

Maximizer Software Limited

PO Box 1295, 20 Station Road,
Gerrards Cross, Buckinghamshire, SL9 8EL

MAXIMIZER™ LICENSE AGREEMENT

TERMS AND CONDITIONS

If you have signed an order form(s) (or written binding purchase order(s) or request) with Maximizer Services Inc. (“**Maximizer**”) or its Certified Solution Provider (defined below) which references these terms and conditions (an “**Order Form**”) then **THE FOLLOWING TERMS AND CONDITIONS WILL GOVERN YOUR USE OF THE MAXIMIZER PROPRIETARY COMPUTER PROGRAMS, WORKFLOW AUTOMATION SERVER AND/OR MICROSOFT SQL SERVER IDENTIFIED AS BEING LICENSED BY YOU IN THE ORDER FORM, AS WELL AS THE PROVISION BY MAXIMIZER TO YOU OF THE STANDARD TECHNICAL SUPPORT PROVIDED AS PART OF YOUR USER LICENSE FEES AND ANY MAINTENANCE SERVICES PURCHASED BY YOU. IN ADDITION, IF YOU ARE PURCHASING A LICENSE TO USE THE WORKFLOW AUTOMATION SERVER AND/OR MICROSOFT SQL SERVER, YOU ACKNOWLEDGE THAT, IN ADDITION TO YOUR OBLIGATIONS UNDER THIS AGREEMENT, AS A FURTHER CONDITION OF YOUR USE OF THE WORKFLOW AUTOMATION SERVER AND MICROSOFT SQL SERVER YOU WILL BE REQUIRED TO AGREE TO THE TERMS OF THE END USER LICENSE AGREEMENTS REQUIRED BY VINEYARDSOFT CORPORATION LOCATED AT www.maximizer.com/license-agreements/vineyardsoft.html (FOR THE WORKFLOW AUTOMATION SERVER) AND MICROSOFT CORPORATION LOCATED AT www.maximizer.com/license-agreements/microsoft-sql-server.html (FOR THE MICROSOFT SQL SERVER) OR OBTAINED FROM YOUR CERTIFIED SOLUTION PROVIDER OR MAXIMIZER (BY REQUEST MADE TO accounting@maximizer.com). IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS SET OUT BELOW, DO NOT SIGN THE ORDER FORM OR USE THE MAXIMIZER PROPRIETARY COMPUTER PROGRAMS, WORKFLOW AUTOMATION SERVER AND/OR MICROSOFT SQL SERVER;** to do so would violate national and international copyright and intellectual property laws.

1. DEFINITIONS

In this Agreement (including the Order Form), the following terms and expressions have the following meanings:

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with another entity.

“**Certified Solution Provider**” means a reseller of the Licensed Software that has been authorized by Maximizer to, and has met and maintained Maximizer’s requirements for, selling and supporting the Licensed Software. You can confirm whether any entity is a Certified Solution Provider of Maximizer by contacting accounting@maximizer.com.

“**Confidential Information**” means, in relation to a Party, all confidential or proprietary information relating to the business, affairs, customers and suppliers, and the operations, processes, product information, know-how, technical information, designs, trade secrets or software of that Party and any other company within its group of companies.

“**Contract Term**” means the time period specified in the Order Form as the contract term.

“**Designated Technical Support Contact**” means an individual designated by You in writing to Maximizer to represent You and be the primary contact point in respect of Technical Support and Third Party Product Maintenance provided by Maximizer or its designee. Such individuals, restricted to three of Your employees, must be sufficiently technically competent to communicate, receive and implement instructions relating to the Licensed Software and the hardware upon which it is configured. You may change the person so designated to another person by providing written notice to Maximizer.

“Effective Date” means (a) if You purchase the license to the Licensed Software directly from Maximizer, then the date on which You accept and sign the Order Form provided to you by Maximizer; or (b) if You purchase the license to the Licensed Software from a Certified Solution Provider, then the date on which Maximizer delivers the Licensed Software to You. **Whether or not stated as being subject to Maximizer’s acceptance in the Order Form, and whether or not provided directly to Maximizer or a Certified Solution Provider, Maximizer reserves the right to reject any order that you may place before delivery to You of the Licensed Software or Supplemental License that is the subject of the Order Form.**

“Error” means a situation where the Licensed Software does not substantially conform to the Warranty set out in Section 11 of this Agreement in a material respect under circumstances in which You are using the Licensed Software in accordance with the terms of this Agreement and the Licensed Software Documentation for applications of the such Licensed Software as are stated in the applicable Licensed Software Documentation, and with hardware and network configurations which are stated in the Licensed Software Documentation to be required for the proper use or functioning of, or are compatible with, the Licensed Software.

“Licensed Software” means: (a) the Maximizer proprietary computer programs identified as being licensed by You in the Order Form; (b) if identified in the Order Form as being licensed by You, one or both of the Workflow Automation Server and/or Microsoft SQL Server; and c) any additional software component that Maximizer may, but will not be obligated to, from time to time elect to make available to You over the internet, through mobile application, data extract or other form as deemed appropriate by Maximizer.

“Licensed Software Documentation” means the user manual and other written material relating to the Licensed Software that Maximizer makes available (directly or through its Certified Solution Providers) to users of that same Licensed Software. If You have licensed under this Agreement the Workflow Automation Server or Microsoft SQL Server, then the “Licensed Software Documentation” also includes the Workflow Automation Server documentation and/or Microsoft SQL Server documentation, respectively, that Maximizer makes available (directly or through its Certified Solution Providers) to users of that same Licensed Software by Maximizer.

