business relationship. Except for the limited License rights explicitly set forth in the Agreement no right, title or interest in or to the above list is granted or otherwise transferred to Customer.

**4.2 Customer Data.** Customer exclusively owns all right, title and interest in and to the Customer Data, including where contained or stored in the Vertafore Solutions as provided to Vertafore and subject to Subsection 4.3. Vertafore may use Customer Data as necessary to fulfill its obligations under this Agreement and for any other lawful internal business purpose including in connection with developing or enhancing new or existing Vertafore Solutions, subject to Section 10, Confidentiality.

**4.3 De-Identified Data.** Vertafore shall have the right to access, compile, and aggregate information supplied by Customer, including Customer Data, into De-Identified Data. Vertafore shall own all De-Identified Data. Vertafore may use or distribute such De-Identified Data for any lawful purpose, including without limitation, analytics, benchmarking and research purposes.

**5. Equipment.** Equipment must be provided by Customer in compliance with all Documentation and technical requirements. Vertafore assumes no liability for Customer's equipment.

**6. Third Party Solutions.** The Vertafore Solutions may include Third Party Solutions, which must be obtained by Customer either directly from its original third party licensor or from Vertafore. Customer may use the Third Party Solutions solely in conjunction with the applicable Vertafore Solutions subject to the

Agreement. Third Party Terms may apply, which may be updated from time to time, and Customer is responsible for compliance. Vertafore will pass through to Customer, to the fullest extent possible, any warranties and indemnities that Vertafore receives from licensors of Third Party Solutions, however, if no warranty or indemnification is provided by the third party to Vertafore, then Vertafore does not provide a warranty or indemnification of Third Party Solutions. In the event Vertafore provides Third Party Solutions to Customer, Customer consents to the sharing of its contact information to the third party for its lawful use.

**7. Vertafore User Group.** Customers may be provided access to a Vertafore User group community where they can interact with other Users. Customer agrees that Vertafore may provide Customer information such as its business name; primary contact name; contract information, such as email address or phone number; and the names of products licensed by Customer to the applicable Vertafore User group.

**8. Charges, Payment and Taxes.**

**8.1 Charges and Payment.** Unless stated otherwise, all Charges stated on the Order are in United States dollars and are exclusive of applicable taxes and expenses. Charges are only applicable to the specific Vertafore Solutions and License Metric set forth on the Order for the Term; changes or additions may be subject to the then current market rates and require execution of a new Order. Charges may include fees related to data storage in excess of 30 gigabytes per month and may include additional fees for data storage requests, data transactions, and data transfers. Customer shall pay the applicable Charges in accordance with any payment terms and schedules for payment set forth in each applicable Order. Unless another invoice start date is indicated on the Order, invoicing commences on the Order Effective Date. Customer agrees that the Initial Term commitment is partial consideration for the Agreement and to be responsible for the Charges for the Term, including where there is a Third Party Payer. Unless otherwise specified, undisputed Charges shall be due and payable by Customer (i) within thirty (30) days of the date of Vertafore's invoice or the Order Effective Date for all upfront or setup Charges, or (ii) on a rolling basis as specified in the Order and commencing on the Order Effective Date or delivery date as specified in the Order. Disputes to Charges must be brought before the invoice or Charges become due or they will be deemed accepted. Where Customer provides Vertafore with electronic payment information to effectuate payment, Customer authorizes Vertafore to charge for all Vertafore Solutions listed on the Order or applicable invoice. Charges not paid when due may bear interest at a rate of up to one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is lowest. Charges are non-cancellable and payments made are non-refundable unless otherwise indicated in the Order or additional Solution Terms. Customer may designate a Third Party Payer responsible for payment on all invoices, however, Customer remains responsible and if the third party fails to make timely payment, Vertafore can collect from Customer.

**8.2 Changes to Charges.** Except as may be specifically set forth in an Order, Vertafore may change the Charges for Vertafore Solutions upon sixty (60) days' notice to Customer no more than once per year. Vertafore may change the Charges if Customer's mergers, acquisitions or divestitures give additional access to the Vertafore Solutions. Vertafore may review Customer's usage at any time and if the actual usage exceeds the quantity and License Metric purchased on the applicable Order(s), then Vertafore may modify the Charges.

