

# MASTER SOFTWARE LICENSE AND SERVICES AGREEMENT

## GENERAL TERMS AND CONDITIONS

### 1. Grant of License

1.1. License Grant. Subject to the terms and conditions of this Agreement, the restrictions set forth in the terms of any Applicable Order, and the payment of all applicable license fees, Licensee is hereby granted a perpetual (but subject to termination as provided in Section 9.2 below), limited, royalty-free, non-exclusive, non-transferable (except as expressly permitted under Section 9.2) license to the Software: (i) to Use, and to permit Authorized Affiliates to Use, the Software solely for their respective internal business operations; and (ii) to reproduce and use, and to permit Authorized Affiliates to reproduce and use, the Documentation in conformity with the Use of the Software. Licensee shall not allow access to the Software (whether through the distribution of copies of Client software or otherwise) by more than the number of customer access licenses specified in the terms of the Applicable Order or Use (or permit the Use of) the Software for any purpose other than for the type of customer access license specified in the terms of the Applicable Order.

1.1.1. Extranet Server. Without limiting any of the terms of Section 1.1, if Licensee purchases a license to the "QlikView® Extranet Server" Software, Licensee may permit Authorized Third Parties to View the output of the QlikView® Extranet Server, on a remote basis, solely for the purpose of Viewing: (i) information developed by or for Licensee; or (ii) information generated by Licensee on behalf of the Authorized Third Party based on information supplied to Licensee by such Authorized Third Party. Authorized Third Parties shall not be permitted to create, upload, or modify any of the information which they are permitted to View and shall not be granted any rights or licenses in or to the Software in connection therewith.

1.1.2. QlikView® Server. Without limiting any of the terms of Section 1.1, if Licensee purchases a license to the "QlikView® Server" Software, Licensee may only install QlikView® Server in the geographic territory identified in the terms of the Applicable Order.

### 1.2. Authorized Third Parties; Authorized Affiliates.

1.2.1. In connection with the Use of the Software by any Authorized Third Party or Authorized Affiliate pursuant to Section 1.1 which are approved in advance in writing by QlikTech, Licensee hereby agrees to: (i) make each such Authorized Third Party and Authorized Affiliate aware of the terms of this Agreement and the Documentation, including, without limitation, the use limitations contained in Sections 1.1.1, 1.1.2 and 1.3; and (ii) monitor and ensure each such Authorized Third Party's and/or Authorized Affiliate's compliance with the terms contained in this Agreement and the Documentation. Any claim for breach by QlikTech of this Agreement based on Use by an Authorized Third Party and/or Authorized Affiliate shall be brought solely by Licensee.

1.3. License Restrictions. Except as otherwise expressly permitted in this Agreement (including but not limited to Sections 1.1 and 1.2 above) and except as otherwise permitted by law, Licensee will not, directly or through others including, without limitation, Users: (i) use, copy, maintain, distribute, sell, transfer, market, sublicense, dispose of or rent the QlikTech Materials (except for transfers of the QlikTech Materials to any third party in connection with an assignment by Licensee as expressly permitted under Section 9.2); (ii) reverse assemble, reverse compile, decompile, disassemble or reverse engineer (except to the extent any such restriction is expressly prohibited by applicable law) or attempt to derive the source code for any of the QlikTech Materials or Third Party Materials; (iii) modify, adapt, create derivative works, translate or port any of the QlikTech Materials or combine or merge any part of the QlikTech Materials with or into any other software or documentation; (iv) offer, use, sublicense or otherwise commercially exploit any of the QlikTech Materials as a revenue-generating product or service to any third party, including without limitation for third party training, nor may it use the Software to provide hosting service bureau, commercial time-sharing, rental, or software as a service (SaaS) services to third parties who are not Users for the purposes of providing those persons or entities with use of the Software; (v) permit the use of the Software or Documentation by third parties, except that Licensee may permit Licensee's Authorized Contractors to Use the Software for Licensee's internal business operations only as described in Section 1.1 above, subject to the limitations on the number and types of customer access licenses specified in the terms of the Applicable Order, so long as Licensee ensures that its Authorized Contractors are bound by appropriate restrictions on nondisclosure of QlikTech's Confidential Information and will Use the Software only in accordance with the Documentation and the terms of this Agreement; (vi) use any Third Party Materials independent of or separated from the QlikTech Materials or (vii) reproduce the Software or Documentation without QlikTech's copyright and trademark notices. Without limiting any of the foregoing, if a serial number, password, license key or other security device is provided to Licensee for use with the Software, Licensee shall not, and will not permit any of its Authorized Affiliates, Authorized Third Parties and/or Authorized Contractors to, share or transfer such security device with or to any other User of the Software or any other third party.

1.4. Third Party Materials. The QlikTech Materials may contain or may be distributed or bundled with certain third party software, data, or other materials (collectively, "**Third Party Materials**"). A list of the Third Party Materials, is included in Appendix A of this Agreement.

1.5. Data Security. If any QlikTech Materials are accessible through the internet or other networked environment, Licensee shall maintain adequate technical and procedural **access controls and** system security requirements and devices, in connection with the QlikTech Materials, necessary for confidentiality, authorization, authentication and virus detection and eradication.

1.6. Retention of Rights. The Software is licensed, not sold. QlikTech and its Affiliates, or their respective suppliers or licensors where applicable, own and retain all right, title and interest in and to the QlikTech Materials, and all of QlikTech's and its Affiliates', or their respective suppliers' or licensors', patents, trademarks (registered or unregistered), trade names, copyrights, trade secrets and QlikTech Confidential Information. Licensee does not acquire any right, title or interest in or to the QlikTech Materials, except as expressly set forth herein, and all such rights are hereby reserved. Licensee will not register, nor attempt to register, any patent or copyright which, in whole or in part, incorporates any QlikTech technology or Intellectual Property Right. In the event that Licensee makes suggestions, improvements or modifications to QlikTech regarding new features, functionality or performance that QlikTech adopts for the QlikTech Materials, such new features, functionality or performance shall be deemed to be automatically assigned and fully paid under this Agreement to, and shall become the sole and exclusive property of QlikTech.