“Licensed Users” means the total number of Your employees authorized in the Order Form for each such Licensed Software itemized in the Order Form plus any Supplemental Licenses purchased pursuant to (and as defined in) Section 7.

“Microsoft SQL Server” means the Third Party Software product of Microsoft Corporation designed by Maximizer to be bundled with the Licensed Software and identified in the Order Form.

“Service Release” means a non-scheduled release of the Licensed Software that modifies the Licensed Software as a result of revisions to the current release, or corrections and/or fixes to the current release of the Licensed Software that Maximizer generally makes available at no additional cost to its licensees of such Licensed Software.

“Technical Support” means: (a) telephone, e-mail and/or other forms of support at the discretion of Maximizer to Designated Technical Support Contacts to provide a reasonable level of guidance to You respecting the use of the Licensed Software; and (b) responding to reports of Errors in the Licensed Software and determining if the reported Error is a result of a problem in the Licensed Software or an environmental, configuration, installation or other problem not included in the standard technical support services provided by Maximizer as part of Your User License Fees or not included in the Third Party Product Maintenance. Technical Support does not include remote or on-site implementation; database administration; system, network or network security configuration; web server or web server security configuration; software customization; or training.

“Third Party Product Maintenance” means the Workflow Maintenance and Microsoft SQL Maintenance, as applicable, and as further described in Section 8.

“Third Party Software” means online, Web-based applications and offline software products that are provided by third parties but interoperate with the Licensed Software.

“Version Release” means a scheduled release of the Licensed Software provided by Maximizer that adds and/or enables a new feature, an innovation, performance improvement, or a major enhancement to the previous release of the same Licensed Software that Maximizer generally makes available at no additional cost to its licensees of such Licensed Software.

“Workaround” means a change in the procedures followed by You to avoid an Error without substantially impairing the use of the Licensed Software.

“Workflow Automation Server” means the Third Party Software product of Vineyardsoft Corporation designated by Maximizer to be bundled with the Licensed Software and identified in the Order Form.

“Year” means each successive 12 month period commencing on the Effective Date.

“You” and **“Your”** refers to the Licensee. Maximizer and You are collectively the **“Parties”** to this Agreement, and are individually a **“Party”**.

“Your Data” refers to all proprietary electronic data entered by You into the Licensed Software and stored on Your premises.

2. LICENSE GRANT

As of the Effective Date and until expiry of the Contract Term or the last Renewal Term (if any) if renewed pursuant to Section 4, Maximizer grants to You a non-exclusive, limited, non-transferrable right to use the Licensed Software identified as being licensed or sublicensed to You on the Order Form and the corresponding Licensed Software Documentation solely for Your business operations, subject always to the terms of this Agreement and restricted to the number of Licensed Users. Any Version Releases or Service Releases of the Licensed Software that may be delivered to You by Maximizer or its Certified Solution Provider will be considered Licensed Software under the terms of this Agreement, except they are not covered by the limited Warranty applicable to the Licensed Software, to the extent permitted by applicable law.

As provided in Section 7, Supplemental Licenses may be obtained from Maximizer by You and will be subject to the terms of this Agreement.

3. TERM

This Agreement will begin on the Effective Date and expire at the end of the Contract Term unless renewed pursuant to Section 4 or terminated in accordance with this Agreement.

4. OPTION TO RENEW

4.1 Renewal

- (a) You may extend the term of this Agreement for additional periods of one year each (each, a **“Renewal Term”**) subject to payment of the License Fee and User Fee, in advance. If you desire to renew the term of this Agreement you will provide Maximizer with notice of your intent renew at least 60 days (or such other shorter period of time as agreed by the Parties) prior to the expiry of the Contract Term or Renewal Term, as applicable.

- (b) If You do not renew the Agreement in accordance with Section 4.1(a), the Agreement will terminate with effect from the end of the Contract Term or last Renewal Term (as the case may be). If, after termination, You wish to recommence using Maximizer's products this will be subject to You entering into a new contract with Maximizer based on the then-current version of Maximizer's CRM Live Subscription Agreement.

4.2 Adjustments for Renewal Terms

You must notify Maximizer in writing of any adjustments to the number of Licensed Users or type of Licensed Software at least 30 days prior to the expiry of the Contract Term or Renewal Term, as otherwise the number of Licensed Users and type of Licensed Software will remain unchanged for the following Renewal Term. You will be entitled to order additional Supplemental Licenses pursuant to the terms of Section 7 and the other terms of this Agreement applicable thereto.

5. OWNERSHIP

5.1 Reservation of Rights

Subject to the limited rights expressly granted under this Agreement, Maximizer reserves all right, title and interest in, and retains all ownership and intellectual property rights to the Licensed Software, the Licensed Software Documentation and any software and documentation provided to You by Maximizer pursuant to, or in connection with, this Agreement, with the exception only that the rights in the Workflow Automation Server, Microsoft SQL Server and Third Party Software and the documentation corresponding thereto are retained by the third party owners of such software and documentation. You may copy the Licensed Software and Licensed Software Documentation only for backup purposes and further provided Your use of any is subject to the terms of this Agreement.

5.2 Ownership of Your Data

As between Maximizer and You, You retain all rights, title and interest in and to all of Your Data. You hereby grant Maximizer a non-exclusive license to use Your Data as reasonably required to provide the software and services provided to you under this Agreement, including a license to store, record, transmit, maintain, and display Your Data only to the extent necessary to provide such software and services. The foregoing license includes the right for Maximizer to use and copy Your Data, usage information and parameters of Licensed Users for the purpose of creating aggregated and anonymized statistical analytics in respect to the Licensed Software use and other Maximizer products and services and Licensed User parameters and characteristics ("Aggregated Statistics"), provided that this right to use the Aggregated Statistics will be perpetual, royalty-free, irrevocable and unlimited.