**8.3 Third Party Charges.** Vertafore Solutions may include third party Charges which flow through Vertafore, but which are controlled by the third party. Changes to such third party Charges may occur without notice and be backdated to the original date imposed by the third party on Vertafore.

**8.4 Taxes.** All fees are exclusive of, and Customer shall be responsible for, all applicable taxes, levies, or duties, excluding taxes based solely on Vertafore's income. Customer will pay all fees free and clear of, and without reduction for, any VAT, GST, withholding, or similar taxes; any such taxes imposed on payments of fees will be Customer's responsibility, and Customer will provide receipts issued by the appropriate taxing authority to Vertafore on request to establish that such taxes have been paid.

**8.5 Subpoenas / Service of Process Documentation Requests.** Vertafore may require Customer to pay for all costs directly incurred by Vertafore in connection with responding to any subpoena or other legal process if (i) directly related to the Vertafore Solutions provided to Customer under the Agreement or (ii) specifically requested by Customer. Any Charges incurred under this Section shall be subject to Vertafore's current time and materials flat rate for Professional Services.

**8.6 Failure to Pay.** If Customer fails to pay any amount within thirty (30) days of the due date Vertafore may suspend the applicable Vertafore Solutions related to Customer's failure to pay. During any suspension, Vertafore's obligation to provide such Vertafore Solutions shall cease until such time as Customer becomes current on its payment of the applicable Charges (including all past due amounts, costs of collection and applicable late payment fees). In the event of a default in the payment of an invoice, Customer will be responsible for all of Vertafore's costs of collection, including, but not limited to, court costs, filing fees and reasonable attorneys' fees.

## **9. Term and Termination.**

**9.1 Term.** The Order will indicate the length of the Initial Term and the Renewal Term. Customer cannot terminate or reduce the License Metric for its Vertafore Solution during its Initial Term or during any Renewal Term. After the Initial Term, the Agreement shall automatically renew for additional Renewal Terms unless either Party provides notice of its intention not to renew, or of its intention to reduce the License Metric for its Vertafore Solution, by providing written notice at least sixty (60) days' prior to the expiration of the Initial Term or any Renewal Term. Vertafore may terminate the Agreement and any Order or Services Addendum in whole or in part upon six (6) months' written notice to the Customer in relation to a Vertafore Solution which is being discontinued by Vertafore. Vertafore, in its sole discretion, may either (i) replace the discontinued Vertafore Solution with a substantively similar Vertafore Solution, or (ii) provide a pro-rata refund of any pre-paid Charges that are not non-refundable and future invoices will no longer include the discontinued product.

**9.1.1 Add-on Orders.** The Term for Add-on Orders will join the then current Term of the original Order and the Vertafore Solutions will renew for the Renewal Term as specified on the Add-on Order.

**9.2 Maintenance Services.** For In-House Software, Maintenance may be terminated separately from the applicable Licenses. Unless otherwise specified in an Order, Maintenance for In-House Software shall commence on the Order Effective Date and continue for the Term. Vertafore shall have the right to terminate Maintenance at any time for any reason or no reason upon six (6) months prior written notice to Customer. The term of Maintenance for additional Licenses for Vertafore Solutions shall be the same as the term of Maintenance for already purchased Licenses. If Customer terminates and then requests Vertafore to reinstate Maintenance for any In-House Software, Customer agrees that: (i) Vertafore may reinstate Maintenance at its sole discretion; and (ii) reinstatement of Maintenance will require Customer to pay Vertafore's then and/or current Charges for Maintenance for the prior period of inactivity before reinstatement.

**9.3 Termination for Cause.** If either Party materially breaches the Agreement, the non-breaching Party may provide a written notice of termination for cause. The breaching Party shall have thirty (30) calendar days from receipt of such notice to cure the breach, provided that such breach is curable (in which case the notification must state that it is effective immediately and the basis therefor). If the breach, where curable, is not cured within such period, the Agreement will terminate as indicated in the notice. Any attempt to liquidate operations, cease operations or seek or obtain protection from creditors is deemed a material breach.