## 2. Services

2.1. Maintenance Services. Licensee may purchase Maintenance Services specified in the terms of the Applicable Order for Software licensed in accordance with this Agreement for the fees set forth in the terms of the Applicable Order.

2.2. Implementation Services. Licensee may purchase Implementation Services specified in the terms of the Applicable Order for Software licensed in accordance with this Agreement for the fees set forth in the terms of the Applicable Order.

2.3. Training. Licensee may purchase Training specified in the terms of the Applicable Order for Software licensed in accordance with this Agreement for the fees set forth in the terms of the Applicable Order.

## 3. Fees and Payment Terms

In consideration of QlikTech's provision of Maintenance Services, Implementation Services or Training, Licensee agrees to pay to the applicable partner, the Maintenance Fees set forth in the terms of the Applicable Order, which payments shall be non-refundable, except as otherwise expressly provided in this Agreement, non-creditable and not subject to any right of offset or suspension.

## 4. Limited Warranty and Disclaimers

4.1. Limited Performance Warranty. Licensee receives a warranty for a period of one hundred twenty (120) days following the Delivery Date (the "**Warranty Period**"), the initial Version of the Software provided to Licensee hereunder (excluding any subsequent Updates thereto) will perform substantially in accordance with the specifications in the applicable Documentation in effect when such Software is first delivered to Licensee, provided that the Software is operated in accordance with the Documentation. Licensee is deemed to accept the Software on the Delivery Date.

4.2. Exceptions. Licensee will have no warranty claim made pursuant to Section 4.1 for alleged any defect or problem with the Software, to the extent that the alleged defect or problem: (i) arises out of any use of the Software by Licensee or its Authorized Affiliates not in accordance with the Documentation; (ii) arises out of any modification or alteration of the Software by anyone other than QlikTech or its authorized contractors; or (iii) arises out of the use of the Software in combination with any other software or equipment not specified in the Documentation as supported by QlikTech. If, notwithstanding the foregoing exceptions, QlikTech chooses in its discretion to correct such a defect or problem with the Software, or otherwise provides Software support not covered by the terms and conditions contained in this Section, such defect resolution or Software support shall be provided only following Licensee's written request and Licensee's approval of all charges, and Licensee shall be invoiced for such support at the rates set forth in the Applicable Order.

4.3. Disclaimers. Licensee agrees that neither the QlikTech Materials nor QlikTech Services nor the QlikTech Software are warranted to: (i) meet the Licensee's or its Authorized Affiliates' requirements; (ii) operate in combination with other hardware or software, except as expressly specified in the Documentation; (iii) operate without interruption or error; or (iv) will fully resolve any particular request for Maintenance of the Software or that such resolution will meet Licensee's or its Authorized Affiliates' requirements or expectations. THE LIMITED WARRANTIES STATED IN SECTION 4.1 SET FORTH THE ONLY REPRESENTATIONS AND WARRANTIES CONCERNING THE QLIKTECH MATERIALS AND THE SERVICES. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN SECTION 4.1 AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE QLIKTECH MATERIALS AND SERVICES AND THIRD PARTY MATERIALS ARE PROVIDED "AS IS", AND QLIKTECH AND ITS AFFILIATES AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND OTHER

TERMS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED (BY STATUTE, COMMON LAW OR OTHERWISE) INCLUDING, WITHOUT LIMITATION, AS TO THEIR ACCURACY, TIMELINESS, COMPLETENESS, RESULTS, PERFORMANCE, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, QUALITY OF INFORMATION, QUIET ENJOYMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF QLIKTECH HAS BEEN INFORMED OF SUCH PURPOSE, AND ANY REPRESENTATIONS, EXPRESS OR IMPLIED WARRANTIES OR OTHER TERMS ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE QLIKTECH MATERIALS, INCLUDING, WITHOUT LIMITATION, THEIR FEATURES OR FUNCTIONALITY, THE SERVICES OR ANY THIRD PARTY MATERIALS IN ANY COMMUNICATION WITH LICENSEE ARE FOR INFORMATION PURPOSES ONLY AND DO NOT CONSTITUTE A WARRANTY, REPRESENTATION OR CONDITION.

## 5. Limitation of Liability

### 5.1. Limitations of Liability.

5.1.1. Except for claims relating to death or bodily injury caused by QlikTech's negligence, QlikTech's and its suppliers' and Affiliates' maximum, cumulative liability for any damages arising under this Agreement, regardless of the form of action, whether in contract, tort (including but not limited to negligence or strict liability) or otherwise, shall in no event exceed the amount of fees received by QlikTech for Licensee's Use of the Software during the twelve (12) months preceding such claim.

5.1.2. Except for Licensee's: (i) non-compliance with the use restrictions contained within this Agreement or violation of any of QlikTech's Intellectual Property Rights; (ii) breach of its obligations under Section 7 (Confidentiality); (iii) breach of its obligations under Section 9.4 (Export Controls); (iv) negligence resulting in death or bodily injury; and/or (v) obligation to pay amounts owed to QlikTech hereunder, Licensee's maximum, cumulative liability for damages arising under this Agreement, regardless of the form of action, whether in contract, tort (including but not limited to negligence or strict liability) or otherwise, shall in no event exceed the amount of fees paid or payable by Licensee set forth in the terms of the Applicable Order.

5.1.3. No Consequential Damages. EXCEPT FOR LICENSEE'S: (I) NON-COMPLIANCE WITH THE USE RESTRICTIONS CONTAINED WITHIN THIS AGREEMENT OR VIOLATION OF ANY OF QLIKTECH'S INTELLECTUAL PROPERTY RIGHTS; AND/OR (II) BREACH OF LICENSEE'S OBLIGATIONS PURSUANT TO SECTION 7 (CONFIDENTIALITY) OR SECTION 9.4 (EXPORT CONTROLS), IN NO EVENT SHALL EITHER PARTY OR ITS RESPECTIVE LICENSORS OR AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, LOSS OF SAVINGS, GOODWILL, REPUTATION OR DATA, INACCURACY OF ANY DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR SOFTWARE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.

