

## **MASTER SUBSCRIPTION AGREEMENT**



THIS MASTER SUBSCRIPTIONS AGREEMENT is made by and between Telesoft, LLC (DBA Calero), a Delaware limited liability company, with a principal place of business at 1040 University Ave, Suite 200, Rochester, NY 14607 (together with any of its Affiliates providing Subscriptions under this Agreement, the "Supplier") and Customer. Each of Customer and Supplier may individually be referred to as a "Party" and collectively as the "Parties."

### **RECITALS**

- A. Supplier develops, owns and distributes certain software products, applications, platforms and related Subscriptions that, among other things, facilitate invoicing, auditing, processing and usage management for recurring enterprise expenses with Customer's Vendors; and
- B. Customer desires to license such software products, applications, platforms and related subscriptions from Supplier in accordance with the terms and conditions of this Agreement.

### **EXHIBIT A**

#### **Terms and Conditions**

1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth in Annex A.
2. Scope. This Agreement constitutes a master agreement under which Customer may purchase the Solution from Supplier by entering into a written Order Form.
  - 2.1 Customer shall order Software and Subscriptions via one or more Order Form(s). Supplier shall deliver the Software and perform the Subscriptions as specified in each Order Form in accordance with the requirements of that Order Form and this Agreement. Each Order Form shall refer specifically to this Agreement and shall become effective only when signed by authorized representatives of Customer and Supplier. Each duly executed Order Form shall become a part of this Agreement and shall be subject to all of the terms and conditions set forth herein.
  - 2.2 Supplier shall not be obligated to provide access to any other programs, workflows, process management, functionality, or to put forth any efforts not explicitly identified in a Order Form. Such other programs, process managers or functionality and any additional subscriptions may be available to Customer at Supplier's then-current rates pursuant to a separate, mutually agreed and executed Order Form.
3. Grant of License; Restrictions.
  - 3.1. Subject to payment of all applicable Fees and full compliance by Customer with the terms and conditions of this Agreement, Supplier hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable license to Use the Software, Supplier's ASP Facility, Host Software, Database Server and Documentation for Customer's and Customer's Affiliates' internal business purposes (the "License"). The scope of the License is defined by the terms and conditions of this Agreement. Customer acknowledges that there are no additional licenses granted by Supplier by implication under this Agreement. Supplier reserves all rights that are not expressly granted.
  - 3.2. Supplier shall (a) host, operate, and maintain the Software on servers operated by or for Supplier; (b) provide Customer with access to the Software and Customer Data during the Order Form Term solely for the Purpose; and (c) provide Subscriptions in accordance with any Subscription Level Targets as defined in the Order Form(s). Customer agrees that any use other than solely for the Purpose would require additional consideration and the prior written approval of Supplier. Notwithstanding anything herein to the contrary, Supplier retains the right to update and modify the Software as per the terms of any Order Form.
  - 3.3. During the Term and subject to Customer's compliance with the terms and conditions of this Agreement, Supplier hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable license to copy and distribute the Documentation solely for internal use and to the extent necessary for Customer to incorporate portions of such Documentation into Customer's own documentation. Customer acknowledges that the Documentation is Supplier's Confidential Information, and Customer agrees to ensure that all proprietary notices placed on the original copies by Supplier, such as copyright notices, trademark notices, and confidentiality notices, are also included in the same manner on all copies. Customer may not modify or make derivative works of the Documentation.
  - 3.4. Customer hereby grants to Supplier a worldwide, perpetual, irrevocable, royalty-free, fully paid-up license and right to use, copy, display, modify, publish or create derivate works from any Customer feedback relating to the Software,

Documentation and Subscriptions, including but not limited to, any information provided by Customer related to Customer's experience with the Software, Documentation and Subscriptions; in each case, provided that such feedback does not include any Customer Confidential Information.

3.5. Customer shall implement reasonable controls to ensure that the Software is accessed and used only by Authorized Users. Customer shall be responsible for maintaining the confidentiality of usernames and passwords used to access the Software, regardless of whether such access is done with Customer's knowledge or consent. Authorized Users shall utilize the Software solely for Customer's benefit and only if Customer and contractor's combined use falls within the limits of the pricing assumptions agreed in the Order Form. Customer shall be responsible for ensuring that all Authorized Users comply with the terms of this Agreement, and Customer shall be liable for any breach by any Authorized User of the restrictions or other terms of this Agreement.

3.6. Customer, and any Authorized Users, shall not directly or indirectly: (a) sell, rent, lease, loan, sublicense, disseminate, assign, transfer, hypothecate, grant a security interest in or otherwise provide the Software to third parties, make the Software available for use by third parties (except as set forth in Section 1) or use the Software for the benefit of any third party including through any outsourcing, timesharing, subscription bureau, facilities management, practice management, billing or data processing subscription basis; (b) reproduce, modify, adapt, translate or create any derivative works from the Software; (c) disassemble, decompile, reverse engineer, or make any other attempt by any means to discover or obtain the source code for, the Software, except as may be expressly permitted under applicable law; (d) remove, alter, obscure or tamper with any trademark, copyright or other proprietary markings or notices affixed to or contained within the Software or Documentation; (e) take any action that may adversely impact or impair Supplier's title and interest in the Software or Documentation; (f) attempt to gain unauthorized access to the Software or any related systems or networks; (g) remove any proprietary notices or labels on the Software or Documentation; (h) use the Software to store or transmit any Virus; or (i) encourage or permit any Authorized User or other third party to engage in any of the foregoing. Customer acknowledges that Supplier is offering the Software to Customer under the express condition, and Customer shall ensure, that no Competitor shall be permitted to access, use, interact with, test, repair, interface, reverse engineer or decompile the Software, Documentation or any portion thereof.

3.7. Further, Customer may not remove or export from the United States or allow the export or re-export of the Software or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Software and documentation are "commercial items" and according to DFAR section 252.227-7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

3.8. Although Supplier has no obligation to monitor Customer's use of the Software, Supplier may do so solely for the purposes of ensuring continued application security, compliance with the terms of this Agreement, and improvement of the user experience. All monitoring shall be done in accordance with Supplier's privacy policy, as published in its most recent form on Supplier's public website.

#### 4. Ownership Rights Reserved.

4.1. Customer acknowledges and agrees that, as between Customer and Supplier, all worldwide right, title and interest in and to the Software, Documentation and related materials (including without limitation, all modifications, alterations, improvements and enhancements thereto and any derivative works thereof, whether created through the provision of Subscription or otherwise) and all copies thereof, including all Intellectual Property Rights in or related to the Software and Documentation, are and shall remain the exclusive property of Supplier (the "Supplier IP"). The Supplier IP is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The Software and Documentation are licensed, not sold. Except for the rights expressly granted in Section 3, Customer shall have no rights to or other interests in the Supplier IP. Supplier reserves all rights not explicitly granted to Customer under this Agreement.

4.2. The Supplier's Software includes software products ("Third-Party Components") produced and licensed to Supplier by third parties ("Third-Party Suppliers").

4.3. Third-Party Components are protected by copyright and other intellectual property rights and elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Supplier's products, are owned by the Third-Party Suppliers. Customer shall not remove, modify or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Third-Party Components. The Third-Party Components are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Customer's possession, access, or use of the Third-Party Components does not transfer any ownership of the Third-Party Components or any intellectual property rights to Customer.