**9.3.1 Injunctive Relief.** Each Party understands that either Party will suffer irreparable harm in the event that the Confidentiality provisions as stated in Section 10 or the Ownership provisions in Section 4 are breached and that monetary damages will be inadequate to compensate the non-breaching Party for any such breach. Accordingly, each Party stipulates and agrees that, in the event of a breach or threatened breach of such Sections, the non-breaching Party will be entitled to seek a temporary restraining order, preliminary injunction and permanent injunction, in addition to and not in limitation of any other rights, remedies or damages

available at law or in equity, in order to prevent or restrain any such breach or threatened breach.

**9.4 Notice of Non-renewal or Termination for Cause.** Any notice of non-renewal or termination for cause must include the name of the Vertafore Solution and a reference to the Order number or specific agreement for the terminated Vertafore Solutions.

**9.5 Effect of Termination.** Upon non-renewal or termination for cause of an Order for any reason, Customer shall promptly discontinue use, immediately erase, and remove all copies of the Vertafore Solutions licensed to Customer pursuant to the applicable Order, return all copies of such Vertafore Solutions to Vertafore or destroy all copies and certify such destruction to Vertafore and immediately pay all Charges then due and payable to Vertafore. Following termination of the Agreement, Vertafore may i) without any liability to Customer, delete Customer Data; or ii) maintain such Customer Data for no more than one (1) year or for such time as required by applicable law, provided that Vertafore shall maintain the confidentiality of such Customer Data until such Customer Data has been destroyed. In the event Vertafore deletes any Customer Data, such copies will be destroyed in accordance with Vertafore's back-up policies and procedures. If Customer requires extraction of Customer Data from the Vertafore Solutions, then such extraction will be performed at Vertafore's then current rates for Professional Services. To process an Order for the extraction of Customer Data Vertafore may require advance payment and further may require Customer to bring any past due balances current.

**9.6 Survival.** Those sections of the Agreement that reasonably should survive the termination of the Agreement shall survive the termination of the Agreement.

## **10. Confidentiality.**

**10.1 Confidential Information.** Each receiving Party shall handle the Confidential Information of the disclosing Party in the same manner that the receiving Party handles its own most confidential information and, in any event, shall take all steps reasonably necessary to preserve the confidentiality of Confidential Information, including without limitation adopting appropriate confidentiality policies, inserting appropriate confidentiality terms in agreements with all employees, subcontractors and agents, and maintaining Confidential Information in a manner designed to ensure that it will not be used or disclosed improperly. Neither Party will at any time directly or indirectly through any employee, subcontractor, or agent, except with the prior written consent of the disclosing Party, (i) reproduce, distribute, transmit, publicly display, modify, create derivative works based upon, or disclose, deliver, display, divulge, reveal, report, publish or transfer to any person or entity, for any purpose whatsoever, any Confidential Information of the disclosing Party; or (ii) use Confidential Information of the disclosing Party for any purpose other than in connection with the performance of its obligations or the exercise of its rights pursuant to the Agreement. A Party's failure to mark any Confidential Information as confidential, protected or proprietary will not affect its status as Confidential Information under the Agreement.

**10.2 Exclusions.** Confidential Information does not include information which: (i) may be or has been publicly disclosed by the Party disclosing the information either prior to or subsequent to the receipt of such information by the receiving Party; (ii) is or becomes generally known in the trade through no fault of the receiving Party; (iii) has been lawfully disclosed to the receiving Party by a third person who has lawfully acquired the Confidential Information; or (iv) was independently developed by the receiving Party without use of the Confidential Information. If the receiving Party seeks to rely on these exceptions, for any purpose whatsoever related to the other Party's Confidential Information, such receiving Party will bear the burden of providing evidence that such information fits within an exception.

**10.3 Notification Obligation.** The receiving Party will promptly notify the disclosing Party if it becomes aware of any unauthorized use or disclosure of Confidential Information and, at the disclosing Party's request, will take such action as may be reasonably necessary and legally permissible to terminate or remedy any unauthorized use or disclosure that results from any act or omission of the Party or any of its employees, subcontractors or agents. If a receiving Party is compelled by a court or other body of

competent jurisdiction to disclose the Confidential Information, to the extent legally permissible, prior to disclosure, the receiving Party shall inform the disclosing Party by written notice and shall provide reasonable assistance in obtaining and enforcing a protective order or other appropriate means of safeguarding the Confidential Information required to be disclosed. The receiving Party may then disclose only so much of the Confidential Information as is legally required to be disclosed.