5.1.4 Nothing herein shall operate to impair or prejudice the U.S. Government's right (a) to recover for fraud or crimes arising out of or relating to this Agreement under any Federal fraud statute, including without limitation the False Claims Act (31 USC §§3729 through 3733) or (b) for any other matter for which liability cannot be excluded by law or (c) express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into the GSA Schedule 70 contract.

5.2. Third Party Beneficiaries. Under no circumstances shall any Affiliate of Licensee, Authorized Third Party, Authorized Contractor, or any other person be considered a third party beneficiary of this Agreement or otherwise entitled to any rights or remedies under this Agreement even if such Affiliates of Licensee, Authorized Third Party, Authorized Contractor or other persons are provided access to the QlikTech Materials pursuant to this Agreement.

5.3. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. EACH PARTY HEREBY DISCLAIMS ALL LIABILITY OF ANY KIND ON BEHALF OF ITS LICENSORS AND SUPPLIERS.

## 6. Term and Termination

6.1. Term. This Agreement is effective as of the date specified by the terms of the Applicable Order and shall continue until terminated pursuant to this Section 6 or the terms of the Applicable Order.

6.2. Effect of Termination. Upon the effective date of termination of this Agreement according to this Section 6, all rights of Licensee, its Authorized Affiliates, Authorized Contractors and/or Authorized Third Parties with respect to the QlikTech Materials shall immediately cease to be of any further force or effect. In addition, Licensee shall certify to QlikTech within ten (10) days following the effective date of such termination that Licensee has destroyed or has returned said materials and all copies thereof. Upon termination of this Agreement, each Party shall certify to the other Party within ten (10) days following the effective date of such termination that it has destroyed or returned all Confidential Information of the other Party. Termination of this Agreement shall not limit either Party from pursuing other remedies available to it nor shall such termination relieve Licensee of its obligation to pay all fees that have accrued prior to the effective date of such termination.

## 7. Confidentiality

Each Party will protect the other's Confidential Information from unauthorized distribution and use with the same degree of care that each Party uses to protect its own like information, but in no event less than a reasonable degree of care. Neither Party will make the other Party's Confidential Information available in any form to third parties nor use the other Party's Confidential Information except as necessary to exercise its express rights or perform its express obligations under this Agreement. The receiving Party shall not circulate Confidential Information within its own organization or that of its Affiliates except to those employees or consultants who need to know such information in connection with the business relationship between the Parties. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information of the disclosing Party to the extent that such information is required to be disclosed by the receiving Party as a matter of law; provided that the receiving Party uses all reasonable efforts to provide the disclosing Party with prior notice of such disclosure and to obtain a protective order therefore. The Parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of five (5) years following any termination of this Agreement, provided, however, that Licensee's obligations hereunder shall survive and continue in effect thereafter with respect to any of QlikTech's Confidential Information that continues to be a trade secret under applicable law. All tangible Confidential Information shall be so marked.

## 8. Audit

During the term of this Agreement and for a period of one (1) year thereafter, upon QlikTech's written request, but no more frequently than once annually, QlikTech or an independent and reputable agent or accounting firm chosen by QlikTech will be provided reasonable access during Licensee's normal business hours to examine Licensee's records and computer equipment as long as all security requirements are met, at QlikTech's expense, for the purpose of auditing Licensee's obligations under this Agreement. QlikTech's written request for audit will be submitted to Licensee at least fifteen (15) days prior to the specified audit date.

## 9. General Provisions

9.1. Definitions. Unless otherwise defined herein, all capitalized terms used in this Agreement shall have the meanings given to them in this Section 9.1.

9.1.1. "**Affiliate**" means any entity which controls, is controlled by, or is under common control with QlikTech or Licensee, as applicable, where "control" means the legal, beneficial or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity, but only for so long as such control exists.

9.1.2. "**Authorized Affiliate**" means any Affiliate, Agency, or Department of Licensee that is authorized by Licensee to Use the Software, but only for so long as it constitutes and Affiliate of Licensee pursuant to Section 9.1.1. Upon request by QlikTech, Licensee agrees to confirm the Affiliate status of any particular entity and/or their authorization to Use the Software.

9.1.3. "**Authorized Contractor**" means any third party contractor(s) or service provider(s) authorized by Licensee to perform services for Licensee.

9.1.4. "**Authorized Third Party**" means any non-employee external third party of Licensee located outside of Licensee's firewall that is authorized by Licensee to Use the QlikView® Extranet Server in accordance with Section 1.1.1.

9.1.5. "**Client**" means a software application that invokes, typically via a network protocol, the software functions provided by one or more Servers.

9.1.6. "**Confidential Information**" means all business information disclosed by one Party to the other in connection with this Agreement. Without limiting the generality of the foregoing, Confidential Information shall include QlikTech Confidential Information. Confidential Information does not include information that: (i) enters the public domain through no fault of the receiving Party; (ii) is communicated to the receiving Party by

a third party under no obligation of confidentiality; (iii) has been independently developed by the receiving Party without reference or access to or use of any Confidential Information of the disclosing Party; or (iv) was in the receiving Party's lawful possession prior to disclosure and had not been obtained either directly or indirectly from the disclosing Party.

9.1.7. **"Covered Jurisdiction"** means the United States of America.

9.1.8. **"Delivery Date"** means the date on which both the Software specified in the relevant Order Form is available for download by Licensee from QlikTech's website and QlikTech delivers to Licensee the license keys therefor.

9.1.9. **"Initial Maintenance Period"** means the initial period of Maintenance purchased by Licensee for Software licensed pursuant to this Agreement, which shall commence on the Delivery Date and CONTINUE FOR AN INITIAL PERIOD OF TWELVE (12) MONTHS THEREAFTER.