You acknowledge and agree that the Licensed Software contains features that will automatically transmit to Maximizer reports and information, including Your Data, that will permit Maximizer to create the Aggregated Statistics, and You hereby agree to such features and Maximizer's use of them to exercise its rights under this Section 5.2.

To the extent that Maximizer undertakes the processing of personal data (as defined by the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**") or any other applicable data protection and privacy legislation in force from time to time in the Europe Middles East and Africa territory.

5.3 Your Suggestions

You may from time to time provide to Maximizer feedback or suggestions regarding the technology (including the Licensed Software and any other software or systems) or Confidential Information of Maximizer, which may include suggestions for, or feedback concerning, improvements, modifications, corrections, enhancements, derivatives or extensions, as well as branding ideas (“**Feedback**”). You agree that Maximizer and its Affiliates will have a perpetual, royalty free, exclusive, and transferable license to use such Feedback, without any obligation to compensate You or Your personnel. Maximizer may develop technology, modifications, corrections, enhancements, derivatives or extensions (“**Improvements**”) and further may also develop branding elements, based on such Feedback, and such Improvements and branding elements, and any intellectual property rights therein, as well as any related intellectual property registrations, will be owned exclusively by Maximizer or its designees. You will sign such further documents as may be required reasonably to confirm such ownership.

6. RESTRICTIONS

You may not, without the prior express written authorization of Maximizer: sub-license, re-license, sell, rent, lease, assign, or copy the Licensed Software except as authorized under this Agreement; allow access to, or use of, the Licensed Software or Licensed Software Documentation by more than the number of Licensed Users or by anyone other than those Licensed Users; use the Licensed Software or Licensed Software Documentation for any use other than for Your internal business purposes; directly or indirectly disassemble, de-compile, reverse-engineer, transcribe, translate, adapt, create derivative works based on or modify or in any manner change the Licensed Software; or, remove or modify any Licensed Software or Licensed Software Documentation markings or any notice of proprietary rights. You will be solely responsible for Licensed Users’ compliance with this Agreement; obtain all necessary consents for Maximizer to exercise the licenses granted to Maximizer in Section 5.2; be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data; and use Your best efforts to prevent unauthorized access to or use of Licensed Software by persons who are not Licensed Users, and notify Maximizer promptly of any such unauthorized access or use.

7. SUPPLEMENTAL LICENSES

If, after the Effective Date, and subject to the other terms and conditions set out in this Agreement, You subsequently enter into additional Order Forms to purchase additional licenses (“**Supplemental Licenses**”) of the Licensed Software (which may include adding additional Licensed Users, additional or new Licensed Software or upgrades), those Supplemental Licenses will be included under this Agreement. Supplemental Licenses will be valid for the same Contract Term and Renewal Terms (if any) of the Licensed Software and will be subject, in the case of additional Licensed Users, to payment of User Licence Fees for the applicable Contract Term or Renewal Term as provided in Section 9 and, in the case of additional Licensed Software or upgrades, to such other fees as may apply to the license of such additional or new Licensed Software. In order to be eligible to purchase Supplemental Licenses, You must be current with payments of all applicable fees and in full compliance with Your other obligations under this Agreement.

8. TECHNICAL SUPPORT AND THIRD PARTY PRODUCT MAINTENANCE

8.1 Standard Technical Support on Maximizer Software

Maximizer provides certain standard Technical Support for the Licensed Software (excluding the Workflow Automation Server, Microsoft SQL Server and any Third Party Software) as part of Your User License Fees, so long as You are current on Your payments of all applicable fees and are in full compliance with Your other obligations under this Agreement. Details regarding standard Technical Support can be found at <https://www.maximizer.com/support/>.

8.2 Workflow Automation Server Maintenance

If you have purchased a license to the Workflow Automation Server, then Maximizer will provide maintenance for the Workflow Automation Server as follows:

- (a) **Workflow Automation Server First Tier Technical Support** - Maximizer will provide first tier Technical Support to Your Designated Technical Support Contacts regarding the Workflow Automation Server. First tier Technical Support does not include items set out in Second Tier WAS Maintenance (described below) or Error corrections;
- (b) **Workflow Automation Server Second Tier Maintenance** - Second tier support will be provided by Vineyardsoft Corporation to Maximizer, being advanced problem diagnosis and Error corrections (the **"Second Tier WAS Maintenance"**). Maximizer will provide to You the results of the Second Tier WAS Maintenance but **Maximizer will not be responsible for any failure of Vineyardsoft Corporation to correct Errors in the Workflow Automation Server or for the performance of Vineyardsoft Corporation;** and
- (c) **Upgrades** - Maximizer will, at Your written request, provide to You all Version Releases or Service Releases to the Workflow Automation Server that Vineyardsoft Corporation makes generally available at no additional cost to Maximizer for distribution to its licensees of the Workflow Automation Server. Such Version Releases or Service Releases to the Workflow Automation Server may not be co-terminus with Version Releases or Service Releases to the Maximizer proprietary Licensed Software or the Microsoft SQL Server,

(collectively, the **"Workflow Maintenance"**).