## **11. Warranty.**

**11.1 General Representations and Warranties.** Each Party represents and warrants that (i) it has the legal power and authority to enter into the Agreement; (ii) it will comply with any and all applicable laws including with respect to import and export control; and (iii) the person signing the Order has the express authority to enter into the Agreement for that Party and agrees to hold the opposing Party harmless for any costs or consequences of the absence of actual authority to sign.

**11.2 Customer Warranties.** Customer represents and warrants that it (i) has all necessary power, authority and financial ability to perform under the Agreement; (ii) has not falsely identified itself or provided any false information to gain access to the Vertafore Solutions; (iii) provided the correct billing information; (iv) possesses all necessary consents or rights, title and interest including applicable intellectual property rights to submit the Customer Data and any other information submitted to Vertafore; (v) with regards to compliance with import and export controls, that it is not a party identified on any government export exclusion list, including but not limited to the U.S. Denied Persons, Entity, and Specially Designated Nationals Lists, nor will it transfer or provide access to software, technology, and other technical data via the Vertafore Solutions to parties identified on such lists; and (vi) has procured all necessary consents from individuals to upload personal information onto the Vertafore Solutions for processing in the United States.

**11.3 Vertafore Warranties.** Vertafore warrants to Customer that (i) the material functions of the In-House Software licensed under an Order shall perform substantially as described in the Documentation for such In-House Software on the delivery date and for ninety (90) calendar days thereafter; (ii) the Online Services shall operate as described in the applicable Documentation for such Online Services; and (iii) the Professional Services shall be performed in a workmanlike manner.

**11.4 Remedy.** Customer's sole remedy and Vertafore's sole liability for breach of a warranty shall be, with respect to the Vertafore Solutions, to repair or replace the Vertafore Solutions to bring it into compliance with its applicable warranty, and, with respect to the Professional Services, to re-perform any Professional Service to bring it into compliance with the applicable warranty.

**11.5 Warranty Limitations.** The warranties provided by Vertafore under this Section 11 are limited with respect to any Claims for breach of warranty due to any of the following: (i) causes external to the Vertafore Solutions including third party telecommunications or data lines, or Customer's systems, software, hardware or networks; (ii) Customer's actions or inaction (other than proper use of the Vertafore Solutions) such as failing to follow the usage instructions or Documentation or adhering to the minimum recommended technical requirements; (iii) changes Customer or any third party makes to any Vertafore Solutions which are not authorized by Vertafore in advance and in writing; (iv) Customer's failure to install updates Vertafore has provided to Customer; (v) Vertafore's compliance with designs, instructions or specifications provided by Customer, or Vertafore's reliance upon Customer Data; (vi) the combination, operation or use of the Vertafore Solutions with other hardware or software where the Vertafore Solutions would not by itself be infringing; (vii) any defect, infringement or non-conformity not reported by Customer within a timely fashion; or (viii) other causes not attributable to Vertafore.

**11.6 No Warranty.** Vertafore does not warrant the accuracy or completeness of any information provided to it by a third party, including by the Customer directly, or that the Vertafore Solutions will meet Customer's requirements (including but not limited to those related to legal compliance) or will achieve any particular result. Without limiting the generality of the exclusions set forth in Subsection 11.5, and except as otherwise provided in the Agreement, Customer shall be exclusively responsible for, and Vertafore makes no warranty or representation with respect to: (i) determining whether the Vertafore Solutions will achieve the results desired by Customer; (ii) training Customer's personnel in

computer operations or foundational knowledge, other than such Vertafore-provided training as may be expressly set forth in an Order; (iii) ensuring the accuracy of any input data used with the Vertafore Solutions, including (without limitation) data input to the Vertafore Solutions in conjunction with any data conversion services provided by Vertafore; (iv) Customer's practices in relation to privacy and security controls, including encryption, on its systems, equipment or in its technology environment; or (v) establishing adequate operational backup provisions (e.g., alternate manual operation plans) in the event of a defect or malfunction that impedes the anticipated operation of the Vertafore Solutions.