4.4. Customer may not reverse engineer, decompile, or disassemble the Software (including any Third-Party Components), except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

4.5. Customer acknowledges that Suppliers Third-Party Suppliers disclaim, to the extent permitted by applicable law, all warranties by them and any liability by Supplier's Third-Party Suppliers or their suppliers for any damages, whether direct, indirect, or consequential, arising from the Third-Party Components included in the Software.

4.6. Customer permits the disclosure by Supplier of software usage information to Supplier's Third-Party Suppliers as required under the agreement(s) between Supplier and Supplier's Third-Party Suppliers. Such disclosure is limited only to the Customer name and address.

## 5. Term and Termination.

5.1 The term of this Agreement shall commence on the Effective Date of the Order Form and, unless previously terminated as provided below, will remain in effect for so long as any Software or Subscriptions are being delivered by Supplier to Customer pursuant to any Order Form. The term of any Order Form (the "Order Form Term") shall be as specifically set forth in such Order Form. Termination of this Agreement shall terminate any and all Order Form's then in effect at the time of such termination.

5.2 Either Party may immediately terminate this Agreement or any Order Form by giving written notice of termination to the other Party if:

- 5.2.1. That other Party shall breach or fail to perform any obligation under this Agreement and, if such breach or failure is capable of remedy, remedial action shall not have commenced, in the case of Customer's obligation to pay any Fees before the expiry of a period of five (5) days after written notice thereof, and in all other cases before the expiry of a period of thirty (30) days after written notice thereof; or
- 5.2.2. that other Party becomes insolvent or unable to pay its debts or has an administrative or other receiver appointed or passes a resolution for its winding-up or liquidation or has a court order made for winding up or declaration of insolvency or becomes subject to an administration order or enters into a voluntary arrangement with its creditors or ceases or threatens to cease to carry on business or takes or suffers any similar action in consequence of debt.

5.3 Within thirty (30) days after termination of this Agreement:

- 5.3.1. Customer shall either return the Documentation and all copies in the Customer's possession to the Supplier or (at the Supplier's option) take all reasonable steps to destroy the Documentation and all copies and furnish the Supplier proof of such steps at the request of Supplier; and
- 5.3.2. in accordance with Clause 11.1 below, the Supplier shall either deliver up the Customer Data to Customer in a form which is accessible by Customer or destroy the Customer Data (including all copies and backups thereof) at Customer's discretion.

5.4 In case of Supplier's termination of any Order Form or this Agreement (resulting in the termination of any Order Form) based on Customer's uncured material breach (including breach of any payment obligations), or Customer's termination of any Order Form or this Agreement (resulting in the termination of any Order Form) for any reason other than Supplier's uncured material breach, Customer shall pay Supplier an early termination charge equal to the sum of: (i) 100% of any unpaid, undisputed Fees accruing prior to the date of termination; and (ii) 100% of any unpaid, undisputed Fees for the remainder of the Order Form Term through to the end of the Order Form Term. For clarity, this Section 5.4 shall not apply to non-refundable prepaid Fees, as per the terms of Section 7.1.

5.5 Supplier shall be entitled to suspend Customer's access to the Software or provision of Subscriptions (or both) in the event Supplier reasonably believes that Customer has breached any rights granted by Supplier to Customer under Sections 3 (Grant of License; Restrictions), 7 (Fees and Payment), 9 (Customer Representations and Warranties), or 11 (Confidentiality) until such time as Customer has cured such breach to Supplier's reasonable satisfaction.

5.6 Notwithstanding anything to the contrary contained herein, any provisions which, by their nature, are intended to survive any expiration or termination of this Agreement shall so survive, including Sections 1 (Definitions), and 5 through 13, inclusive.

## 6. Customer Data.

6.1 Customer shall be the exclusive owner of all right, title and interest in and to the Customer Data. Notwithstanding the foregoing, Customer grants to Supplier and its licensors a worldwide, perpetual, royalty-free, fully-paid up, non-exclusive license and right to use, store, analyze, anonymize and aggregate the Customer Data for the sole purpose of Supplier providing the Solution for Customer hereunder. Subject to the limited license granted herein, Supplier acquires no right, title or interest from Customer or its licensors under this Agreement or in or to Customer Data. As permitted by applicable data protection law, Supplier may aggregate, deidentify, or anonymize Customer Data, including personal information, so that it no longer meets the personal information definition under applicable law(s), and may use such aggregated, deidentified, or

anonymized data for its own research and development purposes. Supplier will not attempt to or actually re-identify any previously aggregated, deidentified, or anonymized data.

6.2 Supplier shall put in place reasonable security measures as described in Annex B to protect against unauthorized access, alteration, disclosure, and destruction of the Customer Data. These measures shall include the maintenance of a business continuity/disaster recovery, implementation, and testing plan that reasonably anticipates events or disasters of varying types affecting the delivery of the Solution.

## 7. Fees and Payment.

7.1 Customer shall pay the Fees to Supplier in the amounts and on the terms and conditions set forth in the Order Form. Fees shall be paid via cheque, bank transfer, or wire transfer. Any Fees prepaid in advanced are non-refundable and will not be subject to terms and conditions relating to early termination fees or charges.

7.2 Unless stated otherwise, amounts on all quotes and Order Forms do not include taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). It is understood and agreed that Customer is responsible for paying all Taxes associated with this Agreement. If Supplier has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 7.2, Supplier will invoice Customer and Customer will pay the invoiced amount. Customer may present Supplier with valid tax exemption documentation at any time; however, Taxes will be charged and remain due until receipt of such documentation.

7.3 Customer shall indemnify Supplier against any fees, penalties, or costs incurred as the result of Customer's failure to pay any applicable state and/or local Taxes owed in connection with this Agreement.

7.4 All Fees shall be invoiced as set out in the Order Form and shall be payable within thirty (30) days of the date of the applicable invoice. Supplier shall submit all invoices to the attention of the recipient specified in the applicable Order Form. Any amount not paid when due shall accrue interest at the rate of one and one half percent (1.5%) per month or the maximum rate permitted by law, whichever is less.

7.5 Customer shall reimburse Supplier for all documented, reasonable expenses incurred by Supplier for travel, lodging, and meals when Customer requires Supplier to perform Subscription(s) at locations other than Supplier's offices. Otherwise, Supplier shall be responsible for all expenses other than those set forth in any Order Form, for which Customer shall reimburse Supplier.

7.6 On each anniversary of the Effective Date after the Initial Order Form Term (as defined in the Order Form) of any applicable Order Form, the Supplier reserves the right to increase the Fees by up to 10%.

## 8. Supplier Warranties and Disclaimers.

8.1 The Supplier warrants that the Software will substantially conform to the functions specified in the Documentation when operated under normal use. In the event of an alleged breach of this warranty, Supplier shall re-perform the Subscription or correct any material errors in the Software of which Supplier has been notified by Customer in writing in a commercially reasonable manner. Customer acknowledges and agrees that this Section 8 sets forth Supplier's exclusive liability, and Customer's exclusive remedy, for any breach of the warranty set forth herein.

8.2 The Supplier further warrants that it has a right to grant the Customer and its Affiliates a license to use the Software, Supplier's ASP Facility, Host Software, Database Server and Documentation without knowingly infringing or violating any third-party rights.

8.3 The Supplier further warrants that the Subscriptions shall be performed in a professional and workmanlike manner and in compliance with all Applicable Laws and Supplier will use all commercially reasonable efforts to achieve any applicable Subscription Level Targets.