9.1.10. **"INTELLECTUAL PROPERTY RIGHTS"** MEANS PATENT APPLICATIONS, PATENTS, DESIGN RIGHTS, COPYRIGHTS, TRADEMARKS, SERVICE MARKS, TRADE NAMES, DOMAIN NAME RIGHTS, MASK WORK RIGHTS, SUI GENERIS DATABASE RIGHTS, Rights in know-how and other trade secret rights, and all other intellectual property rights and forms of protection of a similar nature anywhere in the world.

9.1.11. **"Maintenance"** means the maintenance and support services and Updates provided by QlikTech pursuant to its then-current Maintenance policy.

9.1.12. **"QlikTech Confidential Information"** means any confidential or proprietary information which relates to QlikTech's trade secrets, Software, source code for the Software, the Documentation, services, deliverables, training materials, technology, research, development, pricing, product plans, marketing plans, business information, proprietary materials visual expressions, screen formats, report formats, design features, ideas, methods, algorithms, formulae, and concepts used in the design and all future modifications and enhancements. QlikTech Confidential Information shall also include third party data or information that was disclosed to Licensee under a duty of confidentiality and any information, in whatever form, disclosed or made available by QlikTech to Licensee that relates to or is contained within QlikTech Materials that is not publicly known. All tangible Confidential Information shall be so marked.

9.1.13. **"QlikTech Materials"** means any proprietary materials distributed or made available by QlikTech to Licensee under this Agreement, including but not limited to Software, Documentation, training materials, QlikView® Applications any other deliverables related to Professional Services, but expressly excluding any Third Party Materials.

9.1.14. **"QlikView® Application"** means any program or other application (e.g., script) that is designed to integrate and be used with the Software and that allows Users to request, update and manipulate data which is displayed via the Software and to generate reports and other information from such data.

9.1.15. **"Server"** means the specific installed instance of the Software in execution on a given hardware/operating system combination (e.g., Sun/Solaris).

9.1.16. **"Service Release"** means an accumulation of error corrections (patches) to a current Version of the Software that QlikTech elects to make generally available to its customers who have purchased Maintenance. Service Releases are denoted by the numeral to the right of the decimal point (e.g., Version 11, Service Release 2 (or Version 11.2) compared to Version 11, Service Release 3 (or Version 11.3).

9.1.17. **"Services"** means Maintenance Services, which are provided or made available by QlikTech to Licensee.

9.1.18. **"Software"** means: (i) the initial Version(s) of QlikTech's proprietary QlikView® software in object code form licensed in accordance with this Agreement; and (ii) subject to Licensee's payment of Maintenance Fees, any Updates thereto made available to Licensee under this Agreement.

9.1.19. **"Update"** means any error corrections (patches), Service Releases and/or Versions, as the context requires, which QlikTech elects to make generally available to its customers at no additional charge who have a current Maintenance contract with QlikTech. Updates do not include new or separate products, including, without limitation, any Versions, which QlikTech offers only for an additional fee to its customers generally, including, without limitation, those customers who have purchased Maintenance.



9.1.20. **“Use”** means to install and execute the Software (in object code form only) to request data, update data, administer any field changes to, or in connection with, the Software, as well as to View the number and types of documents specified in the terms of any Applicable Order, including, without limitation, reports and data as displayed via a QlikView® Application within the Software, all subject to the Documentation, license restriction, non-disclosure and other applicable terms of this Agreement.

9.1.21. **“User”** means any individual employee of Licensee, Authorized Contractor, Authorized Affiliate and/or Authorized Third Party, as the context requires.

9.1.22. **“Version”** means an entirely new version of the Software, which includes new as well as improved features and functionalities from the immediately preceding version of the Software, that QlikTech elects to make generally available to its customers who have purchased Maintenance. Versions are denoted by the numeral to the left of the decimal point (e.g. Version 10.0 compared to Version 9.0).

9.1.23. **“View”** means to view reports, data and other information as displayed via a QlikView® Application within the Software, but not to create, update or share any data, or administer any field changes to or in connection with the Software.

9.2. Assignment. Licensee will not assign or transfer this Agreement or its rights and obligations under this Agreement to any third party. Any attempt by Licensee to assign this Agreement or its rights and obligations hereunder in violation of this Section 9.2 will be null and void.

9.3. Entire Agreement. To the extent permitted by law, this Agreement supersedes all prior or contemporaneous Agreements or representations including, without limitation, all non-disclosure or confidentiality agreements, whether written or oral, concerning the rights and duties of QlikTech and the Licensee of the QlikTech Materials with respect to the Software License. No addition to, or modification of, any provision of this Agreement shall be binding upon QlikTech or the Licensee of the QlikTech Materials unless expressly stated in writing to amend the terms hereof and approved by a duly authorized representative of each Party. Licensee represents and acknowledges that in entering into this Agreement it did not rely on any representations (whether innocent or negligent), warranties, or terms other than those expressly set forth in the Documentation and this Agreement.

9.4. Export Controls.

9.4.1. Licensee acknowledges that the license to use the Software hereunder may be subject to the export control laws of the United States which may include, without limitation, the United States Export Administration Regulations, the Trading With the Enemy Act, the International Emergency Economic Powers Act, the Arms Export Control Act and regulations promulgated by the United States Department of the Treasury's Office of Foreign Assets Control (**“OFAC”**), as amended from time to time (collectively, the **“Export Control Laws”**). Licensee agrees that all actions taken by Licensee in furtherance of fulfillment of this Agreement will be in compliance with applicable Export Control Laws. Licensee agrees to comply with all applicable Export Control Laws. In addition, Licensee agrees that it will not export, re-export, transfer or license any Software to any third parties that are named as a “Specially Designated National” or “Blocked Person” as designated by the OFAC (which is currently published under the Internet address <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>).