**11.7 No Advice.** Vertafore does not provide legal, financial, or other professional advice. Some Vertafore Solutions may contain the opinions of or information from third parties, and Vertafore is not responsible for these opinions or information. Likewise, Vertafore is not responsible for any damages resulting from any decisions of Customer, or any of its Users, employees, representatives, subcontractors, or agents which are made in reliance on the Vertafore Solutions. Customer agrees that it uses the Vertafore Solutions at its own risk in these respects.

**11.8 DISCLAIMER.** EXCEPT AS EXPLICITLY PROVIDED IN THIS SECTION 11, VERTAFORE MAKES NO WARRANTIES, REPRESENTATIONS, OR GUARANTEES IN CONNECTION WITH THE VERTAFORE SOLUTIONS, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OR ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. VERTAFORE AND ITS SUPPLIERS DO NOT WARRANT OR REPRESENT THAT THE VERTAFORE SOLUTIONS PROVIDED HEREUNDER SHALL BE UNINTERRUPTED OR ERROR-FREE.

VERTAFORE IS NOT AN INSURANCE AGENT OR BROKER FOR CUSTOMER OR ANY COUNTERPARTY, CARRIER OR ANY OTHER PERSON AND DOES NOT SOLICIT, NEGOTIATE, PURCHASE OR SELL INSURANCE FOR OR ON BEHALF OF ANY USER OF THE VERTAFORE SOLUTION OR ANY OTHER PERSON.

## **12. Indemnification.**

**12.1 By Vertafore.** Subject to Section 11, Vertafore shall defend, indemnify, and hold harmless Customer and its permitted assigns from and against any and all Claims arising out of or in connection with any third party claims that the Vertafore Solutions, in the form delivered and when used by Customer in accordance with the Agreement, infringes or misappropriates the intellectual property rights of a third party.

**12.1.1** Vertafore has the right, in its sole discretion, to do any of the following when an infringement Claim is raised: (i) obtain the right for Customer to use the allegedly infringing portion of the Vertafore Solutions, (ii) replace the Vertafore Solutions with a modified version so long as it does not decrease the functionality, or (iii) terminate the Agreement as to the allegedly infringing Vertafore Solutions. In such event, Vertafore makes no admission and disclaims all liability that any actual infringement occurred.

**12.2 By Customer.** Customer shall defend, indemnify, and hold harmless Vertafore, and its permitted assigns, from and against any and all Claims, arising out of or in connection with the use of the Vertafore Solutions or the results thereof by Customer, its employees, agents and contractors, including specifically, but not limited to, (i) where a Claim arises due to Customer's failure to implement proper security or encryption functionality, or (ii) where a Claim arises due to Customer's failure to procure any necessary consents for Vertafore to modify Customer Data inputted into the Vertafore Solutions into De-Identified Data.

**12.3 Indemnification Procedure.** Upon the assertion of any Claim or the commencement of any suit or proceeding against one Party (the "**Indemnified Party**") by any third party that may give rise to an indemnification obligation or other liability of the other, indemnifying Party under this Section 12 (the "**Indemnifying Party**"), the Indemnified Party shall promptly notify the Indemnifying Party of the existence of such Claim and shall give the Indemnifying Party the option, determined in the Indemnifying Party's sole reasonable discretion, of defending and/or negotiating a settlement of the Claim with counsel of its own selection in accordance with this Section 12. The Indemnified Party shall



provide, at the Indemnifying Party's cost, all reasonable cooperation requested by the Indemnifying Party in connection with such Claim and its defense or settlement. The consent of the Indemnified Party shall be required in the event of any settlement which involves and admission of liability and/or any equitable relief on the part of the Indemnified Party.

**12.4 Exclusive Remedy.** This Section 12 states the Indemnifying Party's sole liability to, and the Indemnified Party's exclusive remedy against, the other Party for any Claims described in this Section 12.