8.4 Supplier warrants and represents that it shall have taken commercially reasonable steps to ensure that the Software shall not: (i) contain any Virus, malware, or any other computer code, files, or programs that are designed or intended to disrupt, damage, or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain access to any data or other information of Customer or any third party; (ii) contain any timed, disabling, or similar codes; (iii) contain hidden files; (iv) replicate, transmit, or activate itself without the control of a person operating the computing equipment on which it resides; (v) contain any node lock, time-out or other functions; (vi) contain anything unlawful, threatening, abusive, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, or contains explicit or graphic descriptions or accounts of sexual acts prior to delivery or installation; and (vii) will be subjected to commercially reasonable testing procedures to determine the presence of viruses, malware, disabling, node lock, time-out, or similar codes. If Supplier or Customer detects any such viruses, malware, disabling, node lock, time-out, or similar code, or inappropriate content it shall immediately report same to the Customer or Supplier, as applicable, and Supplier shall promptly correct the Software.

8.5 The Software is not fault-tolerant and is not guaranteed to be error free or to operate uninterrupted. Customer must not use the Software in any application or situation where the Software's failure could lead to personal injury property or environmental damage.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SOFTWARE, SUBSCRIPTIONS, DOCUMENTATION AND DATA OR DELIVERABLES PROVIDED BY SUPPLIER ARE PROVIDED "AS IS", "AS AVAILABLE" AND "WITH ALL FAULTS," AND SUPPLIER EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF OPERABILITY, CONDITION, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, QUIET ENJOYMENT, VALUE, ACCURACY OF DATA, OR QUALITY, AS WELL AS ANY WARRANTIES OF MERCHANTABILITY, SYSTEM INTEGRATION, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT.

## 9. Customer Representations and Warranties.

9.1 Customer represents, covenants, and warrants that Customer will use the Software and Documentation only in compliance with the terms of this Agreement and any of Supplier's standard published policies then in effect, if any, and all Applicable Laws. Customer hereby agrees to indemnify and hold harmless Supplier against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing.

9.2 Customer represents that (i) it has full power to enter and perform this Agreement under Applicable Laws and under its relevant governance documents; (ii) it has obtained any consent it requires from its management, its board of directors and any third parties to the extent consent is necessary to authorize it to enter and perform this Agreement; and (iii) it has had adequate opportunity to review and negotiate the terms of this Agreement and to seek the advice of counsel about its rights and duties under this Agreement.

9.3 The Customer shall make all commercially reasonable efforts to ensure that no Virus is introduced or transmitted by it to the Supplier's computer system during the term of this Agreement.

9.4 The Customer shall ensure that it can provide to its Authorized Users the appropriate technical environment from which to access the Software, as specified in the relevant Order Form. These requirements shall be updated from time to time by Supplier in line with industry trends and new product releases. Supplier and Customer shall work together in good faith to ensure the technical measures are understood and can be properly implemented by Customer. Customer acknowledges that failure to provide a suitable technical environment may lead to degraded performance or availability of the Software, for which Supplier cannot be held liable.

9.5 Customer shall timely provide any and all consents, approvals, third-party information and documentation (including letters of authorization) required in order for Supplier to implement and deliver the Solution or otherwise reasonably requested by Supplier (including any project implementation documentation with agreed deadlines or milestones).

9.6 Customer may not contact Supplier's subcontractors directly without express prior written permission from Supplier.

9.7 Customer shall treat all Supplier personnel (and, if applicable, Supplier's subcontractor personnel) in a courteous and professional manner.

## 10. Limitation of Liability.

10.1 IN NO EVENT SHALL THE EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING ANY DAMAGES FOR LOSS OF DATA, GOODWILL, BUSINESS INTERRUPTION OR THE LIKE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 IN NO EVENT SHALL THE EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR ANY CAUSE OF ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE TOTAL SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER FOR THE SUBSCRIPTION DURING THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE EARLIEST DATE ON WHICH THE EVENTS GIVING RISE TO THE LIABILITY OCCURRED. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OR THE FORM OF ACTION (WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY OR OTHERWISE) AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THIS LIMITATION IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES HEREUNDER BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THIS LIMITATION ON AMOUNT.

10.3 Notwithstanding anything to the contrary herein, the limitations of liability contained in Section 10.2 shall not apply to: (a) any damages arising out of or relating to a Party's failure to comply with its obligations regarding Confidential

Information or violation of any license grant hereunder; (b) either Party's indemnification obligations hereunder; (c) data breach by either Party or (d) Customer's payment obligations to Supplier hereunder.

## 11. Confidentiality.

11.1 Each Party as "Recipient" may be given access to information (in hardcopy, electronic or other form) that is identified by the other as "Discloser" as Confidential Information. Confidential Information of Supplier shall include the Solution; and Confidential Information of Customer shall include the Customer Content. Recipient agrees not to disclose or permit access to the Discloser's Confidential Information, except to the Recipient's employees and agents who (a) have a need to know such Confidential Information for the purposes of performing its obligations under this Agreement, (b) are informed of the confidential nature of the Confidential Information and (c) have agreed in writing or who are otherwise legally bound to treat the Discloser's Confidential Information in a manner consistent with Recipient's duties under this Agreement. Recipient will not use the Discloser's Confidential Information except (i) as necessary to perform Recipient's duties under this Agreement; and (ii) in any other manner that this Agreement expressly authorizes. Recipient shall use the same care to protect such Confidential Information as it uses to protect its own information of like kind, but in no event less than reasonable care, and will restrict access to such Confidential Information to those of its personnel engaged in a use permitted hereby. Notwithstanding the foregoing, either party may also disclose Confidential Information in confidence to its attorneys, accountants, professional advisors, and bankers in the ordinary course of business, as well as to current and potential investors in connection with a proposed financing transaction, and to other third parties in connection with a proposed transaction for the sale or acquisition of that party's business or assets. Confidential Information, including copies thereof, shall be returned or destroyed by Recipient upon the first to occur of (a) completion of the Solution, (b) termination of this Agreement or (c) written request by the Discloser. Notwithstanding the foregoing, the Recipient may retain copies of Confidential Information to the extent required by Applicable Laws or Recipient's customary back-up procedures and policies.

11.2 Nothing in this Agreement shall prohibit or limit Recipient's use of information (i) previously known to it without obligation of confidence, (ii) independently developed by it without use of or reference to Discloser's Confidential Information, (iii) acquired by it from a third party not under an obligation of confidence with respect to such information, or (iv) that is or becomes publicly available through no breach of this Agreement. Further, each party may disclose Confidential Information to the extent required by a court of competent jurisdiction, law enforcement officials or other governmental authority or otherwise as required by law. Unless prevented by law, the Recipient agrees to notify the Discloser as far in advance as reasonably possible before the Recipient delivers the Discloser's Confidential Information to any of those third parties. If requested by the Discloser, and if permitted by law, the Recipient will cooperate with the Discloser, at the Discloser's expense, in seeking to limit or eliminate legal requirements that compel disclosure, or in seeking confidential treatment by the applicable court, law enforcement officials and/or governmental agencies.

11.3 Recipient acknowledges that a breach of this section could cause Discloser irreparable harm and significant injury, which may be difficult to ascertain. Recipient agrees that Discloser will have the right to pursue any and all rights and remedies available at law and equity for such a breach.

11.4 The Receiving Party further acknowledges and agrees that the disclosure of Confidential Information to it does not confer upon Receiving Party any license, interest or rights of any kind in or to the Confidential Information other than as set forth in this Agreement or otherwise expressly agreed upon in writing by the parties.