9.4.2. If Licensee knows, or if acting reasonably, should know, that the Software could be exported, transferred or licensed in a manner violating applicable Export Control Laws, Licensee shall immediately notify QlikTech. Furthermore, if QlikTech suspects or determines, in its sole and absolute discretion, that any sale of the Software to Licensee may violate applicable Export Control Laws, Licensee acknowledges and agrees that QlikTech may refuse to accept such order for the Software and such refusal will not be a breach of this Agreement.

9.5. Compliance with Laws. Licensee agrees at all times to comply with applicable laws and regulations in its performance of this Agreement, including, without limitation, the provisions of the United States' Foreign Corrupt Practices Act (**“FCPA”**).

9.6. Governing Law and Jurisdiction. This Agreement is governed by and construed in accordance with U.S. Federal law. Any suit, action or proceeding arising out of or relating to this Agreement shall be resolved by a court or administrative tribunal of competent jurisdiction.

9.7. Notices. All notices and other communications given or made pursuant to this Agreement, whether concerning a breach, violation or termination hereof or otherwise will be in writing and will be delivered: (i) by certified or registered mail; or (ii) by an internationally recognized express courier. All notices or other communications to QlikTech shall be

addressed to: QlikTech Inc., 150 N. Radnor Chester Road, Suite E220, Radnor, PA 19087; Attention: Legal Department. All notices to Licensee shall be sent to the address specified in the Applicable Order.

9.8. Relationship between the Parties. QlikTech is an independent contractor. Nothing in this Agreement shall be construed to create an agency, joint venture, partnership, fiduciary relationship, joint venture or similar relationship between the Parties.

9.9. Severability. If any provision of this Agreement is invalid or unenforceable, that provision shall be construed, limited, modified or, if necessary, severed to the extent necessary to eliminate its invalidity or unenforceability, and the other provisions of this Agreement shall remain in full force and effect. Any term which refers to a legal concept or process which exists in one jurisdiction shall be deemed to include a reference to the equivalent or analogous concept or process in any other jurisdiction in which this Agreement may apply or to the laws of which a Party may be or become subject.

9.10. Successors. All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of QlikTech and Licensee.

9.11. Waiver. No term of this Agreement shall be deemed waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the Party issuing the same.

9.12. Limitation. To the extent permitted by law, no action, regardless of form, arising out of this Agreement may be brought by Licensee more than one (1) year after the cause of action arose.

9.13. US Government Rights; Commercial Computer Software – Use Governed by Terms of Standard Commercial License. If the Software or Documentation is acquired by or on behalf of a unit or agency of the United States Government, Licensee agrees that such Software or Documentation is “Commercial computer software” or “commercial computer software” or “commercial computer software documentation” and that, absent a written agreement to the contrary, the United States Government’s rights with respect to such Software or Documentation are limited by the terms specified in this Agreement, pursuant to FAR 12.212(a) and/or DFARS 227.7202-1(a), as applicable. The Software and Documentation have been developed exclusively at private expense, and have been available for license by members of the public.

## Appendix A – Third Party Materials and Terms

### List of Third Party Materials and Terms

1. Xtreme CommandBars. Copyright(C) 2011 Codejock Software
2. Cephes Statistics Library. Cephes Math Library release 2.8; Copyright(C) 1984, 1995, 2000 Stephen L. Moshier
3. Zlib. Zlib.h version 1.2.5, 2010. Copyright (C) 1995-2004 Jean-loup Gailly and Mark Adler;
4. MiniZip. Copyright(C) 1998-2010 - by Gilles Vollant - version 1.1 64 bits from Mathias Svensson
5. PJNSMTP. PJNSMTP.H, Created: PJN / 22-05-1998, Copyright(C) 1998 - 2007 by PJ Naughter
6. PDF-XChange. version 1.x -3.x; Copyright Tracker Software Products Ltd.;
7. RIPEMD-160 hashing (Katholieke Universiteit Leuven) rmd160.h, Version 1.0. Copyright© 1996(Katholieke Universiteit Leuven),
8. jQuery

Copyright (c) 2011 John Resig, <http://jquery.com/>

9. DHTML Calendar Version 1.0 Copyright © 2002-2005 dynarch.com,
10. DotNetZip Version 1.29.2013.20074; Copyright © 2006-2013;
11. ICU (International Components for Unicode)

Copyright (c) 1995-2011 International Business Machines Corporation and others.

12. Bouncy Castle

Copyright (c) 2000 - 2011 The Legion Of The Bouncy Castle (<http://www.bouncycastle.org>)