**13. LIMITATION OF LIABILITY.** EXCEPT WITH RESPECT TO VERTAFORE'S INDEMNIFICATION OBLIGATION IN SUBSECTION 12.1 AND A BREACH BY VERTAFORE OF SUBSECTION 11.3, VERTAFORE'S AGGREGATE, CUMULATIVE LIABILITY IN CONNECTION WITH ALL AGREEMENTS, AND THE VERTAFORE SOLUTIONS PERFORMED SHALL BE CAPPED AT THE AMOUNT EQUAL TO THE VERTAFORE SOLUTION FEES ACTUALLY RECEIVED BY VERTAFORE FROM CUSTOMER UNDER THE APPLICABLE ORDER FROM WHICH THE EVENT CAUSING LIABILITY ARISES IN THE TWELVE (12) MONTHS PRECEDING THE CLAIM. IN NO EVENT SHALL VERTAFORE BE LIABLE TO CUSTOMER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE OR PUNITIVE DAMAGES OR LOST OR IMPUTED PROFITS OR LOST DATA. THE LIMITATIONS AND EXCLUSIONS SET FORTH IN THIS SECTION 13 APPLY TO ALL CLAIMS OR CAUSES OF ACTION ON WHATEVER BASIS AND UNDER WHATEVER THEORY BROUGHT AND IRRESPECTIVE OF WHETHER VERTAFORE HAS ADVISED OR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM. ALL CLAIMS AND CAUSES OF ACTION BROUGHT BY CUSTOMER HEREUNDER SHALL BE BROUGHT NO LATER THAN ONE (1) YEAR FOLLOWING (I) THE TERMINATION OR EXPIRATION OF THE AGREEMENT OR (II) THE DATE ON WHICH THE CLAIM OR CAUSE OF ACTION AROSE, WHICHEVER OCCURS FIRST.

THE LIMITATIONS OF DAMAGES AND LIABILITY ARE IMPORTANT ELEMENTS OF THE BASIS OF THE AGREEMENT BETWEEN VERTAFORE AND CUSTOMER. CUSTOMER UNDERSTANDS AND AGREES THAT VERTAFORE COULD NOT ECONOMICALLY OFFER THE AGREEMENT, AND ITS SUBJECT MATTER, TO CUSTOMER WITHOUT THESE LIMITATIONS. THE ESSENTIAL PURPOSE OF THIS SECTION 13 IS TO ALLOCATE THE RISKS UNDER THE AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE VERTAFORE SOLUTIONS CHARGES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF VERTAFORE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. VERTAFORE HAS RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE CUSTOMER THE LICENSE RIGHTS GRANTED UNDER THE AGREEMENT.

**14. Force Majeure.** Neither Party is liable to the other or deemed in breach of the Agreement including for its failure or delay in performing any of its obligations under the Agreement during any period in which such performance is rendered impracticable, unlawful, or impossible due to circumstances beyond its reasonable control, including, but not limited to, acts of God, fire, explosion, flood, drought, riot, disease outbreaks, sabotage, terrorism, war, invasion, embargo, strikes or other labor trouble, failure in whole or in part of suppliers to deliver materials, equipment or machinery, interruption of or delay in transportation or telecommunications or compliance with any order, subpoena, or regulation of any government entity. The provisions of this Section 14 do not apply to payment obligations for Charges.

**15. Assignment.** Customer shall not assign the Agreement, in whole or in part, whether voluntarily, by operation of law, or otherwise without the prior written consent of Vertafore in its sole discretion, not to be unreasonably withheld. Any attempt to do so without such consent shall be void. Such consent from Vertafore may include a requirement to pay the entire remaining balance or a portion thereof for the then current Term or upcoming Renewal Term prior to the assignment. If all or substantially all of the assets of Customer are sold, or in the event of any merger, consolidation, or other reorganization which results in a change of control of Customer, then this will be deemed to be an assignment and subject to this Section 15. Subject to the foregoing, the Agreement shall be binding upon the Parties and their respective successors and permitted assigns. Vertafore may assign the Agreement, in whole or in part, without notice of such assignment to or consent by the Customer.

**16. Publicity.** Vertafore has the right to use Customer's name and logo for the sole purpose of identifying it as a Customer of Vertafore Solutions. Beyond this specific right, neither Party shall publish the name,

trade name, trademark or service mark of the other Party without the prior consent of the other Party, which consent may be withheld in the sole discretion of the Party.