8.3 Microsoft SQL Server Maintenance

If you have purchased a license to the Microsoft SQL Server, then Maximizer will provide maintenance for the Microsoft SQL Server as follows:

- (a) **Microsoft SQL Server First Tier Technical Support** - Maximizer will provide first tier Technical Support to Your Designated Technical Support Contacts regarding the Microsoft SQL Server. First tier Technical Support does not include items set out in Second Tier SQL Product Maintenance (described below) or Error corrections;
- (b) **Microsoft SQL Server Second Tier Third Party Product Maintenance** - Second tier support will be provided by Microsoft Corporation to Maximizer, being advanced problem diagnosis and Error corrections (the **"Second Tier SQL Maintenance"**). Maximizer will provide to You the results of the Second Tier SQL Maintenance but **Maximizer will not be responsible for any failure of Microsoft Corporation to correct Errors in the Microsoft SQL Server or for the performance of Microsoft Corporation;** and
- (c) **Upgrades** - Maximizer will, at Your written request, provide to You all Version Releases or Service Releases to the Microsoft SQL Server that Microsoft Corporation makes generally available at no additional cost to Maximizer for distribution to its licensees of the Microsoft SQL Server. Such Version Releases or Service Releases to the Microsoft SQL Server may not be co-terminus with Version Releases or Service Releases to the Maximizer proprietary Licensed Software or the Workflow Automation Server,

(collectively, the **"Microsoft SQL Maintenance"**).

Additional details regarding accessing the Technical Support that is provided for the Third Party Product Maintenance Fees as part of Third Party Product Maintenance can be found at www.maximizer.com/support/.

8.4 Technical Support – Additional Terms and Conditions

All of the foregoing Technical Support and Third party Product Maintenance, and the additional details referred to in Section 8 above, are subject to change from time to time without notice to You and at the sole discretion of Maximizer. Maximizer's obligation to provide standard Technical Support as part Your User License Fees, or to provide Third Party Product Maintenance, is subject to Your compliance with the following conditions: (i) You ensure that the Licensed Software is installed and implemented by Maximizer or a Certified Solution Provider, (ii) the Licensed Software is operated in accordance with all instructions set out in the applicable Licensed Software Documentation for such Licensed Software, (iii) You assign a Designated Technical Support Contact sufficiently trained and qualified to manage and support the Licensed Software, (iv) Your written notification to Maximizer in writing of any Error within 10 days of the appearance thereof in sufficient detail to enable Maximizer to reproduce the Error, (v) Your prompt and proper installation of all corrections and updates made available to You by Maximizer or a Certified Solution Provider, (vi) You implement procedures necessary to safeguard the integrity and security of the Licensed Software from unauthorized access and for reconstructing any lost or altered files resulting from catastrophic failure, and (vii) You procure, install and maintain all equipment, telephone lines, data, communications interfaces and other hardware at Your site, and allow Maximizer access as needed to the Licensed Software via remote trouble-shooting, chat session, the Internet or other methods authorized by Maximizer, as Maximizer determines is needed for the purpose of providing the Technical Support and the Third Party Product Maintenance. Maximizer makes no guarantee that its provision of any Technical Support or Third Party Product Maintenance will resolve Your Errors or any other problems with the Licensed Software.

8.5 Excluded Services

Neither Technical Support nor Third Party Product Maintenance includes any remote or on-site implementation; database administration; system, network or network security configuration; web server or web server security configuration; software customization; or training. Except to the extent specifically provided in this Agreement with respect to the Workflow Automation Server and Microsoft SQL Server, Maximizer is not responsible for providing the Third Party Product Maintenance in relation to any Third Party Software that may be included in the Licensed Software.

8.6 Additional Services Available for Separate Purchase by You

Maximizer acknowledges that You may wish to purchase on-site or additional services from Maximizer to assist You with Your use of the Licensed Software but which are not part of the standard Technical Support included in the User License Fees or the Third Party Product Maintenance provided for by the Third Party Product Maintenance Fees. Therefore, if You wish to have Maximizer or a Maximizer Partner provide to You services not covered by such Technical Support or Third Party Product Maintenance (such as remote or on-site implementation, database administration, system, network or network security configuration, software customization or training in connection with Your use of the Licensed Software) and provided Maximizer or the Partner determines that it is able to provide such services to You when requested, then You will be required to enter into a Maximizer CRM Professional Services Agreement or other agreement required by Maximizer / Partner and containing Maximizer's / Partner's standard terms and conditions for such services and You will be required to pay to Maximizer / Partner the current rates charged for such services at the time the services are performed.

8.7 Errors Not Caused by the Licensed Software

If Maximizer reasonably believes that a problem You report may not be due to an Error in the Licensed Software, Maximizer will notify You and will have no obligation to proceed further unless You provide written instruction to do so. If upon resolution of the problem Maximizer notifies You that the problem is not a result of an Error in the Licensed Software and You request that Maximizer provide assistance to You to resolve that problem, then You will pay for time and materials incurred by Maximizer or its Certified Solution Provider in resolution of such problem at Maximizer's rates for such services and materials in effect at the time such services and materials are provided. Invoices for such amounts will be payable by you as set out in Section 9.

8.8 No Technical Support for Altered Versions

Maximizer has no obligation to correct Errors or provide Technical Support on any Licensed Software that has been altered or modified by You.

8.9 Expiry of Technical Support

As Maximizer (and, if applicable, Vineyardsoft Corporation, Microsoft Corporation or other Third Party Software providers) make available Version Releases or Service Releases to the Licensed Software, Maximizer may cease to provide Technical Support (as part of Maintenance) for any and all prior versions or releases of the applicable Licensed Software, as Maximizer may determine in its sole discretion. FOR GREATER CERTAINTY, IF MAXIMIZER DETERMINES THAT IT WILL NO LONGER PROVIDE TECHNICAL SUPPORT FOR A PRIOR VERSION RELEASE OF ANY LICENSED SOFTWARE, **MAXIMIZER WILL HAVE NO OBLIGATION WHATSOEVER TO PROVIDE ANY TECHNICAL SUPPORT OR THIRD PARTY PRODUCT MAINTENANCE WITH RESPECT TO THAT PRIOR VERSION RELEASE AND ALL EARLIER VERSIONS AND MAXIMIZER WILL BE RELIEVED OF ALL OBLIGATIONS UNDER THIS AGREEMENT RELATING TO THE PROVISION OF TECHNICAL SUPPORT OR THIRD PARTY PRODUCT MAINTENANCE FOR SUCH EARLIER VERSIONS OR RELEASES.** Version Releases supported by Maximizer at any given time are listed at maximizer.com/support.