## Exhibit D

### Maintenance Terms

1. Maintenance shall be provided in accordance with the then-current Maintenance policy (currently available at [www.qlikview.com/us/info/software-ula](http://www.qlikview.com/us/info/software-ula)), the terms of which are incorporated herein by this reference ("Maintenance Policy"). Licensee acknowledges and agrees that the Maintenance Policy and/or the URL where the policy is posted from time to time may be revised, and Vendor agrees to notify Licensee of any such revisions, including without limitation via email or notifications posted on the website. Licensee acknowledges and agrees that any such revisions to the Maintenance Policy will apply to Licensee immediately following issuance of notice, unless such revision would result in a material reduction in the Maintenance services purchased by Licensee, in which case such revision will only apply to Licensee on the earlier to occur of (a) the beginning of the next annual Maintenance period for which Licensee has not yet paid the applicable Maintenance Fees or (b) Licensee's consent in writing to such revision. In the event the Licensee elects not to renew Maintenance, this must apply to all Software licensed by Licensee. Licensee may elect to upgrade the level of Maintenance at any time but such upgrade must apply to all Software licensed by Licensee.
2. In consideration of QlikTech's provision of Maintenance, Licensee agrees to pay the Maintenance Fees set forth in the order form(s), which payments shall be non-refundable, except as otherwise expressly provided in this Agreement, non-creditable and not subject to any right of offset or suspension. The Maintenance Fees are due and payable annually in advance.
3. Reinstatement of lapsed Maintenance (whether the lapse is due to termination for Licensee's non-payment of Maintenance Fees or voluntary non-renewal by Licensee) will be subject to payment by Licensee of the then-current annual Maintenance Fees payable for the 12-month period beginning on reinstatement plus the aggregate Maintenance Fees that would have been payable for the relevant Software during the period of lapse in the absence of termination or non-renewal, provided that the combined reinstatement fees are paid within twelve (12) months after the date of the lapse. Reinstatement beyond this date will be at Vendor's or its licensor's sole discretion.
4. Vendor does not represent, warrant or make any commitment that: (i) the Maintenance services will meet Licensee's requirements or (ii) that Vendor will be able to fully resolve any particular request for Maintenance of the QlikTech Software or that such resolution will meet Licensee's requirements or expectations. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE MAINTENANCE SERVICES ARE PROVIDED "AS IS", AND VENDOR AND ITS SUBCONTRACTORS AND LICENSORS AND THEIR RESPECTIVE AFFILIATES AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED (BY STATUTE, COMMON LAW OR OTHERWISE) INCLUDING, WITHOUT LIMITATION, AS TO THEIR ACCURACY, TIMELINESS, COMPLETENESS, RESULTS, PERFORMANCE, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, QUALITY OF INFORMATION, QUIET ENJOYMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF VENDOR OR ITS SUPPLIERS OR LICENSORS HAS BEEN INFORMED OF SUCH PURPOSE, AND ANY REPRESENTATIONS, EXPRESS OR IMPLIED WARRANTIES OR OTHER TERMS ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE MAINTENANCE SERVICES OR ANY THIRD PARTY MATERIALS IN ANY COMMUNICATION WITH LICENSEE ARE FOR INFORMATION PURPOSES ONLY AND DO NOT CONSTITUTE A WARRANTY, REPRESENTATION OR CONDITION.
5. Vendor's and its suppliers' and licensors, and their respective Affiliates' maximum, cumulative liability for any damages arising under this Maintenance Agreement regardless of the form of action, whether in contract, tort (including but not limited to negligence or strict liability) or otherwise, shall in no event exceed the amount of maintenance fees paid by or on behalf of Licensee to QlikTech hereunder during the twelve (12) months preceding such claim. IN NO EVENT SHALL VENDOR, ITS SUPPLIERS OR LICENSORS OR THEIR RESPECTIVE AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, LOSS OF SAVINGS, GOODWILL, REPUTATION OR DATA, INACCURACY OF ANY DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR SOFTWARE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF ANY OF THE FOREGOING ENTITIES HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from vendor's negligence; (2) for fraud; (3) for any other matter for which liability cannot be excluded by law or (4) express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into the GSA Schedule 70 contract.

## **Exhibit E**

### **Services Terms**

1. Licensee shall obtain all necessary consents, permissions and authorizations to enable Vendor and/or its subcontractors to provide the Services and shall provide access to all staff and data necessary for Vendor's performance of the Services. Licensee is responsible for the completeness and accuracy of all information, data and material provided by or on behalf of Licensee to Vendor.
2. Vendor may assign all or part of the Services to be performed hereunder to an affiliate or third party. Vendor retains the right to assign, reassign and substitute personnel at any time.
3. If the Services are to be performed at Licensee's location: (i) Licensee will provide, and shall ensure it has all rights to provide, all necessary working facilities (including, but not limited to, meeting facilities, desks, computers, software, hardware, equipment, telephone, facsimile, internet access, and access to the applicable locations, computers and systems of Licensee) to enable Vendor to perform the Services at Licensee's premises; (ii) Licensee shall ensure that the premises at which the Services are to be carried out comply at all times with all applicable legislation, including but not limited to, any applicable health or safety laws, rules and regulations; and (iii) ensure that its employees and contractors cooperate fully with Vendor in relation to the provision of the Services;
4. Only upon agreement by the parties, Licensee may be responsible for all reasonable travel and living expenses incurred in connection with the Services, as per the then current US Government per diem rates.
5. Services are conducted and billed on an hourly basis. Any reference to Days or Daily is equal to eight (8) hours of service.
6. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE CONSULTING SERVICES ARE PROVIDED "AS IS", AND VENDOR, ITS SUPPLIERS, LICENSORS AND SUBCONTRACTORS AND THEIR RESPECTIVE AFFILIATES AND SUPPLIERS DISCLAIM ALL ANOTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER EXPRESS OR IMPLIED (BY STATE COMMON LAW OR OTHERWISE) INCLUDING WITHOUT LIMITATION, AS TO THEIR ACCURACY, TIMELINESS, COMPLETENESS, RESULTS, TITLE, NON-INFRINGEMENT, SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, EVEN IF ANY OF THE FOREGOING ENTITIES HAS BEEN INFORMED OF SUCH PURPOSE, AND ANY REPRESENTATIONS, WARRANTIES OR OTHER TERMS ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.
7. EXCEPT FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE, VENDOR'S, ITS SUPPLIERS' LICENSORS AND SUBCONTRACTORS AND THEIR RESPECTIVE AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY FOR DAMAGES (REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) OR OTHERWISE) SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID BY LICENSEE FOR THE APPICABLE SERVICES WHICH GAVE RISE TO THE CLAIM. IN NO EVENT SHALL EITHER PARTY OR ITS RESPECTIVE SUPPLIERS, RESELLERS, SUBCONTRACTORS OR AFFILIATES BE LIABLE FOR ANY LOSS OF PROFITS OR REVENUES, SAVINGS, GOODWILL, DATA OR INACCURACY OF ANY DATA OR COST OF SUBSTITUTE GOODS OR SOFTWARE REGARDLESS OF THE THEORY OF LIABILITY OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS, HOWSOEVER ARISING, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THESE TERMS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. The foregoing exclusion/limitation of liability shall not apply to (1) personal injury or death resulting from vendor's negligence; (2) for fraud; (3) for any other matter for which liability cannot be excluded by law or (4) express remedies provided under any FAR, GSAR or Schedule 70 solicitation clauses incorporated into the GSA Schedule 70 contract.
8. Vendor, or its suppliers, subcontractors, licensors and their respective affiliates, own and retain all right, title and interest in and to the Consulting Services and the deliverables provided, including all patents, trademarks (registered or unregistered), trade names, copyrights, trade secrets and any Confidential Information which Vendor may disclose. Licensee does not acquire any right, title or interest in or to any Services or deliverables.
9. Licensee acknowledges and agrees that all intellectual property associated with the Services and any other nonpublic information of a technical or commercial nature concerning the Services constitute the proprietary and confidential information and trade secrets of Vendor or its suppliers, licensors or subcontractors ("Confidential Information"). Licensee will protect such information from unauthorized distribution and use with the same degree of care that it uses to protect its own like information, but in no event less than a reasonable degree of care. Licensee shall not circulate Confidential Information within its own organization nor that of its Affiliates except to those employees or consultants who need to know such information in connection with the business relationship between the parties. All tangible Confidential Information shall be so marked.
10. Licensee acknowledges and agrees that any Services to be held at Licensee's location have been reserved specifically for Licensee. Any cancellation or rescheduling of any such on-site Services requires at least ten (10) business days' written notice prior to the date of the scheduled Consulting Services. No refunds of any Consulting Services fees will be given for any cancellation made less than ten (10) business days prior to the scheduled Consulting Services date.