**17. Vertafore Audit.** Vertafore has the right to verify Customer's compliance with the Agreement. Customer agrees to: (i) implement internal safeguards to prevent any unauthorized copying, distribution or use of any Vertafore Solutions; (ii) keep records relating to all Vertafore Solutions (including the number of Licenses installed, copied or used and all Users and their usage) and upon Vertafore's request, provide Vertafore with written certification of the number (by product and version) of copies installed or of Customer's peak usage in the case of concurrent licenses; and (iii) allow Vertafore or its independent representatives to inspect and audit Customer's systems and records for compliance with the Agreement during Customer's normal business hours. Customer shall fully cooperate with such audit and provide any necessary assistance and access to all records and systems. If an audit reveals that Customer has, or at any time had, unlicensed installation or use of the Vertafore Solutions, Customer will promptly acquire and pay Vertafore for sufficient Licenses to cover any shortage and for any prior unlicensed usage. If a License shortage of 5% or more is found, Customer shall reimburse Vertafore for the costs incurred in the audit and acquire and pay Vertafore for the necessary additional Licenses and for any prior unlicensed usage within thirty (30) days without benefit of any otherwise applicable discount.

**18. Miscellaneous.**

**18.1 Entire Agreement.** The Agreement as modified and supplemented by any applicable amendments, Orders, and related addenda between the Parties is the complete agreement of the Parties with respect to its subject matter and supersede all prior discussions, negotiations and agreements and any earlier proposals all whether verbal or written. The Agreement shall not be amended except in a writing signed by both Parties or pursuant to or in connection with an Order or as otherwise expressly provided herein.

**18.2 Third Party Beneficiaries.** Except for those third parties which have licensed software or other intellectual property to Vertafore and which is included as part of the Vertafore Solutions, no person or entity will be a third party beneficiary of the Agreement or have any right or cause of action hereunder.

**18.3 Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Colorado without regard to principles of conflicts of laws and all Claims and actions related hereto shall be brought in the appropriate state or federal court located in Denver, Colorado. Each Party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to the Agreement.

**18.4 Notice.**

**18.4.1 To Customer.** Notices to Customer shall be sent by certified or overnight mail to its invoicing address specified by Customer in the Order or its current address in Vertafore's invoicing records; by means of a notice, which may be a general notice, on the Online Services; or by electronic mail to Customer's administrator or billing e-mail address on record in Vertafore's account information.

**18.4.2 To Vertafore.** Notices to Vertafore shall be sent by certified or overnight mail to Vertafore, 999 18<sup>th</sup> Street, Fourth Floor, Denver, Colorado 80202, Attention: General Counsel with an electronic copy sent to [notices@vertafore.com](mailto:notices@vertafore.com).

**18.5 Arbitration.** Any dispute, Claim or controversy arising out of or relating to the Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Denver, Colorado, before one arbitrator. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures and in accordance with the Expedited Procedures in those Rules. Judgment on the award may be entered in any court having jurisdiction. This subsection shall not preclude either Party from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

**18.6 Independent Contractors.** The relationship of the Parties hereto shall be that of independent contractors. Nothing herein shall be construed to create any partnership, joint venture, or similar relationship, or to subject the Parties to any implied duties or obligations respecting the conduct of their affairs which are not expressly stated herein.

**18.7 No Solicitation.** Customer agrees not to directly or indirectly employ or engage or solicit for employment or engagement any personnel of Vertafore during the Term and for twelve (12) months thereafter; provided that employment resulting from a response to a general public advertisement or search engagement not specifically targeted at the relevant personnel is not precluded.

**18.8 Severability.** If any provision of the Agreement is held unenforceable, then the enforceability of the remaining provisions shall not be affected.

**18.9 No Waiver.** Waiver by either Party of any breach or provision of the Agreement shall not constitute waiver of any other breach or provision.