8.10 Your Reporting Obligations

You acknowledge that in order to receive Technical Support with respect to a possible Error as part of the standard Technical Support included in Your User License Fees or as part of the Third Party Product Maintenance, You are responsible for providing documentation sufficient for Maximizer, Vineyardsoft Corporation or Microsoft Corporation, as applicable, to reproduce the possible Error on a master copy of the Licensed Software, including, without limitation, a written, detailed description of the possible Error, log files, core dumps, data files, and any other information requested by Maximizer.

8.11 Term for Provision of Technical Support and Third Party Product Maintenance

Maximizer will provide the standard Technical Support included in Your User License Fees and the Third party Product Maintenance described in the Order Form only if you are up to date with Your payments of all applicable fees and are in full compliance with Your other obligations under this Agreement and only during the Contract Term and any Renewal Term, subject to termination in accordance with the terms of this Agreement.

9. FEES

9.1 User License Fees

You will pay to Maximizer or, if so designated in the Order Form, the Certified Solution Provider, fees for the Use of the Licensed Software (and any Supplemental Licenses) calculated based on the number of named Licensed Users for such Licensed Software as set out in the applicable Order Form(s), subscription renewal form, or as otherwise specified by Maximizer at the time of each renewal for each Contract Term or Renewal Term (as applicable) (the “**User License Fees**”) plus all applicable and applicable shipping and handling charges. Prior to the commencement of any Contract Term, Maximizer may increase the User License Fees and applicable shipping and handling charges, as Maximizer, in its sole discretion, considers appropriate. Fees are based on the number of Licensed User licenses purchased by You, including those added under Section 7, even if Your actual usage is less, and fees for Licensed User licenses added in the middle of a month will be charged for that full month and all remaining months in the Contract Term on a pro rata basis.

9.2 Third Party Product Maintenance Fees

In addition to the User License Fees to be paid for the Licensed Software (as set out in Section 9.1) and any Supplemental Licenses, if You have purchased Workflow Automation Server and/or Microsoft SQL Server, as indicated on the applicable Order Form, then You will pay during the Contract Term and any Renewal Term for the Third Party Product Maintenance in an amount equal to:

- (a) in the case of the Workflow Maintenance, subject to increase as set out below, 20% of list price of the Workflow Automation Server, such list price to be determined as of the date on which the Renewal Term begins; and
- (b) in the case of the Microsoft SQL Maintenance, subject to increase as set out below, 25% of list price of the Microsoft SQL Server, such list price to be determined as of the date on which the Renewal Term begins,

(collectively, as applicable, the “**Third party Product Maintenance Fee**”). Prior to the commencement of any Year, Maximizer may increase the price of Workflow Maintenance and/or Microsoft SQL Maintenance as Maximizer, in its sole discretion, considers appropriate to reflect any price or cost increases imposed on Maximizer in respect of the Workflow Maintenance and/or Microsoft SQL Maintenance. The Third Party Product Maintenance Fee for the first Year of Third Party Product Maintenance will be payable by You at the same time as payment of the User License Fees and will be made to either Maximizer or the Certified Solution Provider as set out in the Order Form.

9.3 Failure to Pay Third Party Product Maintenance Fees

If You do not pay to Maximizer the Third Party Product Maintenance Fees prior to the date on which it was due, Maximizer may, in its sole discretion:

- (a) refuse to provide to You the Workflow Maintenance and/or Microsoft SQL Maintenance until the Maintenance Fee is paid in full; or
- (b) require that, if You wish to continue using Third Party Products products, You migrate to a new contract based on the then-current version.

9.4 Supplemental Licenses

For each Supplemental License purchased by You, in addition to any license fee applicable to the purchase of an additional or new Licensed Software or upgrades and the User License Fees applicable to the additional Licensed Users as set out on the applicable Order Form, You will pay to Maximizer, or, if Your Order Form specifies that payment for Supplemental Licenses is to be paid to a Certified Solution Provider, then to a Certified Solution Provider, a supplemental Third Party Product Maintenance Fee for the remaining portion of the Year in which the Supplemental Licenses are purchased by You.

9.5 General Payment Terms

You will pay Maximizer all fees and other amounts due under this Agreement within 30 days of the respective invoice due date. You will pay interest on overdue amounts at the rate of 1½% per month or 18% per annum or the maximum amount permitted by law, whichever is lower. Maximizer reserves the right to apply a fee for any rejected payments. You will also be liable for all reasonable costs, including legal fees and expenses, collection fees and court costs, incurred by Maximizer in respect of legal proceedings or other third party actions initiated to collect any unpaid amounts owing under this Agreement.

9.6 Taxes

All payments, fees and other charges payable by You under this Agreement are exclusive of all taxes, levies and assessments of any jurisdiction. You agree to bear and be responsible for the payment of all such taxes (including without limitation sales, use, excise, import or export, value added taxes, governmental permit fees or license fees), levies and assessments imposed on either party arising out of this Agreement, excluding any tax based on Maximizer's net income and will provide to Maximizer evidence of such payment. If any taxes are required to be withheld by You, You will pay to Maximizer such grossed-up amount as would be necessary to provide Maximizer the full amount of the payments, fees and other charges that would have been otherwise payable under this Agreement.