## **Exhibit F**

### **Training Terms**

1. All Training is subject to space availability and Vendor or its suppliers or subcontractors scheduling requirements. Licensee shall promptly complete all registration or information forms required for any Training. Prior to the start date of any Private or Onsite Training, Licensee shall provide to Vendor the list of participants scheduled to attend such Training. In the event that a scheduled participant is unable to attend a Training Course due to illness or a new role at Licensee, or if such participant is no longer employed by Licensee, Licensee may substitute another participant for such Training Course upon prior written notice to Vendor of such new participant's contact details.
2. Cancellations and requests by Licensee to reschedule Public Classroom, Private Classroom, Onsite Classroom, Virtual Private or Virtual Public Classroom Training must be made at least ten (10) business days prior to the applicable Training start date in order to receive a full refund (excluding any nonrefundable Vendor expenses). If Licensee has paid by Training Credit Voucher, such refund shall be credited to Licensee's applicable Voucher number. No refunds or credits whatsoever shall be granted in the event such cancellation or rescheduling request is made less than ten (10) business days prior to the start date of the Training.
3. Each purchased Voucher entitles Licensee to a specific number of training credits ("Training Credit(s)"). Training Credit values are calculated based on the currency and location in which they are purchased, and may only be used by the Licensee entity that purchased such Voucher. Vouchers and Training Credits are non-refundable, and cannot be exchanged for cash or other credits. A Voucher shall be activated by Vendor or its subcontractor upon purchase thereof by Licensee, and shall be identified by a specific Voucher number. Each Training course shall have a cost denominated in Training Credits. All Training ordered, registered for, or attended on Licensee's behalf that are paid for via a Voucher will incur the applicable reduction in the Training Credit value of such Voucher equal to the value of Training courses ordered at the time of registration or payment. If the applicable charge for a Training course is greater than the unused Training Credits connected with Licensee's Voucher, such Training Credits may be applied against such Training course, and Licensee shall be responsible for payment of the additional charges for such Training Course. If Licensee's proposed Private and/or Onsite Classroom Training Course exceeds the maximum number of participants, and Vendor agrees to accommodate any additional participants, an additional amount of Training Credits may be required to be redeemed for such course. Licensee's order of such training constitutes Licensee's acceptance to the use of additional Training Credits for any additional participants.
4. Voucher Training Credits are valid for a period of twelve (12) months from date of purchase ("Voucher Term"). All Training Credits must be used for Training Courses that occur during the Voucher Term. To the extent permitted by law, and except as otherwise expressly provided herein, at the end of the Voucher Term, any remaining, unused Training Credits under the applicable Voucher number shall expire and shall be forfeited. No refunds shall be provided for any remaining, unused Training Credits following expiration of the Voucher Term. Vendor and its subcontractors are not responsible for a lost, expired, or invalid Voucher number. In order to obtain a replacement, Licensee must provide valid proof of purchase. Licensee shall have no right to transfer or assign any Voucher or Training Credits to any affiliate or third party.
5. Vendor reserves the right to reschedule or cancel a Training due to low enrollment or if necessitated by an emergency or other unforeseen circumstances. Licensee shall receive full credit for such course, which may be used before the expiration of the applicable Voucher Term or within ninety (90) days following the date of Vendor's notice of cancellation or rescheduling, whichever is later. Vendor and its subcontractors shall not be liable for non-refundable travel arrangements made by Licensee in the event of a course rescheduled or cancelled by Vendor.
6. If Licensee attends Training at a Vendor or its subcontractor location or training center, Licensee shall be responsible to comply with all of policies and procedures that have been identified to Licensee, including but not limited to health and safety, access to equipment and systems, and confidentiality (collectively, "Policies" or individually, a "Policy"). Vendor reserves the right to remove from any Training or refuse to admit to any Training any participant who is not in compliance with any Policy. Licensee agrees to provide timely feedback to Vendor following completion of each Training event, which may include satisfaction forms, customer surveys or evaluations (collectively, "Feedback"). To the extent that Licensee provides any Feedback or any other suggestions, data, information, comments or ideas with respect to the products and services (individually and collectively "Contributions"), Licensee acknowledges and agrees that any and all Contributions made by Licensee or any of its participants shall be deemed the confidential and proprietary property of Vendor's licensor, QlikTech. . Licensee expressly assigns, transfers and conveys all right, title and interest in and to the Contributions to QlikTech. Licensee agrees that QlikTech and its designees will be free to use, copy, modify, create derivative works, publicly display, disclose, distribute, license and sublicense through multiple tiers of distribution and licensees, incorporate and otherwise use and exploit the Contributions, including derivative works thereto, for any and all commercial and non-commercial purposes, without any liability or obligation to Licensee whatsoever.
7. If required for any Training, Vendor shall provide the applicable participants with an evaluation version of QlikTech's proprietary QlikView software to use during a live public or private classroom Training Course for instructional purposes only (the "Training Software") and such right to use the Training Software shall automatically terminate upon conclusion of the applicable Training Course. Attendance at a Training does not entitle any Licensee or participant to any license whatsoever to any QlikView Software.
8. The QlikView On-Demand Technical Library is accessible only by the purchase of a twelve (12) month QlikView On-Demand Technical Library License (the "Technical Library License"). If Licensee has selected a Technical Library License, then subject to Licensee's compliance with these terms, Vendor grants to Licensee a personal, limited, non-assignable, time-limited, non-exclusive, and non-transferable license, without the right to sublicense, to use the Technical Library License solely for Licensee's personal training and education. The term of the Technical Library License shall commence on the date of Vendor's email confirmation of the purchase of such license and shall automatically terminate twelve (12) months following such date.

9. In connection with Training, Vendor may distribute to participants QlikTech-branded Training materials, in printed form or other medium ("Course Materials"). Subject to Licensee's compliance with these terms, Licensee is granted a personal, limited, non-assignable, non-exclusive, and non-transferable right, without the right to sublicense, to use the Course Materials solely for Licensee's personal training and education. Licensee may not copy, reproduce, modify, rent, lease, distribute, sell, sublicense, transfer or use in any way except for in accordance with the limited right granted herein the Course Materials, the Training or any part thereof. Licensee may use the information contained in the Course Materials and the Training Courses solely for education purposes only and may not disclose or make available to any person any information contained therein, except to others who have also rightfully received the same Course Materials or Training. Except for the limited right to use granted herein, all rights in and to the Training Courses and the Course Materials, and all copies thereof, are retained by QlikTech and its licensors, including, without limitation, all patent rights, copyrights, trademark rights and trade secret rights. Licensee shall not remove or alter any copyright or other proprietary rights notice of QlikTech and/or its licensors in or on the Course Materials. All Training and Course Materials and the intellectual property rights associated therewith are and will remain at all times the sole and exclusive property of QlikTech and its affiliates and licensors, and Licensee has no right, title or interest in or to the Training, Course Materials or the intellectual property associated therewith.

10. Licensee may download the On-Demand (e-learning) Training from a secure server via the FTP transmission and password(s) provided by QlikTech (the "Credentials"). Licensee is responsible to create a maximum of two (2) profiles with a unique password for each authorized participant for use in accessing the On-Demand (e-learning) Training. Licensee acknowledges and agrees that the Credentials, profile information and password are confidential and that Licensee may not provide the Credentials, profile information or password to any other parties. NOTE: THE INSTALLATION OF THE ON-DEMAND (E-LEARNING) TRAINING COURSES WILL INSTALL FILES NECESSARY TO OPERATE THE ON-DEMAND (E-LEARNING) TRAINING COURSES ONTO LICENSEE'S COMPUTER. UNINSTALLING THE TRAINING COURSES WILL NOT REMOVE ALL OF THE INSTALLED FILES OR REGISTRY ENTRIES. AS WITH ALL INSTALLATIONS, IT IS RECOMMENDED THAT LICENSEE BACK UP ITS HARD DRIVE BEFORE INSTALLING ANY TRAINING COURSE. LICENSEE SHALL BE RESPONSIBLE FOR INSTALLATION OF ALL FILES NECESSARY TO OPERATE THE TRAINING COURSES. QLIKTECH WILL NOT BE RESPONSIBLE FOR ISSUES ASSOCIATED WITH THE DOWNLOAD AND/OR INSTALLATION PROCESS.

11. Licensee acknowledges and agrees that the intellectual property associated with the Training and the Course Materials, and any other nonpublic information of a technical or commercial nature concerning QlikTech or the Training and the Course Materials disclosed to Licensee in connection with these Education Terms constitute QlikTech's proprietary information and trade secrets, and Licensee agrees to hold such information in strict confidence, and not disclose or otherwise share the Training or Course Materials or any other confidential information with any third party except as expressly provided in these terms.

12. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE COURSE MATERIALS AND TRAINING ARE PROVIDED "AS IS". EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, VENDOR, ITS SUPPLIERS, LICENSORS AND SUBCONTRACTORS AND THEIR RESPECTIVE AFFILIATES AND SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER EXPRESS OR IMPLIED (BY STATUTE, COMMON LAW OR OTHERWISE). VENDOR DOES NOT WARRANT THAT: (I) THE COURSE MATERIALS OR ANY TRAINING WILL MEET LICENSEE'S OR ITS PARTICIPANTS' REQUIREMENTS; OR (II) THE CONTENT OF ANY COURSE MATERIALS OR ANY TRAINING WILL BE ERROR FREE. IN NO EVENT SHALL QLIKTECH OR ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES OR LOSSES OF ANY KIND ARISING UNDER ANY THEORY OF LIABILITY (INCLUDING TORT), INCLUDING WITHOUT LIMITATION DAMAGES OR LOSSES FOR LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OR CORRUPTION OF BUSINESS DATA OR INFORMATION, OR OTHER PECUNIARY LOSS, EVEN IF ANY OF VENDOR, ITS SUPPLIERS, LICENSORS AND SUBCONTRACTORS THEIR RESPECTIVE ITS AFFILIATES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MAXIMUM AGGREGATE LIABILITY FOR ANY EDUCATION SERVICES (REGARDLESS OF THE FORM OF ACTION, VENDOR, ITS SUPPLIERS, LICENSORS AND SUBCONTRACTORS THEIR RESPECTIVE ITS AFFILIATES WHETHER IN CONTRACT, TORT, OR OTHERWISE) SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE AMOUNT ACTUALLY PAID BY LICENSEE (EXCLUDING ANY EXPENSES) FOR THE APPLICABLE EDUCATION SERVICES GIVING RISE TO THE LIABILITY. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET FORTH IN THESE TERMS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.