11.5 The parties expressly acknowledge and agree that Customer does not intend to disclose and Supplier does not intend to receive information regarding Customer's customers, or potential customers or consumers during the performance of this Agreement. In the event Customer or Supplier discovers that such information has nevertheless been disclosed, the party which discovers the disclosure will promptly notify the other of the same and the parties will work together to ensure that such information has been returned to Customer and removed or deleted from Supplier's systems. In the event of such incidental disclosure, the information shall be treated as Confidential Information under the terms of this Agreement for so long as such information is retained by Supplier.

11.6 Supplier shall put in place and maintain (during the term of this Agreement and for so long as Supplier shall retain or have access to Customer Confidential Information) commercially reasonable security measures to protect against unauthorized access, alteration, disclosure, and destruction of the Customer Confidential Information which shall comply with industry standards and shall be as least as great as the measures Supplier takes to protect its own confidential data. These measures are documented in Annex B – Security Standards hereto and shall include the process for Security Incident management, details of Supplier's Business Continuity Plan, and secure back-up procedures as they relate to Customer Data.

## 12. Indemnification.

12.1 Each Party (the “Indemnifying Party”) shall indemnify, defend, and hold harmless the other Party and its officers, directors, employees and agents (each, an “Indemnified Party”) against any and all liabilities (including, but not limited to, losses, damages, expenses and reasonable attorneys’ fees) arising from any claim brought by an unrelated third party alleging injury, in whole or in part, resulting from (a) the gross negligence or wilful misconduct of the Indemnifying Party, its officers, directors, employees and agents; (b) the Indemnifying Party’s deliverables violating a trademark, copyright, patent, or privacy right of any unrelated third party, except where such claim is alleged to arise from a modification of the deliverables by anyone other than the Indemnifying Party, the use of the deliverables in combination with intellectual property not approved by the Indemnifying Party, deliverables which were delivered pursuant to the Indemnified Party’s specific requirements, or use of the deliverables in a way not in accordance with any documentation or restrictions supplied by the Indemnifying Party to the Indemnified Party. The event of a claim under part (b) of this Section, the Indemnifying Party shall, at its sole option and expense, have the right to procure for Indemnified Party the right to continue the use of the deliverable without interruption, replace or modify the deliverable to make its use non-infringing while being substantially capable of performing the same function, or accept return of the deliverable and refund the purchase price of that deliverable. In all cases the Indemnified Party shall promptly provide the Indemnifying Party written notification of the assertion of any claim and provide reasonable support in aiding the Indemnifying Party in any defense to a claim, at the Indemnifying Party’s reasonable cost. The Indemnifying Party shall have sole control over the defense or settlement of any claim, provided that neither Party shall agree to any settlement that places any financial or public burden upon the other Party.

13. General.

13.1 Insurance. Supplier shall throughout the Term of this Agreement maintain adequate insurance as is necessary to cover Supplier’s obligations under this Agreement and for Customer’s protection in connection with the Solution. Such insurance may include workers’ compensation insurance, general liability insurance, errors and omissions insurance, property insurance, and general automobile liability insurance. Upon Customer’s written request, Supplier shall promptly provide proof of such insurance coverage to Customer.

13.2 Subcontracting. During the term of this Agreement, Supplier reserves the rights to subcontract duties or obligations to perform Subscription or provide any deliverables under this Agreement or any Order Form subject hereto to any third party in accordance with the terms of Annex C. Supplier agrees that: (a) such third party shall execute a confidentiality agreement consistent with the terms of this Agreement; (b) any work done by such third party shall be considered work performed by Supplier; (c) any such permitted subcontracting shall not release Supplier from any of its obligations under this Agreement or any Order Form; and (d) Customer shall incur no additional expense or cost solely as a result of Supplier’s use of a subcontractor.

13.3 Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties, whether written or oral, with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or understandings between the Parties with respect to the subject matter. In the event of any conflict between the terms and conditions of this Agreement and those contained in a Order Form or other attachment hereto, the terms and conditions of this Agreement shall prevail. Any terms set forth on a purchase order or other written documentation provided by Customer are hereby rejected and shall not be binding on Supplier. Any term or provision of this Agreement or a Order Form may be amended, and the observance of any term of this Agreement may be waived, only by a writing signed by both Parties explicitly referencing this Agreement. Notwithstanding the foregoing, the Parties agree and acknowledge that Supplier may periodically update the Annexes by written notice to Customer to ensure the responsible, fair and reasonable use of the Subscriptions and Software (including updates to address Software updates, upgrades, additions, enhancements, and improvements from time to time), and to ensure compliance with Applicable Laws.

13.4 Notices. Any notice required or permitted by this Agreement shall be given to the recipient in writing by mail, hand delivery or telecopy to the address set forth below, or to such other address as the recipient may designate by written notice. Further, Supplier may send operational notices related to the Solution provided hereunder by electronic mail to Customer at the electronic mail address provided to Supplier. Any such notice shall be deemed to be received on the date delivered, telecopied or e-mailed, or five days after being mailed by registered or certified mail, return receipt requested, postage prepaid.

	Supplier Legal Notice Information
FAO:	Telesoft, LLC (DBA Calero) - Legal
Email	Legal@calero.com
Mailing Address:	1040 University Ave, Suite 200, Rochester, NY 14607

13.5 Severability. If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but if such provision does not relate to the payments

to be made to the Supplier by the Customer and if the remainder of this Agreement shall not be affected by such declaration or finding, then each provision not so affected shall continue to be valid and enforceable.

13.6 Waiver. No provision of right under this Agreement shall be deemed waived unless the waiver is in writing and signed by the waiving party. The failure of either Party to enforce compliance with a provision of this Agreement shall not be construed as a general waiver of such provision or any other provision.

13.7 Signature Authority. Each of the Supplier and the Customer represents and warrants to the other that: a) it has full power and authority to execute, deliver and comply with this Agreement; b) the execution, delivery and performance explicitly identified in a Order Form it have been duly authorized by it; and c) this Agreement evidences a valid and binding obligation of it enforceable in accordance with its terms.

13.8 Assignment. Subject to the provision of this clause, this Agreement shall be binding on the Parties, their successors and assigns. Neither Party shall assign this Agreement or any of its rights hereunder, nor delegate any of its obligations hereunder, without the other Party's prior written consent, except that such consent shall not be required in the case of an assignment of this Agreement (but not of any individual rights or obligations hereunder) to: (i) a purchaser of or successor to substantially all of a Party's business (unless, in the case of Customer, such purchaser or successor is a software, data processing or computer subscriptions vendor that is a Competitor of Supplier, its parent company or any of its subsidiaries or affiliates); or (ii) an Affiliate (provided, in the case of Customer, that the scope of each license granted under this Agreement does not change). Any assignment in breach of this Section shall be void.

13.9 Headings. The headings in this Agreement are for reference only and shall not affect the construction of this Agreement.

13.10 Data Protection. The Supplier agrees that it shall store or process Customer Data in accordance with the Data Processing Addendum provided herein as Annex C.

13.11 Publicity. Supplier shall have the right to publicly announce or use Customer's name or logo for Supplier's promotion, publicity, marketing or advertising purposes.

13.12 Agency. Except as expressly permitted by this Agreement, neither Party shall in any circumstances hold itself out as being: (a) the servant or agent of the other Party; or (b) authorized to enter into any contract on behalf of the other Party or in any way to bind the other Party to the performance, variation, release or discharge of any obligations.

13.13 Third Party Rights. A person who is not a party to the Agreement shall not enforce any of its provisions as a third-party beneficiary.

13.14 U.S. Government Restricted Rights. The Software and accompanying Documentation are "commercial items" as that term is defined in 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 CFR 12.212. Consistent with 48 CFR 12.212 and 48 CFR 227.7202-1, 227.7202-3 and 227.7202-4, all U.S. Government End Users acquire the Software and Documentation with only those restricted or limited rights conveyed under the license customarily provided to the public (i.e., as set forth herein).

13.15 Equitable Relief. Each Party recognizes that irreparable injury would result to the other Party in the event of that Party's failure to comply with any of the terms of any license grant or obligation regarding protection of proprietary information or intellectual property rights, and that the full amount of the damages that would be incurred as a result of any such breach would be difficult to ascertain. Accordingly, each Party hereby agrees that, in the event of any such breach, threatened breach, or the occurrence of events which, in the reasonable opinion of the Party, would be likely to result in such breach, the Party shall be entitled to seek injunctive relief or an order restraining such breach or threatened breach and/or compelling the performance of obligations which, if not performed, would constitute such a breach. Such action may be brought in any jurisdiction and shall not require either the posting of any bond nor any proof regarding the inadequacy of monetary damages nor the any notice or opportunity to cure to the other Party.

13.16 Cumulative Remedies. Except as otherwise expressly provided herein, all remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

13.17 Force Majeure. Upon the occurrence of a Force Majeure Event:

- 13.17.1. either Party shall notify the other Party in writing of the commencement of the Force Majeure Event. Where the notification is from the Force Majeure Affected Party, to the extent available to such Party, it should also provide details of the Force Majeure Event and a non-binding estimate of the extent and the expected duration of its inability to perform its obligations due to the Force Majeure Event; and
- 13.17.2. the obligations of both Parties under this Agreement will be suspended for the duration of the Force Majeure Event and neither Party shall be liable for, or be considered to be in breach of this Agreement due to, any failure to perform such obligations.



13.17.3. Whilst such Force Majeure Event is continuing, the Force Majeure Affected Party shall use all reasonable efforts to overcome the Force Majeure Event. Upon the Force Majeure Event being overcome or it ceasing to exist, both parties will, as soon as is reasonably practicable thereafter, resume full performance of their obligations under this Agreement (including, for the avoidance of doubt, any suspended obligations). Where a Force Majeure Event continues for a period of fourteen (14) Business Days, either Party may, by written notice to the other Party, terminate this Agreement with immediate effect.

13.18 Law and Jurisdiction. This Agreement will be interpreted and construed in accordance with the laws of the State of Delaware excluding that body of law applicable to choice of law. The Parties consent to exclusive jurisdiction in the state or federal courts located in Delaware, and such venue shall not be challenged by the non-filing Party as improper or inappropriate due to, among other things, inconvenience under the doctrine of forum non-convenience or other similar doctrines. Each Party also agrees not to bring any action or proceeding arising out of or relating to this Agreement in any other court. Neither Party shall bring any action against the other Party arising out of or related to this Agreement more than one (1) year after the occurrence of the event which gave rise to such action. The prevailing party in any action arising from this Agreement may recover its reasonable attorneys' fees and costs from the non-prevailing party.

#### **List of Annexes, Attachments, and Appendices**

- Annex A - Definitions
- Annex B - Security Standards
- Annex C - Data Protection Addendum

## **Annex A – Definitions**

Capitalized terms not otherwise defined herein shall have the meanings set forth below:

1. **Affiliate:** means any entity directly or indirectly controlling, controlled by or under common control by another entity. For purposes of this definition, “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of voting securities, by contract or otherwise, and the terms “controlling” and “controlled” have meanings correlative to the foregoing.
2. **Agreement:** means collectively the cover page of this Agreement, the Terms and Conditions attached hereto as Exhibit A and any Order Form (s), amendments, schedules, annexes, exhibits or similar documents referenced by and incorporated into to this Agreement as agreed between the Parties in writing from time to time;
3. **Applicable Laws:** means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree or other requirement of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction applicable to the obligations of the Parties under this Agreement;
4. **Authorized Users:** means, and shall be limited to, employees and consultants (subject to Section 3.6) of Customer (a.) who have obtained user names and passwords with respect to the Software from Supplier or Customer, as applicable, (b.) for whom Customer has paid all applicable fees for use of the Software as a Subscription, and (c.) whose use of the Software shall be within the scope of rights granted in Sections 1 and 3.5. Authorized Users will not include any Competitor.
5. **Competitor(s):** means any third-party subscription provider, consultant or any other entity that develops, markets, sells or licenses products or subscriptions that are similar to the Solution or that otherwise compete or are competitive with Supplier's Solution.
6. **Confidential Information:** means data or information in any form disclosed by one Party to the other Party by any means, if and for so long as the data and information are proprietary to the disclosing party or otherwise protectable as trade secrets by the disclosing party or subject to legal rights that give the disclosing party, independent of agreement, a right to control use and/or disclosure of the data and information. As a non-exhaustive list of examples, Confidential Information includes information regarding a Party's financial condition and financial projections, business and marketing plans, product plans, product and device prototypes, the results of product testing, research data, market intelligence, technical designs and specifications, secret methods, manufacturing processes, source code of proprietary software, the content of unpublished patent applications, customer lists, vendor lists, internal cost data, the terms of Agreements with employees and third parties, and information tending to embarrass the disclosing party or tending to tarnish its reputation or brand;
7. **Customer Data:** means the data held in the Licensed Database and may include any data relating to the Customer operations, facilities, Vendors, employees and programs in whatever form that information may exist and whether entered into, stored in, generated by processed through or accessible as a result of the Subscriptions and Use of the Software;
8. **Data Processing Addendum or (“DPA”):** means the document(s) setting forth certain obligations of the Parties as it relates to the protection and processing of the Customer's personal data in accordance with applicable Data Protection Laws (as defined in the DPA). The DPA is attached as Annex C to this Agreement.
9. **Database Server:** means a server or servers on which the Licensed Database portion of the Software is located and accessed by Customer's users;
10. **Documentation:** means any published user manuals and other documentation that Supplier may make generally available to its customers for use with the Software (e.g. operations manual, training materials, process flows, business reviews, audit findings, etc.);
11. **Fees:** means fees charged to Customer, as set out in one or more Order Forms, in exchange for Supplier's delivery of the Solution to Customer, in accordance with the terms set out in Section 7.
12. **Force Majeure Affected Party:** means any Party to this Agreement who may be prevented from fully performing its obligations under this Agreement by the occurrence of a Force Majeure Event;
13. **Force Majeure Event:** means the occurrence of any event or circumstance, beyond the control of the Force Majeure Affected Party, that could not be overcome using all commercially reasonable efforts and which makes it impossible for the Force Majeure Affected Party to fully perform its obligations under this Agreement, including (without limitation) any act of God or a public enemy, any terrorist, cyber or military attack, pandemic, fire, flood, earthquake, storm or other like natural disaster, disruption or outage of communications, power or other utility, civil unrest, unavailability of supplies (provided no substitute supplies can reasonably be obtained), or any other cause similar to any of the foregoing;
14. **Host Software:** means the systems software such as, but not limited to, operating system, database management system, systems library, network operating system and data communication software, through which the Software must function;

15. Intellectual Property Rights means each and any of the following:

15.1. patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them);

15.2. rights in inventions, know-how, trade secrets and other similar information; and

15.3. any other intellectual property rights which may exist at any time in any part of the world, including the rights to copy, publicly perform, publicly display, distribute, adapt, translate, modify and create derivative works of copyrighted subject matter.