9.7 Maximizer's Right to Direct Payment to be Made to Maximizer Instead of a Certified Solution Provider

If at any time Maximizer notifies you in writing that the Certified Solution Provider from whom You purchased a license to the Licensed Software is not (or is no longer) a "Certified Solution Provider" for the Licensed Software or is no longer authorized to collect User License Fees, Supplemental License fees or Third Party Product Maintenance Fees, then notwithstanding the terms of the Order Form or this Agreement, all future amounts owing by You under this Agreement (as User License Fees, Third Party Product Maintenance Fees or otherwise) will be paid directly to Maximizer.

10. TERMINATION OR EXPIRY

If You or Maximizer breach the terms of this Agreement and fail to correct the breach within 30 days of written notification from the other Party, the non-breaching Party may, at its discretion, terminate this Agreement and Your right to use of the Licensed Software and Licensed Software Documentation by providing written notice of termination to the other Party. Upon termination of this Agreement for any reason or the expiry of this Agreement at the end of the Contract Term or any Renewal Term if not renewed pursuant to Section 4, You will immediately cease use of the Licensed Software and Licensed Software Documentation and You must pay all accrued fees or other amounts due under this Agreement within 30 days of the date of termination and, at Maximizer's election, either return to Maximizer all copies of the Licensed Software and Licensed Software Documentation or provide Maximizer with a signed "Certificate of Destruction" signed by Your president confirming the destruction of all copies of the Licensed Software and Licensed Software Documentation. Except as otherwise expressly agreed in this Agreement or required under applicable laws, in the event that this Agreement or Your license to the Licensed Software is terminated or expires, You will not be entitled to a refund of any fees or other amounts paid.

11. WARRANTY

As long as you are complying with the terms and conditions of this Agreement, subject to the disclaimers and limitations of Maximizer's liability in Sections 13 and 14 of this Agreement, during the Contract Term and any Renewal Terms, Maximizer warrants that the Licensed Software (other than the Workflow Automation Server, Microsoft SQL Server and any other Third Party Software) will substantially conform with all material operational features and material performance characteristics as described in the Licensed Software Documentation provided to You concurrent with the delivery to You of such Licensed Software (the "**Performance Warranty**"). Maximizer further warrants that the Licensed Software: (i) will not contain any software routine (e.g., back door, time bomb, Trojan horse, worm) that will disable, lock, erase or otherwise harm Your software, hardware or data; and (ii) will not contain any other "lockout", self-help code or other disabling code or device that will otherwise prevent or restrict use of the Licensed Software (e.g., password, CPU or time restrictions or "dongle") – collectively the "**No Disabling Software Warranty**". The Performance Warranty and the No Disabling Software Warranty are collectively referred to herein as the "**Warranty**". **THE WARRANTY WILL IMMEDIATELY END UPON THE EXPIRY OF THE CONTRACT TERM OR RENEWAL TERM (IF NOT RENEWED IN ACCORDANCE WITH THIS AGREEMENT) OR THE EARLIER TERMINATION OF THIS AGREEMENT.** The Warranty does not cover problems caused by accident, abuse or use of the Licensed Software in a manner inconsistent with this Agreement or the Licensed Software Documentation. **Maximizer makes no representation and warranty whatsoever respecting the Workflow Automation Server, Microsoft SQL Server or any other Third Party Software.**

12. INDEMNIFICATION

If a person makes a claim against You stating that Maximizer's Licensed Software (excluding the Workflow Automation Server, Microsoft SQL Server and Third Party Software) infringes their copyright, patent or trade-secret rights in Canada or the United States of America, Maximizer will indemnify You in respect of all direct damages arising from a claim, suit or proceeding made against You which is based on such a claim, provided that You: (i) provide written notification to Maximizer within 30 days of receiving notice of the claim; (ii) give Maximizer sole control of the defence and any settlement negotiations; and (iii) give Maximizer the information, authority, and assistance that it may reasonably require to defend against or settle the claim. Following notice of such an infringement claim, or if Maximizer believes such a claim is likely, Maximizer may fulfill its obligations under this indemnity by, at Maximizer's sole expense and option by: (i) procuring the right to continue using the Licensed Software; (ii) replacing or modifying all or part of the Licensed Software to make it non-infringing; or (iii) terminating Your license to the Licensed Software that is the subject of such infringement claim and refunding to You a portion of the License Fees paid by you for such Licensed Software (based on a two year straight-line amortization from the Effective Date) and unearned portion of any prepaid Third Party Product Maintenance Fees for such Licensed Software in the Year in which Maximizer terminates Your license to the Licensed Software (based on a 365 day Year).

Maximizer will not be liable to You under the provisions of this indemnity for any claim based upon or arising out of: (a) the use of the Licensed Software in combination with other software or hardware not approved by Maximizer, to the extent that such use is the subject matter of such claim; (b) the use of the Licensed Software in a manner or for a purpose other than that described in the Licensed Software Documentation to the extent that such use is the subject matter of such claim; (c) the use of the Licensed Software in a modified condition, to the extent that such modification is the subject matter of such claim; or (d) a claim in which the alleged infringing element arose as a result of, or is based on either: (i) the disclosure by You to Maximizer of any confidential or proprietary information of a third party, or (ii) the specification by You of modifications to the Licensed Software requested by You, to the extent that such confidential or proprietary information or specification is the subject matter of such claim.

THE FOREGOING STATES YOUR EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT CLAIM.