**18.10 Headings.** The headings in these Standard Terms are used for convenience of reference only.

## **19. Definitions**

Add-on Order	A subsequent Order which (i) adds functionality or features to a currently licensed Vertafore Solution, and/or (ii) amends the License Metric and/or increases the quantity related to a currently licensed Vertafore Solution.
Agreement	Collectively, all contract documents including any Order, Third Party Terms, Solution Terms, Standard Terms, amendments and any attachments to the documents, and click-through terms.
Charges	Collectively (i) Vertafore Solutions fees and any amounts payable as set forth on an Order, (ii) flow-through fees from third party providers as detailed on an Order, (iii) fees paid on behalf of Customer to regulatory bodies which flow through the designated Vertafore Solutions as indicated in the description or purpose, (iv) third party costs and (v) reasonable travel expenses.
Claim	Any and all third party claims, losses, liabilities, damages, actions, suits, proceedings, settlements, judgments, costs and expenses including without limitation reasonable attorney's fees and any and all costs and expense of responding to any subpoena, discovery request or any other litigation-related or similar expense.
Confidential Information	All information, trade secrets, data and software furnished by one Party to the other in connection with the Agreement and specifically including, but not limited to (i) Customer Data, (ii) Vertafore Solutions, (iii) Third Party Solutions, (iv) the Agreement including pricing, and (v) Login details.
Customer	The entity listed on the Order which is purchasing Vertafore Solutions from Vertafore. Customer specifically does not include any affiliates, i.e. any entity that directly or indirectly controls, is controlled by, or is under common control with Customer, where "control" means the ownership of more than 50% of an entity's voting securities.
Customer Data	All data, information or materials input into the Online Services or otherwise provided by Customer to Vertafore in connection with the Agreement, expressly including the administrator information.
De-Identified Data	Information that has been compiled and modified by Vertafore so that it does not include (i) any personally identifiable information of any employee, enrollee, subscriber, beneficiary, or other individual; or (ii) the identity of any employer, trade group, insured, insurer or any other entity.

Documentation	Technical and user documentation describing the use and operation of the Vertafore Solutions.
In-House Software	Software which is delivered to the Customer in object code form by electronic download or a physical medium and hosted on Customer's systems.
Initial Term	The initial length of time for the provision of Vertafore Solutions specified on the Order which begins on the Order Effective Date.
License	The limited right to use, lease, access, interface or connect with or install Vertafore Solutions pursuant to the License Metric and quantity specified on the Order.
License Metric	The basis for the pricing of each of the Vertafore Solutions as specified in the applicable Order, which may include, but is not limited to the following examples: access; assets; employees; interfaces; Licenses; packets; records; servers; subscriptions; storage, systems or locations; Transactions; usage, uses, Users; volume; and the like.
Login	Unique email address and password combination.
Maintenance	The provision by Vertafore of IT services, database maintenance, frequent and automatic updates and bug fixes, bandwidth, limited storage and other related support services.
Online Services	Services delivered by allowing Customer, including its Users, remote access to a Vertafore Solutions through the internet.
Order	Quote or order document or online form that lists specifics (i.e. description, pricing, etc.) of the Vertafore Solutions that Customer has ordered, including the Services Addendum if applicable.
Order Effective Date	Latest date on which representatives of both Vertafore and Customer have signed the Order, or when signed or submitted by Customer and acknowledged and accepted by Vertafore whether or not signed by the Parties.
Professional Services	A type of Vertafore Solution where Vertafore (i) converts or migrates data; (ii) installs and/or implements any Vertafore Solutions; (iii) creates enhancements or customizations of the Vertafore Solutions; (iv) provides training, consulting and/or project management services; and/or (v) uses the Vertafore Solutions or other Third Party Solutions on behalf of Customer, including for outsourced services.
Renewal Term	Additional term for the length of time as indicated on the Order which automatically follows the Initial Term or prior Renewal Term until the Agreement is terminated.
Services Addendum	The addendum to an Order or separate document which provides details and specifications relating to Professional Services. This may be referred to as a Statement of Work or SOW.
Solution Term(s)	Additional Vertafore Solution-specific terms available at <a href="http://online.vertafore.com/terms">http://online.vertafore.com/terms</a> .
Term	Initial Term and any Renewal Terms.
Third Party Payer	The third party identified on the Third Party Payer Addendum, where applicable, which accepts responsibility for payment on behalf of Customer while such Addendum is in effect.

Third Party Solutions	Hardware, software and/or content (including, but not limited to, libraries of electronic publications, manuals, guides, forms, newsletters, or other reference materials) owned or licensed by third parties.
Transaction	A request for, exchange of or supply of data which is processed through a Vertafore Solution.
User	Individuals or locations that are duly authorized under the License to use the Vertafore Solutions.
Vertafore	The Vertafore Company(ies) which own(s) the applicable Vertafore Solution(s) specified on the Order.
Vertafore Solution	Collectively, all products and services provided by Vertafore to Customer, including, but not limited to In-House Software, Online Services, Maintenance, and Professional Services.