16. Licensed Database: means a portion of the Software that has been licensed for use by the Customer, is accessible by Customer's Authorized Users, and which contains the Customer Data;

17. Purpose: means to manage Customer's own internal enterprise technology expenses as set out in one or more Order Forms;

18. Subscription Level Targets: means, individually and collectively, the subscription level objectives that Supplier provides (including the terms and conditions that outline Supplier's responsibilities thereof) in connection with delivery and maintenance of the Software and Subscriptions by Supplier to Customer as expressly set forth in any Order Form;

19. Subscriptions: means any implementation, customization, training, business process outsourcing, or other subscriptions to be provided by Supplier to Customer as set forth in a Order Form;

20. Solution: means the Software together with any applicable Subscriptions;

21. Software: means the computer program product or products specified in the ORDER FORM (as "Software Modules") which shall comprise the Supplier's own software together with (if appropriate) software licensed from other sources to the Supplier, including all updates, upgrades, additions, enhancements and improvements from time to time, together with all derivative works thereof;

22. Order Form Term: means the period of time during which Supplier agrees to provide the Solution, as set forth in the Order Form ("Order Form").

23. Order Form: means a document executed by both Supplier and Customer which references and makes itself subject to the terms and conditions of this Agreement, and sets forth the details of the Subscriptions to be provided, including Fees, Software Modules, and Subscription Level Targets;

24. Supplier's ASP Facility: means the computer system or network of computer systems, including Host Software to be accessed by the Customer to operate the application and database portions of the Software;

25. Term: means the period of time during which the Supplier grants the License and/or provides the Solution to the Customer, as more particularly defined in Section 12 or described in a Order Form;

26. Use: the access, use and interaction with the Software for which the Software is designed as specified in the Documentation;

27. Vendor(s): means any third-party company that provides telecommunications voice, data, and/or cloud computing subscriptions to Customer;

28. Virus: means computer code that: (i) is designed to disrupt, disable, harm, or otherwise impede the operation of the Software or any other software, firmware, hardware, computer system or network (sometimes referred to as "viruses" or "worms"); (ii) would disable or impair the Software or any other software, firmware, hardware, computer systems or networks in any way where such disablement or impairment is caused by the elapsing of a period of time, advancement to a particular date or other numeral (sometimes referred to as "time bombs," "time locks" or "drop dead" devices); (iii) would permit Supplier to access the Software or any other software, firmware, hardware, computer systems or networks to cause such disablement or impairment (sometimes referred to as "traps," "access codes" or "trap door" devices); or (iv) which contains any other similar harmful, malicious or hidden procedures, routines or mechanisms which would cause such programs to cease functioning or to damage or corrupt data, storage media, programs, equipment or communications or otherwise interfere with operations.

## **Annex B -Security Standards**

**Network Security.** Supplier will maintain proper secure access control measures, security roles and responsibilities, processes and policies. The secure access control measures must include the appropriate combination of firewalls, penetration testing, logging and monitoring, security patching, controlled access using the least privilege principle, vulnerability scanning, antivirus and malware protection, IDS and/or IPS, strong password authentication policy, and multifactor authentication or any other equivalent technology. Supplier shall (i) maintain proper change management measures (which shall include appropriate approvals) to process data and code changes and (ii) track and maintain server and network access based on need.

**Incident Response Plan.** Supplier shall maintain a plan of corrective actions as well as incident response plans to respond to suspected or actual security threats. The Supplier must notify the Customer within 48hrs of any suspected data breach containing Customer data with details of the data, containment and mitigation plans.

**Encryption.** Supplier shall take all reasonable measures to safeguard and encrypt all Customer Data (i) in transit using the latest industry standards recommended versions of TLS and (ii) at rest by storing it in an encrypted state. Any computing equipment used to access and store Customer Data, must use hard drive encryption technology to ensure the safety of Customer Data is continually maintained.

**Data Loss Prevention.** Supplier must have in place adequate DLP processes to restrict Customer Data from being held on devices which are not managed and to detect and restrict transfer of Customer Data where not to approved locations or users.

**Security Awareness and Training.** Supplier shall provide proper security training and continued awareness to employees, contractors and other persons who access Supplier's network and applications including without limitation Customer Data stored therein. All new hires shall attend such security training. Existing employees, contractors and other persons that process Customer Data shall be retrained at least once per year.

**Secure Development.** If Supplier is developing code and software to support Customer Data processing, Supplier will take reasonable efforts and implement reasonable practices to direct development teams to give proper attention to security (and to properly secure code and software) during the development process.

**Open Source Software Management.** Supplier shall at all times maintain an appropriate system to track any and all open source software used by Supplier including without limitation in its products and systems. Supplier shall ensure that any such open source software is kept up to date to address any security vulnerabilities. Supplier shall not use open source software in any way which would subject Customer Data, software, or other technology to a Copy Left license. A "Copy Left license" is any license which requires, as a condition of use, modification, and/or distribution of any software, data or technology ("Technology") subject to such license that such Technology and other Technology incorporated into, integrated with, derived from and/or distributed with such Technology be: (1) disclosed or distributed in source code form; (2) licensed for the purposes of making modifications or derivative works; (3) permitted to be reverse engineered; (4) reproduced and/or redistributed at no or minimal charge; and/or (5) otherwise distributed on terms that impede the ability to distribute and license such Technology as the licensor of such Technology sees fit.

**Physical Security.** Supplier will house devices in secured facilities that prevent unauthorized access on the perimeter grounds and at all building access points. The building access points must be locked and secured (except the main access door). The secured facility must have physical barriers, mantraps, etc. and/or video cameras to control access, monitor and periodically monitor the facility. The facilities should have badged access control systems and a process to validate the identity of individuals entering the facility. Supplier must require all guests to present proper identification, wear a visitor badge and be escorted at all times while in the secured facilities.

The access system must have a monitoring system and intrusion detection equipment to ensure unauthorized access is detected on doors and other points of physical vulnerabilities. This can be door strikes, contacts, glass breakage or motion detection intrusion systems. The Supplier must limit the access privileges to only those employees, contractors and other personnel as needed.

**Data Centre/Hosting Site.** Supplier will operate data centers or use data center subscriptions from authorized third-party providers that meet the Uptime Institutes data center Tier level 2 or higher and have successfully completed a SOC 2, Type II examination. Server Provider will provide Customer with a copy of the examination upon request.

**Storage, Disaster Recovery and Backup.** The Supplier will provide proper storage, a secure coding control best practices location, a backup plan and a recovery process to ensure the continued availability of Customer Data. The plan shall take into

consideration physical facility recovery, network recovery and proper testing of restoration from backup processes to support approved RTO/RPO.

**Risk Management.** Supplier will provide controls that continuously monitor security risks associated with Customer Data in the possession of Supplier (or any authorized Supplier subcontractor). This includes periodic reviews of both its IT Security program and its network security measures to respond to new findings which have been discovered and new security risks.

**Workforce Management.** Except where prohibited by law, the Supplier shall require all employees, contractors and other persons who process Customer Data to have a criminal, credit, and address background checks as their country or jurisdiction permits. Supplier staff that have left the Supplier will be revoked of all computer and network access as follows: if staff has left involuntary or their departure is high risk, immediately, and otherwise in a timely manner, which shall not exceed 12 hours. Server Provider staff that have left the Supplier or are no longer supporting Customer contracts will return, dispose of, or permanently remove Customer Data that may be contained on workstations, laptops, media and/or other communication equipment and will maintain their confidentiality obligations.

**Sanitization of Data.** Supplier will provide proper measures to ensure that equipment containing Customer Data is properly wiped, degaussed or physically destroyed before leaving Supplier’s secured facility or being put back into subscription. If such equipment is physically destroyed or sent to an offsite facility, an appropriate destruction and data handling process must be determined and approved. Supplier will ensure that any offsite storage of media used for backup or disaster recovery is physically protected against unauthorized use and theft and where commercially feasible, use encryption technologies to protect Customer Data.

**Termination of subscriptions.** Supplier must adhere to the deletion of data in accordance with NIST controls 800-88 Appendix A, when part or all of the subscription delivered by the Supplier is terminated by the Customer as per the requirements set within the contract.

**Industry Standards/Regulatory Requirements.** Supplier represents and warrants that it is SSAE18, SOC Type 2, compliant. Supplier will provide Customer with a copy of its SSAE18, SOC Type 2 certificates as well as any other applicable audit, certifications and assessment reviews which it has undertaken.

**SSO via ADFS or Azure AD.** Supplier is able to act as a Supplier (SP) for authentication against Active Directory Federation Subscriptions (ADFS) or Azure Active Directory Identity Provider (IdP) using Security Assertion Markup Language (SAML) 2.0.

**Subcontractors.** Supplier may engage the below subcontractors for use in providing the Subscriptions. Such subcontractors shall be considered approved for use by the Customer. The below subcontractors shall only be changed with Customer’s advanced written approval. Supplier performs detailed due diligence prior to engaging any new subcontractors. All subcontractors are subject to flowdown contractual obligations that are materially similar to Supplier’s applicable obligations set out in the Agreement.

Subcontractor Name	Subcontractor Address	Subcontractor Subscriptions	Further Details
Technology Recovery Group	Westlake, Ohio	Device Logistics support	Data Processing Addendum and Standard Contractual Clauses in place
Cloud Subscriptions via Microsoft Azure	Datacenters available in Ireland or United States	Cloud Hosting subscriptions for the Calero.com solution	Further details available upon request

**Logging.** Event logs are stored by Microsoft Azure, however Supplier is responsible for monitoring and maintaining the log process and ensuring access is strictly controlled and appropriately restricted. Logs are retained for a minimum of 366 days.

## **Annex C - DATA PROTECTION ADDENDUM**

This Data Protection Addendum (the "Addendum" or "DPA") is an addendum to the Telesoft, LLC. Master Subscription Agreement, between Telesoft, LLC ("Supplier") and Customer. Customer and Supplier are referred to as the "Parties."

Customer enters into this DPA on behalf of itself and, to the extent required under applicable Data Protection Laws, in the name and on behalf of its Controller Affiliates (defined below). For the purposes of this DPA only, and except where indicated otherwise, the term "Customer" shall include Customer and Customer Affiliates. All capitalized terms not defined herein shall have the meaning set forth in the Agreement.

In the course of providing Products, Subscriptions and Support under the Agreement, Supplier may process certain Personal Data (such terms defined below) on behalf of Customer and where Supplier processes such Personal Data on behalf of Customer the Parties agree to comply with the terms and conditions in this Addendum in connection with such Personal Data.

**1. Definitions:** In this Addendum, the following terms shall have the following meanings:

- a. **"Controller", "Processor", "Data Subject", "Personal Data" and "Processing"** (and **"Process"**) shall have the meanings given in Applicable Data Protection Law; and
- b. **"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
- c. **"Applicable Data Protection Law"** shall mean any applicable law, ordinance, statute, regulation, or other binding restriction to which the Personal Data and Confidential Information are subject, including, but not limited to, Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- d. **"CCPA"** means the California Consumer Privacy Act, Cal. Civ. Code §§ 1798.100 et seq., including any amendments and any implementing regulations thereto that become effective on or after the effective date of this DPA;
- e. **"Consumer"** means a "consumer" as such term is defined in the CCPA;
- f. **"Customer Data"** means the Personal Data in the Customer Data as defined by the Agreement and that is (i) provided to Supplier by or on behalf of Customer or Customer's clients, employees, authorized users, users and contractors, or (ii) otherwise obtained, accessed, developed, or produced by Supplier.
- g. **"Controller Affiliate"** means any of Customer's Affiliate(s) (a)(i) that are subject to applicable Data Protection Laws of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (ii) permitted to use the Subscriptions pursuant to the Agreement between Customer and Supplier, but have not signed their own Supplier Master Subscriptions Agreement and are not a "Customer" as defined under the Agreement, (b) if and to the extent Supplier processes Personal Data for which such Affiliate(s) qualify as the Controller.
- h. **"Personal Information"** means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular Consumer or household and shall include, but is not limited to the examples of personal information identified in Cal. Civ. Code Section 1798.140(o) but does not include data or information that is publically available within the meaning of such section or that has been deidentified within the meaning of Cal. Civ. Code Section 1798.140(h).
- i. **"Sell"** means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating orally, in writing, or by electronic or other means, a Consumer's Personal Information by Supplier to a third party for monetary or other valuable consideration;
- j. **"Subscription Provider"** means an entity that processes information on behalf of a business and to which the business discloses a Consumer's Personal Information for a business purpose pursuant to a written contract.
- k. **"Subprocessor"** means any entity engaged by Supplier to Process Personal Data in connection with the Subscriptions.

**2. Relationship of the parties:** The parties acknowledge and agree that with regard to the Processing of Personal Data, Customer is the Controller and Customer appoints Supplier as a processor to process the Personal Data described in Attachment A (the "Data"). Each party shall comply with the obligations that apply to it under

Applicable Data Protection Law. As personal data is exported from Customer to Supplier, it is understood that the responsibility for ensuring lawful collection of personal data (including, where applicable, data subject's consent) is a Customer responsibility.

3. **Prohibited data:** Customer shall not disclose (and shall not permit any Data Subject to disclose) to Supplier for processing (i) any Sensitive Personal Data, as that term is defined under Applicable Data Protection Law, and (ii) special categories of Data that are not expressly disclosed in Attachment A.
4. **Purpose limitation and data minimisation:** Supplier shall process the Data as a processor as reasonably necessary to perform its obligations under this Addendum and the Supplier Master Subscriptions Agreement and in accordance with the documented instructions of Customer (the "Permitted Purpose"), except where otherwise required by any EU (or any EU Member State) law applicable to Customer. In no event shall Supplier process the Customer Data for its own purposes or those of any third party except where otherwise required by law. Supplier shall only process the Data that is necessary in order to provide the Subscriptions (i.e. the data described in Attachment A). Further data minimisation or de-identification is available upon request, however it may impact Customer's subscriptions, and as such any further data minimisation efforts shall be fully described in a Order Form.
5. **International transfers:**
  - a. **Location.** Supplier systems and Supplier's storage of Customer Data will generally occur in the United States/European Union (the "Processing Jurisdiction"). Supplier will not transfer any Customer Data outside of the Processing Jurisdiction without the prior written consent of Customer. Customer agrees to enter into the Standard Contractual Clauses set out in Attachment B.
  - b. **Subprocessors.** Before providing Personal Data of a Data Subject residing in the European Union to a sub-processor outside of the European Union, Supplier will use commercially reasonable efforts to ensure that the Sub-Processors will either be certified under the EU-US Privacy Shield or that the Sub-Processors execute Standard Contractual Clauses adopted or approved by the European Commission.
6. **Confidentiality of processing:** Supplier shall ensure that any person that it authorizes to process Customer Data (including Supplier's staff, agents and subprocessors) (an "Authorized Person") shall be subject to a strict duty of confidentiality (whether a contractual duty, a professional duty, or a statutory duty), and shall not permit any person to process the Customer Data who is not under such a duty of confidentiality. Supplier shall ensure that all Authorized Persons process the Customer Data only as necessary for the Permitted Purpose.
7. **Security:** The processor shall implement appropriate technical and organizational measures designed to protect the Data (i) from accidental or unlawful destruction, and (ii) loss, alteration, unauthorized disclosure of, or access to the Data (a "Security Incident").
8. **Subprocessing:** Customer consents to Supplier engaging third party subprocessors to process Data provided that: (i) Supplier imposes data protection terms on any subprocessor it appoints that protect the Data to substantially the same standard provided for by this Addendum; and (ii) Supplier remains responsible for any breach of this Addendum that is caused by an act, error or omission of its subprocessor subject to limitations in the Agreement. Upon Customer's written request, Supplier shall provide Customer with a list of its subprocessors used for the subscriptions contemplated under this Addendum and the Master Subscriptions Agreement.
9. **Cooperation and Data Subjects' rights:** Taking into account the nature of the processing, Supplier shall provide commercially reasonable and timely assistance including by appropriate technical and organizational measures to Customer to enable Customer to respond to: (i) any request from a Data Subject to exercise any of its rights under Applicable Data Protection Law (including its rights of access, correction, objection, erasure and data portability, as applicable); and (ii) any other correspondence, inquiry or complaint received from a Data Subject, regulator or other third party in connection with the processing of the Data. To the extent legally permitted, Customer shall be responsible for any costs arising from Supplier's provision of such assistance. In the event that any such request, correspondence, inquiry or complaint is made directly to Supplier, Supplier shall, to the extent legally permitted, promptly notify Customer providing details of the same. Supplier shall not respond to a Data Subject Request without Customer's prior written consent except to confirm that such request relates to Customer to which Customer hereby agrees.
10. **Security incidents:** Upon becoming aware of a Security Incident, Supplier shall inform Customer without undue delay, and if requested by the Customer, shall provide timely information and reasonable cooperation to assist Customer in fulfilling its data breach reporting obligations under (and in accordance with the timescales required by) Applicable Data Protection Law and consistent with the Agreement. In the event of a Security Incident caused by Supplier, Supplier shall further take reasonable measures and actions as are necessary to remedy or mitigate the effects of the Security Incident and, at the request of the Customer, shall keep Customer informed of major developments in connection with the Security Incident and consistent with the Agreement.

11. Deletion or return of Data: Upon termination or expiry of this Addendum or the Agreement, Supplier shall at Customer's written request use reasonable efforts to destroy, de-identify or return to Customer all Data (including all copies of the Data) in its possession or control (including any Data subcontracted to a third party for processing). This requirement shall not apply to the extent that Supplier is required by any EU (or any EU Member State), United Kingdom or other applicable law to retain some or all of the Data, in which event Supplier shall isolate and protect the Data from any further processing except to the extent required by such law.

12. CCPA:

- a. Customer discloses Consumer Personal Information to Calero for a business purpose.
- b. Supplier is prohibited from: (i) selling Customer's Consumer Personal Information; (ii) retaining, using, or disclosing Customer's Consumer Personal Information for any purpose other than for the specific purpose of performing the subscriptions specified in the Agreement; and (iii) retaining, using, or disclosing Customer's Consumer Personal Information outside of the Agreement or direct business relationship between Customer and Supplier.
- c. By signing this Agreement, Supplier hereby certifies that in receiving Customer's Consumer Personal Information, Calero understands the requirements and restrictions associated with its status, (whether it is Subscription Provider, Third Party, or Business), and shall comply with the applicable requirements set forth in the CCPA and any implementing regulations.
- d. Customer specifically acknowledges that its use of the Subscriptions will not violate the rights of any Consumer that has opted-out from sales or other disclosures of Personal Information, to the extent applicable under the CCPA.
- e. Supplier shall assist Customer with ensuring its compliance under applicable CCPA requirements. Specifically, Supplier shall (a) provide Customer with the ability to delete, access or copy the Personal Information of a Consumer, or (b) promptly delete, access or copy Personal Information within the Subscriptions at Business's request.
- f. Supplier shall promptly notify Customer of any request received by Supplier or any Subprocessor from a Consumer in respect of Personal Information of the Consumer and shall not respond to the Consumer.

13. Security Reviews; Audits. Supplier shall periodically review its security measures and revise them to address evolving threats and vulnerabilities. Without limiting any of Supplier's other obligations under this Addendum, if Supplier engages a third party auditor to perform a data security audit of Supplier's operations, information security program or disaster recovery/business continuity plan, Supplier may provide the third party auditor's summary to Customer upon Customer's written request. Any such audit reports shall be Supplier's confidential information.

14. Limit on Liability. Each party's and all of its Affiliates' liability, taken together in the aggregate, arising out of or related to this DPA, and all DPAs between Controller Affiliates and Supplier, whether in contract, tort or under any other theory of liability, is subject to the 'Limitation of Liability' section of the Agreement, and any reference in such section to the liability of a party means the aggregate liability of that party and all of its Affiliates under the Agreement and all DPAs together. For the avoidance of doubt, Supplier's and its Affiliates' total liability for all claims from the Customer and all of its Controller Affiliates arising out of or related to the Agreement and the DPA shall apply in the aggregate for all claims under both the Agreement and all DPAs established under the Agreement, including by Customer and all Customer Affiliates, and, in particular, shall not be understood to apply individually and severally to Customer and/or to any Controller Affiliate that is a contractual party to any such DPA.

15. Conflicts. In the event of any conflict or inconsistency between the provisions of this Addendum and the provisions of the Agreement, the provisions of this Addendum shall prevail.

16. Governing Law. This Addendum shall be governed by and construed in accordance with the choice of law in the Agreement.

The Parties have caused this Addendum to be executed by duly authorized representatives.



## **Attachment A - Data Processing Description**

This Attachment A forms part of the Addendum and describes the processing that the processor will perform on behalf of the controller.

### **Controller**

The Customer is the Data Controller who has contracted Subscriptions in accordance with the Agreement.

### **Processor**

Supplier is the Data Processor which provides Subscriptions in accordance with the Agreement.

### **Data Subjects**

The Controller may submit personal data to the Processor, the extent of which is determined and controlled by the Controller and which may include, but is not limited to, personal data relating to the following categories of Data Subject:

- Authorized Users;
- Employees of the Controller;
- Consultants of the Controller;
- Contractors of the Controller;
- Agents of the Controller;
- Third parties with which Controller conducts business.

### **Categories of data**

The personal data transferred concern the following categories of data:

Any personal data comprised in Customer Data, as defined in the Agreement, and Customer Data, as defined in the Addendum. . Such personal data may include: name, professional email address, location of work, job title, line manager name, professional telephone number(s), username, employee number, telecoms, technology, and/or market data subscription data (including usage data).

### **Special categories of data (if appropriate)**

No special categories of data shall be processed under the Agreement.

### **Processing operations**

The personal data transferred will be processed in accordance with the Agreement and may be subject to the following processing activities:

- Storage and other processing necessary to provide, maintain, and improve the Subscriptions provided to the Customer under the Agreement;
- To provide customer and technical support to the Customer; and
- Disclosures in accordance with the Agreement, as compelled by law.