13. DISCLAIMER

OTHER THAN THE LIMITED WARRANTIES UNDER SECTION 11 MAXIMIZER PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE LICENSED SOFTWARE, LICENSED SOFTWARE DOCUMENTATION, TECHNICAL SUPPORT, THIRD PARTY PRODUCT MAINTENANCE OR ANY OTHER MATTERS RELATED TO THIS AGREEMENT. TO THE EXTENT NOT PROHIBITED BY LAW, MAXIMIZER DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE OR NON-INFRINGEMENT.

MAXIMIZER DOES NOT GUARANTEE THAT THE LICENSED SOFTWARE, THE TECHNICAL SUPPORT OR THE THIRD PARTY PRODUCT MAINTENANCE PROVIDED HEREUNDER WILL MEET YOUR REQUIREMENTS, PERFORM ERROR-FREE OR UNINTERRUPTED, THAT MAXIMIZER WILL CORRECT ALL LICENSED SOFTWARE ERRORS, INCLUDING WITHOUT LIMITATION NON CONFORMITY WITH THE LIMITED WARRANTY, OR THAT MAXIMIZER, VINEYARDSOFT CORPORATION, OR MICROSOFT CORPORATION WILL CORRECT ALL ERRORS, WHETHER DIAGNOSED AS SUCH OR NOT. MAXIMIZER SUPPLIES THE LICENSED SOFTWARE, THE TECHNICAL SUPPORT AND THE THIRD PARTY PRODUCT MAINTENANCE "AS IS" AND TO THE EXTENT PERMITTED BY LAW, THE LIMITED WARRANTY IS EXCLUSIVE AND TAKES THE PLACE OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, CUSTOM, USAGE, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, AND ACCURACY.

NONE OF MAXIMIZER, VINEYARDSOFT CORPORATION, MICROSOFT CORPORATION OR ANY OTHER THIRD PARTY LICENSORS OF ANY THIRD PARTY SOFTWARE WARRANT THAT THE LICENSED SOFTWARE, WORKFLOW AUTOMATION SERVER, MICROSOFT SQL SERVER OR OTHER THIRD PARTY SOFTWARE WILL INTEGRATE ERROR-FREE WITH ALL AVAILABLE APPLICATIONS AND OPERATING SYSTEMS, INCLUDING WITHOUT LIMITATION THOSE UTILIZED BY YOU.

14. LIMITATION OF LIABILITY

NEITHER YOU, MAXIMIZER, VINEYARDSOFT CORPORATION, MICROSOFT CORPORATION OR ANY OTHER THIRD PARTY LICENSORS OF ANY THIRD PARTY SOFTWARE WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS (EXCLUDING FEES UNDER THIS AGREEMENT), DATA, OR DATA USE. MAXIMIZER'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR IN TORT, OR OTHERWISE, WILL IN NO EVENT EXCEED, IN THE AGGREGATE, THE USER LICENSE FEES ACTUALLY PAID BY YOU IN RESPECT OF THE LICENSED SOFTWARE THAT IS THE SUBJECT OF SUCH CLAIM BY YOU OR, IF THE CLAIM RELATES TO THE WORKFLOW MAINTENANCE OR THE MICROSOFT SQL MAINTENANCE, THE THIRD PARTY PRODUCT MAINTENANCE FEES PAID BY YOU FOR THE APPLICABLE MAINTENANCE IN EACH CASE IN THE MOST RECENT 12 MONTH PERIOD BEFORE SUCH CLAIM WAS MADE BY YOU. YOU ACKNOWLEDGE THAT THE USER LICENSE FEES AND THE THIRD PARTY PRODUCT MAINTENANCE FEES REFLECT THIS ALLOCATION OF RISK. ANY DAMAGE IN YOUR FAVOUR AGAINST MAXIMIZER WILL BE REDUCED BY ANY REFUND OR CREDIT RECEIVED BY YOU UNDER THIS AGREEMENT AND ANY SUCH REFUND AND CREDIT WILL APPLY TOWARDS THE LIMITATION OF LIABILITY. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

15. NON-SOLICITATION OF MAXIMIZER'S EMPLOYEES

During the term of this Agreement, and for a period of one year thereafter, You will not hire or offer to hire or allow Your Affiliates to hire or offer to hire any employee of Maximizer, or any person who was an employee of Maximizer during the six months prior to You hiring or offering to hire such person, unless otherwise agreed to by Maximizer in writing.

16. CHANGES TO THE LICENSED SOFTWARE, THE THIRD PARTY PRODUCT MAINTENANCE AND THE USER LICENCE FEES

Notwithstanding anything else to the contrary in this Agreement, You acknowledge and agree that Maximizer reserves the right at any time: (a) not to release or to discontinue release of any Licensed Software, (b) to change its list price for the Licensed Software (including Supplemental Licenses), (c) to change any of the services that it currently offers in connection with the standard Technical Support or the Third Party Product Maintenance, and (d) to alter features, specifications, capabilities, functions, release dates, general availability or other characteristics of the Licensed Software, standard Technical Support or Third Party Maintenance. In such circumstances Maximizer will consult with you about the option of migrating to a new contract with Maximizer based on the then-current version of Maximizer's CRM Live Subscription Agreement.

17. ACKNOWLEDGEMENT REGARDING NEW OR DIFFERENT PRODUCTS, VERSION RELEASES AND SERVICE RELEASES

You acknowledge that Maximizer may develop and market new or different computer programs or editions of the Licensed Software that use portions of the Licensed Software or that perform all or part of the functions performed by the Licensed Software. Nothing contained in this Agreement will give You any rights with respect to such new or different computer programs or editions but in such circumstances Maximizer will consult with you about the option of migrating to a new contract with Maximizer based on the then-current version of Maximizer's CRM Live Subscription Agreement.

18. EXPORT CONTROL

Canadian and United States of America export control laws and other applicable export and import laws govern Your use of the Licensed Software, including technical data. You will not: (a) export, directly or indirectly, the Licensed Software or any direct product thereof in violation of these laws, or (b) use the Licensed Software for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation.

19. NO MODIFICATIONS TO THIS AGREEMENT BY CERTIFIED SOLUTIONS PROVIDERS

Maximizer's Certified Solutions Providers (or any other authorized distributors or resellers) do not have the right to make modifications to this Agreement or to make any additional representations, commitments or warranties binding on Maximizer. Any variations to the standard agreement would need to be agreed by Maximizer through an addendum signed by all parties.

20. GENERAL

20.1 Relationship

You and Maximizer are independent contractors and are not agents, joint venturers, partners or employees of one another, and Maximizer will not be obligated by any agreements or representations made by You to any person, nor with respect to any other action by You, nor will Maximizer be obligated for any damages to any person whether caused by Your actions, failure to act, negligence or wilful conduct. If you entered into the Order Form with, or provided an Order Form to, an authorized Certified Solution Provider, You acknowledge that Maximizer is an intended third party beneficiary of Your obligations to the Certified Solution Provider set out in that Order Form and that Maximizer may enforce directly against you the terms of the Order Form and this Agreement as if Maximizer was a direct party thereto.

20.2 Use of Name

You acknowledge that Maximizer may make reference to You and Your relationship to Maximizer in press releases, advertising and promotional materials and You consent to any such reference. This consent will be assumed unless otherwise notified in writing by You.

20.3 Waiver of Jury Trial

Each party hereby waives any right to a jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

20.4 Audit

During the Contract Term and any Renewal Term and for a period of five years thereafter, Maximizer and its agents and service providers may at all reasonable times audit and investigate Your use of the Licensed Software and Your compliance with the terms and conditions of this Agreement. Such audit may consist of an on-site visit to Your premises, in which case You will cooperate and provide Maximizer with reasonable assistance and access to information and Your premises and systems, so long as Maximizer gives You 5 business days' advance written notice of any access to Your premises. Such audit may also be conducted by Maximizer through features in the Licensed Software that automatically transmit to Maximizer reports on Your use of the Licensed Software from time to time, and You hereby consent to such features and Maximizer's use of them to exercise its rights under this Section 21.4.

In addition to all other remedies of Maximizer in respect of any failure by You to comply with the terms and conditions of this Agreement (including the rights of Maximizer under Section 10, You will pay any deficiencies in User License Fees, Third Party Product Maintenance Fees or other amounts which are discovered by Maximizer's audit and investigation of You within 10 days of discovery. This Section 20.4 will survive the termination of this Agreement.

Except as otherwise specified in this Agreement, all notices, permissions and approvals will be in writing and will be deemed to have been given upon: (i) personal delivery, (ii) the fifth business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (i) in the case only of a notice by Maximizer to You, the first business day after sending by email to the email address set out in the Order Form. Notice to You will be addressed to the system administrator designated by You under the Order Form, and in the case of billing notices, to the relevant billing contact designated by You. The address and contact person for any notices by You to Maximizer will be to Maximizer Software Limited, PO Box 1295, 20 Station Road, Gerrards Cross, Buckinghamshire, SL9 8EL Facsimile: +44 (0)1344 766901, Attention: Controller.

20.5 Entire Agreement; Waiver

This Agreement and the applicable Order Form constitute the entire agreement between the parties relating to the subject matter of this Agreement and supersede or replace all prior or contemporaneous agreements or representations. If any terms of this Agreement are found to be invalid or unenforceable, the remaining provisions will remain effective. No failure or delay by a party in exercising any right or power under this Agreement will operate as a waiver of that right or power, and the single or partial exercise of a right or power under this Agreement will not preclude any other or future exercise of that or any other right or power.

20.6 Assignment

This Agreement may not be assigned or sublicensed by You without the prior written approval of Maximizer. Maximizer may subcontract or delegate the provision of any or all of the Licensed Software or otherwise assign its rights in this Agreement at any time without Your consent.

20.7 Amendments

This Agreement may be amended at any time by mutual agreement of the parties in writing. Maximizer further reserves the right to make changes to other parts of this Agreement to reflect changes in or required by law or to reflect changes in business practices, provided that any amendments will only have prospective effect and will not materially adversely affect the license granted to You under this Agreement, by providing You with notice and, unless required by law, will not materially adversely impair the license granted to You under this Agreement prior to the date such amendment becomes effective. Notice of such amendments may either be provided to You in accordance with Section **Error! Reference source not found.** or by posting notice of the amendments on the Maximizer website at <http://www.maximizer.com/On-Premise-Subscription-Agreement/http://www.maximizer.com/license-agreements/>. If You do not accept such amendments, You may terminate this Agreement at any time within the 60 day period following notice by Maximizer, by delivering written notice to Maximizer of Your intention to terminate. If You do not deliver notice to Maximizer terminating this Agreement within the 60-day time period, You will be deemed to have accepted the amendment.

20.8 Governing Jurisdiction

This Agreement in all respects will be governed and interpreted in accordance with only the laws of the United Kingdom, and the Parties hereby irrevocably attorn exclusively to the Courts of the United Kingdom. This Agreement will not be governed by the conflict of law rules of any other jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

20.9 Survival

Sections 9.5, 10, 13, 14, 15, 19, 20.1, 20.2, 20.3, 20.4, 20.5, 20.6, 20.7, 20.8, and 20.9 will survive the termination or expiry of this Agreement for any reason whatsoever.

Name of Customer:

Signed by:

Date: