OFFICIAL CONVENIENCE COPY

bOpus Performance Cloud Subscription Agreement

Version 1.2.0, dated November 1, 2026

Permanent URL: https://bopus.ai/performance-cloud-subscription-agreement/archive/1-2-0

This PDF is a convenience copy. In case of any difference, the text at the permanent URL controls.

A plain-text copy of this version is published at /performance-cloud-subscription-agreement/archive/1-2-0/text; its SHA-256 fingerprint is served with it (X-Content-Sha256) for verification:
`0bfa2914d6822c4895df9b7237368f2626002a3ecb0bdf23edc51d04f246b8ed`

Date Enacted: November 1, 2026

BY ISSUING A PURCHASE ORDER, SIGNING OR OTHERWISE ACCEPTING AN ORDERING DOCUMENT, CLICKING AN "ACCEPT" OR SIMILAR BUTTON, OR ACCESSING OR USING ANY BOPUS PRODUCT, SERVICE, OR OFFERING PROVIDED ON A HOSTED, CLOUD, OR SOFTWARE-AS-A-SERVICE BASIS, REGARDLESS OF ITS SPECIFIC NAME, BRANDING, OR DESIGNATION, INCLUDING ANY AUTOMATED DATA COLLECTION, MANUAL DATA INPUT, RECEIVING SCHEDULED REPORTS VIA EMAIL, RECEIVING ALERTS OR NOTIFICATIONS VIA EMAIL OR TEXT MESSAGE, USING ON PREMISE KIOSK-BASED DASHBOARDS OR ANY OTHER DISPLAY OR DELIVERY METHOD OF BOPUS PERFORMANCE CLOUD DATA OR SERVICES, WHETHER REQUIRING USER LOGIN OR NOT, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU AND LEGALLY BINDING BETWEEN YOU AND BOPUS OR THE APPLICABLE BOPUS AFFILIATE ("BOPUS"). IF YOU DO NOT AGREE TO ALL OF THESE TERMS AND CONDITIONS, DO NOT ACCESS OR USE BOPUS PERFORMANCE CLOUD.

BY ACCEPTING THIS AGREEMENT, YOU REPRESENT AND WARRANT THAT: (A) IF YOU ARE ACCEPTING ON BEHALF OF YOUR EMPLOYER, COMPANY, ORGANIZATION OR OTHER ENTITY, YOU HAVE FULL LEGAL AUTHORITY TO BIND YOUR EMPLOYER, COMPANY, ORGANIZATION OR SUCH ENTITY TO THESE TERMS AND CONDITIONS; (B) IF YOU ARE AN EMPLOYEE, CONTRACTOR, OR AGENT OF A CORPORATION, PARTNERSHIP OR SIMILAR ENTITY, YOU HAVE BEEN AUTHORIZED TO SIGN FOR AND BIND THE ENTITY; (C) YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; AND (D) YOU ARE OF LEGAL AGE TO FORM A BINDING CONTRACT WITH BOPUS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE BOPUS PERFORMANCE CLOUD.

IN THE EVENT YOU ARE REDIRECTED TO BOPUS' WEBSITE, YOU AGREE THAT YOUR USE IS SUBJECT TO ANY TERMS OF SERVICE POSTED THEREON.

This bOpus Performance Cloud Subscription Agreement (“Agreement”) is between bOpus and the customer (individual or entity) that has purchased a subscription to bOpus Performance Cloud (“you” or “your”). “bOpus” means the bOpus entity designated on the applicable Ordering Document. “Ordering Document” means a quote, order form, renewal quote or similar ordering document issued by bOpus on bOpus’ own form that references this Agreement and that you accept, whether by signing it, by issuing a purchase order that references it, or by paying the fees it states. If bOpus provides a subscription for which it issued no such document, the first bOpus invoice for that subscription is the Ordering Document for it, solely as to the products, Subscription Term, quantities and prices that invoice states. A billing or payment period stated on that invoice is not by itself a Subscription Term, and where that invoice states no Subscription Term, the Subscription Term is determined under Section 4 (Subscription Term, Fees & Payment), including Sections 4.2.4 (First-Year Subscription Requirement) and 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More). Except as expressly agreed in a writing signed by bOpus, no other statement on that invoice, and no invoice terms it references, forms part of this Agreement. A purchase order, vendor-portal record or other business form issued or used by you is never an Ordering Document, even if it states a Subscription Term, dates, quantities or prices, and even if bOpus acknowledges, accepts, fulfills or invoices against it. It serves only as your acceptance of, and an administrative reference to, the applicable Ordering Document, as provided in Section 12.7 (Amendments; Waivers). Nothing in this paragraph limits the effect of a separate written agreement signed by a duly authorized representative of bOpus under Section 12.7. A written notice of non-renewal contained in a purchase order, vendor-portal record or other business form issued or used by you nevertheless takes effect to the extent provided in Section 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More). Each Ordering Document which references this Agreement shall be deemed a part of this Agreement. The “Effective Date” of this Agreement is the date which is the earlier of (a) your initial access to bOpus Performance Cloud through any online provisioning, registration or order process, or (b) the effective date of the first Ordering Document referencing this Agreement.

bOpus Performance Cloud" means all software-as-a-service offerings, hosted services, cloud-based applications, data collection systems, reporting systems, analytics platforms, visualization tools, dashboards, mobile applications, and related services provided by bOpus, regardless of the product name, branding, or marketing designation used by bOpus in its quotes, websites, marketing materials, or other communications. Any product, service, or offering provided by bOpus on a hosted, cloud, or software-as-a-service basis shall be deemed part of bOpus Performance Cloud for purposes of this Agreement. For clarity, bOpus Performance Cloud includes all products and services provided through online access, data collection hardware, automated data collection, manual data input, scheduled reports, alerts, notifications, on-premise displays, and any other delivery method of bOpus’ hosted services or data, whether requiring user login or not.

1. bOpus Performance Cloud

1.1. Provision of bOpus Performance Cloud. bOpus Performance Cloud, as defined above, includes a hosted service permitting you to access bOpus’ machine performance, operations, and data visualization products and related software products, as such products may be modified, enhanced, and/or updated

from time to time. bOpus Performance Cloud is described more fully in the then-current version of any supporting product help and technical specifications documentation provided by bOpus with bOpus Performance Cloud to you (“Documentation”). bOpus Performance Cloud is provided on a subscription basis for a set term designated herein or in the applicable Ordering Document (each, a “Subscription Term”). This Agreement applies only to bOpus Performance Cloud and does not grant you rights to any other bOpus services or software. For avoidance of doubt, any reference to specific product names, brands, features, modules, or service offerings in bOpus’ quotes, ordering documents, websites, marketing materials, documentation, or other communications shall be deemed references to bOpus Performance Cloud for purposes of this Agreement, regardless of whether such materials explicitly reference "bOpus Performance Cloud." The applicability of this Agreement to any bOpus product or service is not dependent on the product name, branding, or marketing designation used by bOpus.

1.2. Products of bOpus Performance Cloud. bOpus Performance Cloud includes, without limitation, the following standalone components, which may be licensed individually or in combination as specified in the applicable Ordering Document:

1.2.1. Knowledge Management System: A business process optimization platform that includes some or all of digital content management for multimedia knowledge assets, real-time content creation and sharing capabilities, AI-powered search and retrieval functionality, secure private data storage, centralized best practices repository, collaborative feedback mechanisms, physical asset integration through QR code functionality, multilingual content management with automatic translation features, user-specific language preferences, and personal knowledge storage spaces.

1.2.2. Performance Analytics System: A production monitoring and analysis platform that includes some or all of AI-driven downtime detection and analysis, real-time performance tracking, root cause analysis tools, performance visualization dashboards, automated reporting functionality, mobile accessibility, problem-solving methodology integration, event notification system, improvement tracking, and equipment integration capabilities

1.2.3. Additional Components: any other cloud-based software product, module, or service that bOpus makes available to you, including custom-developed offerings and offerings first released after the date of this Agreement, each of which is a standalone component of bOpus Performance Cloud upon being specified in an Ordering Document.

1.3. The specific features, functionality, and technical specifications of bOpus Performance Cloud are described in detail in the then-current version of the Documentation. bOpus may modify, enhance, or update bOpus Performance Cloud from time to time, provided that such modifications do not materially reduce the overall functionality of bOpus Performance Cloud during the Subscription Term.

1.4. Additional modules, features, or capabilities beyond those included in the standard bOpus Performance Cloud offering may be available for additional fees as specified in the applicable Ordering Document.

1.5. For clarity, 'bOpus Performance Cloud' includes all updates, modifications, and enhancements to the above components, as well as any underlying technology, databases, data models, algorithms, methodologies, and processes used to deliver these capabilities.

1.6. Evaluation Access. If bOpus has made available to you free, trial or evaluation access to bOpus Performance Cloud ("Evaluation Access"), you may use such access solely for the purpose of evaluating bOpus Performance Cloud to determine whether to purchase a subscription from bOpus. You may not use Evaluation Access for any other purposes, including but not limited to competitive analysis, commercial, professional or for-profit purposes. Evaluation Access is provided for a limited period as specified by bOpus in the applicable Ordering Document or a separate writing from bOpus ("Evaluation Period"). Your Evaluation Access automatically expires at the end of the Evaluation Period, and bOpus may terminate your Evaluation Access at any time for any reason and without liability of any kind. Upon any termination or expiration of the Evaluation Period, your Evaluation Access will cease and you will no longer have access to any Customer Data used in connection with such Evaluation Access. Notwithstanding any other provision of this Agreement, Evaluation Access is provided "AS IS" without warranty or support of any kind, express or implied. IF YOU SUBSEQUENTLY PURCHASE A SUBSCRIPTION TO BOPUS PERFORMANCE CLOUD, YOUR EVALUATION ACCESS SHALL IMMEDIATELY TERMINATE AND YOU EXPRESSLY AGREE THAT, UNLESS YOU HAVE A SEPARATE SIGNED AGREEMENT GOVERNING YOUR ACCESS TO AND USE OF BOPUS PERFORMANCE CLOUD, THIS AGREEMENT, AND THE TERMS AND CONDITIONS HEREIN, SHALL GOVERN YOUR USE OF SUCH NON-EVALUATION VERSION.

1.7. Access to bOpus Performance Cloud. Subject to the terms and conditions of the Agreement, and except as set forth in Section 5 (Term and Termination) bOpus hereby grants to you a non-exclusive, non-transferable, non- sublicensable (except as permitted under Section 1.9), worldwide right during the applicable Subscription Term to access and use bOpus Performance Cloud solely for your business purposes but only in accordance with: (i) the Documentation; (ii) the restrictions in Section 1.1 (Provision of bOpus Performance Cloud), Section 1.11 (General Restrictions), and Section 2 (Customer Data and Your Obligations) and (iii) any restrictions designated on the applicable Ordering Document, including, but not limited to the number of Authorized Users (“Access Grant”). You will use reasonable efforts to prevent any unauthorized access to or use of bOpus Performance Cloud and the Documentation. Should unauthorized access occur, you will promptly notify bOpus in writing of any unauthorized access or use of which you become aware and provide all reasonable cooperation to prevent and terminate such access or use.

1.8. Authorized Users. “Authorized Users” means those uniquely identified individuals subject to an Access Grant who are authorized by you to use and access bOpus Performance Cloud for any purpose regardless of whether those individuals are actively using bOpus Performance Cloud at any given time. The Authorized Users will receive user IDs and passwords to access bOpus Performance Cloud. These credentials are granted to individual, named persons and may not be shared. You will ensure that all Authorized Users keep these credentials strictly confidential. Each Authorized User’s access right may be further specified or restricted, and the technical capabilities available to each Authorized User within bOpus Performance Cloud shall be as set forth in the Documentation. Subscriptions to bOpus

Performance Cloud may be reassigned between uniquely identified individuals over time. You may allow your Contractors and Affiliates to access bOpus Performance Cloud as Authorized Users in accordance with this Agreement, provided you shall remain liable for all acts and omissions of your Affiliates and Contractors as if their breach were your own. “Affiliate” means each legal entity that is directly or indirectly controlled by you on or after the Effective Date, for so long as such entity remains directly or indirectly controlled by you (where “controlled” means the ownership of, or the power to vote, directly or indirectly, a majority of any class of voting securities of a corporation or limited liability company, or the ownership of any general partnership interest in any general or limited partnership). “Contractor” means those independent third parties who perform services related to this Agreement for you, but solely to the extent they are acting on your behalf.

1.9. Client Sublicensees. Subject to the terms and conditions of this Agreement, during the Subscription Term, you may permit third-parties (“Client Sublicensees”) to be Authorized Users of your account to bOpus Performance Cloud, but only so the Client Sublicensees may interact with visualizations generated by you through your use of bOpus Performance Cloud and based on Customer Data (as defined in Section 2.1), provided that in each case the Customer Data excludes Client Sublicensee data unless such Client Sublicensee data is combined with Customer Data or is relevant to your provision of services to that particular Client Sublicensee. In providing such access to Client Sublicensees, you may not act as “Marketing Service Provider”, “Service Bureau” or other entity with a similar business model. Client Sublicensees may not use or access bOpus Performance Cloud for any other purposes except as expressly permitted in this Section 1.9. You shall ensure that all Client Sublicensees’ use of bOpus Performance Cloud is limited as described in this Section 1.9 by designating the appropriate access levels for Client Sublicensees within bOpus Performance Cloud. You shall be solely responsible for your relationships with Client Sublicensees and notify Client Sublicensees that bOpus shall have no warranty, support or other obligation or liability. You shall be liable for all acts and omissions of Client Sublicensees as if their acts or omissions were your own.

1.10. Third-Party Code. bOpus Performance Cloud may contain or be provided with components which are licensed from third parties (“Third Party Code”), including components subject to the terms and conditions of “open source” software licenses (“Open Source Software”). Open Source Software may be identified in the Documentation, or in a list of the Open Source Software provided to you upon written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.

1.11. General Restrictions. As a condition to the rights granted to you hereunder, you shall not (and shall not allow any third party to): (a) decompile, disassemble, or otherwise reverse engineer bOpus Performance Cloud or any Third Party Code or attempt to reconstruct or discover any source code, APIs, underlying ideas, algorithms, file formats or programming interfaces of bOpus Performance Cloud or the Third Party Code by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, or as permitted by an applicable Open Source Software license); (b) distribute, sell, sublicense, rent, lease or use bOpus Performance Cloud or any Third Party

Code (or any portion thereof) for time sharing, hosting, service provider or like purposes, except as expressly permitted under Section 1.9 of this Agreement; (c) remove any product identification, proprietary, copyright trademark, service mark, or other notices contained in bOpus Performance Cloud or any Third Party Code (including any reports or data printed via the use of bOpus Performance Cloud); (d) modify any part of bOpus Performance Cloud or any Third Party Code, create a derivative work of any part of bOpus Performance Cloud or any Third Party Code, or incorporate bOpus Performance Cloud or any Third Party Code into or with other software, except to the extent expressly authorized in writing by bOpus or as permitted by an applicable Open Source Software license; (e) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to bOpus Performance Cloud; (f) utilize any equipment, device, software, or other means designed to circumvent or remove any form of copy or other protection used by bOpus in connection with bOpus Performance Cloud, or use bOpus Performance Cloud together with any user credentials or other copy protection device not supplied by bOpus or through an Authorized Partner; (g) use bOpus Performance Cloud to develop a product which is competitive with any bOpus product offerings; (g-1) request, use, or attempt to discover bOpus' proprietary data mapping methodologies, transformation rules, or correlation definitions used to process Customer Data; (h) use unauthorized user credentials or distribute or publish such credentials except as may be expressly permitted by bOpus in writing; (i) enable access to bOpus Performance Cloud for a greater number of concurrent Authorized Users than the sum quantity of concurrent subscriptions purchased on the applicable Ordering Document(s); (j) assert, nor will you authorize, assist or encourage any third-party to assert, against bOpus or any of its affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding bOpus Performance Cloud or any support you have purchased or used hereunder; (k) use bOpus Performance Cloud to develop a product that converts any bOpus file format to an alternative report file format used by any general-purpose report writing, data analysis or report delivery product that is not the property of bOpus; or (l) automate processes, including without limitation, API calls, or refreshes of visualizations or dashboards, if such automation has a detrimental impact on bOpus' ability to provide bOpus Performance Cloud to its other customers. The restrictions set forth in this Section 1.11 are in addition to, and not in lieu of, the post-termination restrictions set forth in Section 5.5. Any activities prohibited under this Section 1.11 during the Subscription Term shall remain prohibited after termination or expiration as provided in Section 5.4 (Survival), and any activity prohibited under this Section 1.11 that occurs during the Restricted Period and is also prohibited under Section 5.5 is subject to Section 5.5.3. bOpus may exercise its right under Section 5.2 (Termination for Cause) to terminate this Agreement immediately for a breach of this Section 1.11 only where the breach is material or remains uncured after written notice from bOpus.

2. CUSTOMER DATA AND YOUR OBLIGATIONS

2.1. Customer Data. "Customer Data" means any business information or other data which you or your machines input, or provide to bOpus for inputting, into bOpus Performance Cloud. Customer acknowledges and agrees that such data may be processed, modified, or transformed by bOpus' proprietary analytics engine using techniques including but not limited to: dead banding, averaging, noise

filtering, signal conditioning, unit conversion, normalization, polarity correction, statistical analysis, and time-based calculations, with the specific processing methods applied being at bOpus' sole discretion. Customer specifically acknowledges that all downtime events and production stops are determined, calculated, and stored only after processing through bOpus' proprietary rules engine, and that the raw input signals alone do not constitute stop or downtime data..

2.2. Your Obligations. bOpus may exercise its right under Section 5.2 (Termination for Cause) to terminate this Agreement immediately for a violation of the restrictions contained in this Section 2 only where the violation is material or remains uncured after written notice from bOpus.

2.2.1. (a) General. You are solely responsible for the accuracy and content of all Customer Data. You represent and warrant to bOpus that (i) you have sufficient rights in the Customer Data to authorize bOpus to process, distribute and display the Customer Data as contemplated by this Agreement and the Documentation, (ii) the Customer Data and its use hereunder will not violate or infringe the rights of any third party, and (iii) your use of bOpus Performance Cloud and all Customer Data is at all times compliant with your privacy policies and all applicable local, state, federal and international laws, regulations and conventions, including without limitation those related to data privacy, international communications and the exportation of technical or personal data.

2.2.2. (b) Health Information. You will not upload to bOpus Performance Cloud or publish thereon any patient, medical or other protected health information regulated by HIPAA or any similar federal or state laws, rules or regulations ("Health Information") and acknowledges that bOpus is not a Business Associate and that bOpus Performance Cloud is not HIPAA compliant. "HIPAA" means the Health Insurance Portability Act, as amended and supplemented. bOpus shall have no liability under this Agreement for Health Information, notwithstanding anything to the contrary herein.

2.2.3. (c) Payment Card Data. You will not upload to bOpus Performance Cloud or publish thereon any payment card information. You acknowledge that bOpus Performance Cloud is not compliant with the Payment Card Industry Data Security Standards. bOpus shall have no liability under this Agreement for payment card information, notwithstanding anything to the contrary herein.

2.2.4. (d) Prohibited Data. "Prohibited Data" means Health Information and any payment card information described in Section 2.2.3 (Payment Card Data). bOpus has no obligation to monitor bOpus Performance Cloud for Prohibited Data. If bOpus becomes aware of Prohibited Data, bOpus may, without notice to you and without liability of any kind, isolate, remove or delete it, including from backups, search and indexing systems and the systems of bOpus' service providers. You shall reimburse bOpus, within thirty (30) days after invoice, for all reasonable costs bOpus incurs to the extent arising from the presence of Prohibited Data in bOpus Performance Cloud, including costs to identify, isolate, remove and destroy it; forensic investigation; notices to you, to individuals or to governmental authorities, and related call-center and credit-monitoring services, in each case where required by applicable law; and responding to any inquiry, investigation or proceeding by a governmental or regulatory authority. To the extent permitted by applicable law, you shall also reimburse bOpus, within thirty (30) days after invoice, for any fines, penalties or assessments imposed on bOpus to the extent arising from the presence of Prohibited Data in bOpus Performance Cloud, whether or not any security incident affecting the Prohibited Data results in

whole or in part from the negligence of bOpus. Your obligations under this Section 2.2.4 apply whether or not any security incident affecting the Prohibited Data results in whole or in part from the negligence of bOpus, and are in addition to, and not limited by, your obligations under Section 9.2 (Indemnification by You).

2.3. Rights in Customer Data. As between the parties, you shall retain all right, title and interest (including any and all intellectual property rights) in and to your Customer Data as published on bOpus Performance Cloud. For clarity, while Customer retains all rights to their raw input data and can access their data in its processed form through bOpus Performance Cloud's standard interfaces and exports, any methodologies, mappings, and transformations used to process such data are bOpus' proprietary intellectual property and constitute trade secrets. Subject to the terms of this Agreement, you hereby grant to bOpus a non-exclusive, worldwide, royalty-free right to use, copy, store, transmit, and distribute, perform and display (including publicly), modify and create derivative works of the Customer Data solely to the extent necessary to provide bOpus Performance Cloud in accordance with this Agreement and the Documentation.

2.4. Storage of Customer Data. bOpus provides various live data storage periods, which are documented in the Ordering Document. At the end of the live data storage period, for additional service cost, you will have the opportunity to download your data for local storage, or subscribe to bOpus' archiving service; this paid download applies only at the end of a live data storage period and, except as expressly agreed in a writing signed by bOpus, does not apply to export in standard format through the self-service export functionality of bOpus Performance Cloud during an Export Window under Section 5.8 (Post-Termination Export), which is provided as that Section states. Assisted, custom or other non-standard exports during an Export Window are available only as Section 5.8 provides. At the end of the live data storage period, at additional cost bOpus will aggregate all historical data into standard loss metrics, which will be available to you for comparison to current live data. At this point live data from before the end of the storage period will no longer be available. bOpus agrees it shall not intentionally delete any Customer Data from bOpus Performance Cloud prior to end of the storage period or, if earlier, the close of the Export Window (as tolled under Section 5.8) following termination or expiration of Customer's applicable subscription, except as provided in Section 2.2.4 (Prohibited Data) and Section 5.8. Except as otherwise set forth herein, bOpus expressly disclaims all other obligations with respect to storage of Customer Data.

3. OWNERSHIP

3.1. bOpus Technology. Notwithstanding anything to the contrary contained herein, except for the limited access and use rights expressly provided herein, bOpus and its licensors retain all right, title and interest (including, without limitation, all patent, copyright, trade secret and other intellectual property rights) in and to bOpus Performance Cloud, the Documentation, the Third Party Code, any other bOpus deliverables and any and all related and underlying software (including interfaces), databases (including data models, structures, and any other non-customer specific data and statistical data), , including but not limited to any and all internal data mapping methodologies, schemas, transformation rules, correlation

definitions between input data and output visualizations/reports, organizational structures, hierarchies, taxonomies, and intermediate data processing steps used to analyze or transform Customer Data, technology, reports, documentation, as well as any related process or methodology provided or used by bOpus, and with respect to each of the foregoing, any copies, modifications, improvements, derivative works, or enhancements thereto however developed or provided (including any which incorporate any of your ideas Feedback or suggestions) (collectively, “bOpus Technology”). You acknowledge that you are obtaining only a limited right to access and use bOpus Performance Cloud on a hosted basis and that irrespective of any use of the words “purchase”, “sale”, “sublicense” or like terms hereunder no ownership rights are being conveyed to you under this Agreement or otherwise, and further acknowledge that nothing contained in this Agreement shall be construed to convey to you ownership of any intellectual property rights in or to any bOpus Technology or any related methodologies or processes. Nothing in this Section 3.1 shall be deemed as granting bOpus ownership of Customer Data or in any way impacting your ownership of Customer Data.

3.2. Feedback. From time to time, you may submit comments, information, questions, data, ideas, descriptions of processes, or other information to bOpus (“Feedback”). You agree that all Feedback is and shall be given entirely voluntarily. Feedback, even if designated as confidential by you, shall not, absent a separate written agreement, create any confidentiality obligation for or upon bOpus. You will not give Feedback that is subject to license terms that seek to require any bOpus product, technology, service or documentation incorporating or derived from such Feedback, or any bOpus intellectual property, to be licensed or otherwise shared with any third party. bOpus may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner it sees fit without any obligation, royalty or restriction based on intellectual property rights.

4. SUBSCRIPTION TERM, FEES & PAYMENT

4.1. Subscription Term.

4.1.1. Initial Term. The Subscription Term for each subscription shall be as specified in the applicable Ordering Document, as that term is defined in the preamble to this Agreement. If a purchase order or other document issued by you states a Subscription Term, start or end date, renewal treatment, quantity or price that differs from the applicable Ordering Document, the Ordering Document controls, except as expressly agreed in a separate writing signed by bOpus, and except that a writing from you that is written notice of non-renewal under Section 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More) operates as that notice. Where an Ordering Document does not state which version of this Agreement governs it, it is governed by the version of this Agreement in effect on the date of that Ordering Document, subject to Section 12.16 (Application of This Version); a renewal of a Subscription Term, whatever the date of any Ordering Document or invoice for that renewal, makes a later version of this Agreement apply to you only as provided in Section 12.16. A Subscription Term begins on the start date stated in the applicable Ordering Document (or, if that Ordering Document states no start date, on the later of its date and the date you accept it) or, for a renewal under Section 4.1.2 or Section 4.1.3 (Renewal Terms for Monthly Subscriptions), on the day after the expiring Subscription Term ends, and it

so begins whether or not payment has been received, access has been provisioned, or data collection or delivery has started. A Subscription Term is a single term of the committed length stated in the applicable Ordering Document, whether one month, one year or a stated number of years; where an Ordering Document states a separate price for each subscription year of a Subscription Term longer than one year, each such price is a pricing line for that subscription year and not a separate Subscription Term, and a billing or payment period stated on an invoice is never by itself a Subscription Term. A “subscription year” is each successive twelve (12) month period of a Subscription Term beginning on its start date, together with any final period of that Subscription Term of less than twelve (12) months, which is a subscription year of its own; for a Subscription Term shorter than twelve (12) months, the subscription year is that Subscription Term.

4.1.2. Renewal Terms for Subscriptions of 6 Months or More. Subscriptions with an initial term of six (6) months or more will automatically renew for additional periods equal to the expiring Subscription Term or for one year (whichever is shorter) unless: 1) otherwise provided on an Ordering Document; or 2) either party provides written notice of non-renewal at least ninety (90) days prior to the end of the relevant Subscription Term. If an Ordering Document does not state whether a subscription renews, it renews as provided in this Section 4.1.2. Dates stated on a purchase order or other document issued by you, without more, are not a notice of non-renewal; a writing from you, including a purchase order, that clearly states that a subscription ends on a stated date and does not renew is written notice of non-renewal under clause 2) above. All applicable fees for such renewals will be at bOpus’ then-current rates, provided that any increase in the renewal fees for subscription items that were active for the full previous term shall not exceed six percent (6%) above the previously renewed individual line-item prices. This pricing protection does not apply to any subscription item added during a renewal term, which will be charged at then-current rates. The right to give notice of non-renewal and the pricing protection in this Section 4.1.2 apply only on the renewal of a Subscription Term, and no renewal or notice of non-renewal arises within a Subscription Term, including a Subscription Term longer than one year that is priced per subscription year; the pricing protection does not apply to, and does not limit, the price an Ordering Document states for each subscription year within a Subscription Term. Except as expressly agreed in a writing signed by bOpus, days of service added as an extension, including as a Remedial Credit under Section 5.6 (Remedial Credits), never extend a Subscription Term for purposes of the notice of non-renewal or the renewal pricing under this Section 4.1.2.

4.1.3. Renewal Terms for Monthly Subscriptions. Subscriptions with a one-month term will automatically renew for additional periods equal to the expiring Subscription Term or for one month (whichever is shorter) unless: 1) otherwise provided on an Ordering Document; or 2) either party provides written notice of non-renewal at least thirty (30) days prior to the end of the relevant Subscription Term. All applicable fees for monthly subscription renewals will be at bOpus’ then-current rates.

4.1.4. Termination Effect. If your subscription is not renewed, your access to bOpus Performance Cloud will terminate at the end of the then-current Subscription Term, except as provided in Section 5.8 (Post-Termination Export). Where a subscription under one Ordering Document, or one line of an Ordering Document, is not renewed, this Section 4.1.4 and Section 5.8 apply to that Ordering Document or line alone, from its own end date.

4.2. Fees and Payment.

4.2.1. You shall pay all fees set forth in the applicable Ordering Document. All payments shall be made in the currency noted on the applicable Ordering Document, when due under Section 4.2.5 (General Payment Due Date). Except as expressly set forth herein and except as provided in Section 5.3 (Effect of Termination), all fees are non-refundable once paid. Any standard invoice terms that bOpus publishes or references on its invoices do not apply to fees or other amounts invoiced under this Agreement, which this Agreement governs, except as expressly agreed in a writing signed by bOpus. The “Daily Rate” for a line of an Ordering Document, for any day, means that line’s annualized fee for the subscription year in which that day falls (the “earning year”), divided by 365. A line’s annualized fee for a subscription year is: (i) where the line states a monthly fee, that fee multiplied by twelve (12); (ii) where the line states a single fee for a Subscription Term longer than one year, that fee divided by the number of years in that Subscription Term, counting any period of less than twelve (12) months as its number of months divided by twelve (12); (iii) where the line states a price for a subscription year of less than twelve (12) months, that price multiplied by twelve (12) and divided by the number of months in that subscription year, counting any part of a month as the fraction of that month it covers; and (iv) otherwise, the price the line states for that subscription year. Any part of a day counts as a whole day. Days of service added as an extension, and days of use during a Continuity Period under Section 5.7 (Continuity Use), are valued at the Daily Rate of the paid Ordering Document line they extend or serve. No refund calculated at the Daily Rate shall exceed the fees bOpus actually received for the days refunded.

4.2.2. Annual Subscription Terms: Discounts as specified in the applicable Ordering Document are available for subscriptions with a 12-month consecutive subscription term. All quotes, Ordering Documents, and invoices for a one-year subscription term automatically include any applicable discounts. For monthly subscription terms, no annual term discounts apply. Unless the applicable Ordering Document or another writing signed by bOpus states otherwise, any price for a subscription year of a Subscription Term longer than one year that is lower than the one-year reference price for that subscription, including any such price stated on a pricing line for that subscription year, is conditioned on completion of the full committed Subscription Term, as provided in Section 4.2.7 (Committed Fees). The “one-year reference price” for a subscription is the price for a one-year Subscription Term for that subscription that the applicable Ordering Document states or, if it states none, bOpus’ standard list price for a one-year Subscription Term for that subscription in effect on the date of that Ordering Document, as shown in bOpus’ price records.

4.2.3. Prepayment Requirement: Payment must be received by its due date under Section 4.2.5 (General Payment Due Date). A purchase order (PO) alone does not suffice without accompanying payment.

4.2.4. First-Year Subscription Requirement: All new subscriptions require an initial commitment to a Subscription Term of at least one year. A customer may transition a subscription to month-to-month terms only at a renewal, after the then-current committed Subscription Term for that subscription (whether one year or a stated number of years) has been completed in full, and either by written notice to bOpus given no later than the deadline for written notice of non-renewal of that Subscription Term under Section 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More) or as a renewal Ordering Document issued by

bOpus provides; the month-to-month term then begins on the day after that Subscription Term ends. Except as expressly agreed in a writing signed by bOpus, no transition to a month-to-month term takes effect within a committed Subscription Term, and a transition never shortens, divides or reduces the fees for any Subscription Term then in progress. Transitioning to a month-to-month term means any annual term discounts will no longer apply, and standard monthly rates will be used for all subsequent quotes, Ordering Documents, and invoices. Each month-to-month term is a Subscription Term of one month that renews under Section 4.1.3 (Renewal Terms for Monthly Subscriptions), and the loss of annual term discounts on that transition is a change in pricing only and is not a renewal-price increase subject to the pricing protection in Section 4.1.2.

4.2.5. General Payment Due Date: Regardless of the subscription term selected, and unless the applicable Ordering Document expressly grants extended payment terms or states a payment schedule, or another provision of this Agreement states a different due date for the amount, payment is due prior to the earlier of the start of the Subscription Term and the start of collection of data under the applicable Ordering Document, and any amount invoiced after that date is due immediately upon issue of the invoice. An Ordering Document may state a payment schedule as a separate field for a Subscription Term of any length, and each installment is then due on the date that schedule states. For a month-to-month term, the fees for each month are due prior to the start of that month. Invoices under Section 4.2.7 (Committed Fees) and Section 4.2.7.1 (Subscription Terms Not Yet Started) are due as provided in those Sections. “Undisputed Overdue Amount” means any amount invoiced by bOpus under this Agreement that is not paid by its due date and whose dispute period has ended, except any part of that amount that you dispute in good faith by a written notice identifying the disputed amount and delivered to bOpus at its address under Section 12.6 (Notice) before the dispute period for that invoice ends. The dispute period for an invoice ends on the later of its due date and the tenth (10th) business day after you receive the invoice, except that the dispute period for an invoice under Section 4.2.7 or Section 4.2.7.1 ends on that invoice’s due date. An amount does not become an Undisputed Overdue Amount until its dispute period has ended; interest on it accrues only as provided in Section 4.2.8 (Late Interest). bOpus’ recording of a dispute in its customer records is evidence of the dispute but is not a condition of its validity. Section 4.3 (Suspension of Services) applies to any overdue amount, whether or not it is an Undisputed Overdue Amount.

4.2.6. Unless timely provided with a valid certificate of exemption or other evidence that items are not taxable, bOpus will invoice you for all applicable taxes including, but not limited to, VAT, GST, sales tax, consumption tax, and service tax. If any withholding tax is required by applicable law to be paid by you in relation to payments due to bOpus hereunder, you will provide bOpus with official receipts and/or certificates from the appropriate taxing authorities to establish that any applicable taxes have been paid.

4.2.7. Committed Fees. The fees stated in an Ordering Document for a Subscription Term are the price of the whole Subscription Term and are committed when that Subscription Term begins; any payment schedule or installments stated in an Ordering Document or otherwise permitted by bOpus are an accommodation to you as to the timing of payment only and do not divide or reduce those fees. If bOpus terminates this Agreement for your breach, including your failure to pay, whether under Section 5.2 (Termination for Cause) or under any other provision of this Agreement, then all fees for the remainder of

the then-current Subscription Term under each Ordering Document that have not already been invoiced (the “Committed Fees”) become payable to bOpus, as provided below, as a debt for fees already committed, and not as a penalty or as damages. For a month-to-month term under Section 4.2.4 (First-Year Subscription Requirement), the Committed Fees are the fees for the remainder of the then-current month. Fees invoiced before the termination takes effect remain payable under their original invoices and are not Committed Fees. bOpus will issue one invoice for all Committed Fees, dated the date on which the termination takes effect, and will not invoice the remaining subscription years of a Subscription Term separately; that invoice is due thirty (30) days after bOpus issues it to you, the dispute period for it under Section 4.2.5 (General Payment Due Date) ends on that due date, and interest under Section 4.2.8 (Late Interest) runs only from that due date. Where an Ordering Document issued by bOpus states a different measure of the fees payable on an early end of its Subscription Term, as permitted by Section 8.5 (Ordering Documents), that measure applies to that Ordering Document in place of the remainder of the then-current Subscription Term. Except as expressly agreed in a writing signed by bOpus, no Committed Fees are payable where this Agreement ends by: (a) your termination under Section 5.2(a) for bOpus’ uncured breach, or your termination under Section 5.2(b) or Section 5.2(c); (b) bOpus’ termination under Section 5.2(b) or Section 5.2(c), in which case bOpus retains its claim for damages for your breach, including in any proceeding described in Section 5.2(c); (c) bOpus’ termination under Section 9.1(c) (bOpus Indemnification); or (d) bOpus’ termination under Section 5.2.1(y) (Time to Exercise); and no Committed Fees are payable where an Ordering Document or a line of an Ordering Document ends under Section 6.1 (Limited Warranty). Where more than one notice of termination is given, Section 5.3 (Effect of Termination) decides which notice governs, including whether Committed Fees are payable. Credits issued to you but not yet applied, including Remedial Credits under Section 5.6 (Remedial Credits), and extension days not yet served are offset and paid as provided in Section 5.3 (Effect of Termination); they may be offset against the Committed Fees only when, and only to the extent that, the Committed Fees are Undisputed Overdue Amounts. Where Committed Fees become payable and the termination ends early a Subscription Term at a price that Section 4.2.2 (Annual Subscription Terms) conditions on completion of that Subscription Term, you shall also pay, for each month of that Subscription Term for which service was actually delivered at the conditioned price before the termination takes effect, the difference between the price charged for that month and one-twelfth (1/12) of the one-year reference price under Section 4.2.2; that amount is invoiced and due as an invoice under Section 4.2.7.1 (Subscription Terms Not Yet Started), and is payable under this Agreement for a concession given, and not as damages or a penalty, as a payment obligation within Section 8.4 (Exceptions). When the Committed Fees are paid in full, they are earned in full as of the date on which the termination takes effect. Committed Fees are excluded from the fees used to calculate the limit in Section 8.2 only as provided in clause (V) of that Section. The following sentence is independent of, and survives any holding against, the rest of this Section 4.2.7: if any part of this Section 4.2.7 is held unenforceable, bOpus may recover as damages for your breach its loss of the fees it would have received for the remainder of the then-current Subscription Term (except where this Section 4.2.7 provides that no Committed Fees are payable), and that claim falls within the exceptions for your breach in Section 8.4 (Exceptions). This Section 4.2.7 and Section 4.2.7.1 (Subscription Terms Not Yet Started) apply to Subscription Terms only as provided in Section 12.16 (Application of This Version).

4.2.7.1. Subscription Terms Not Yet Started. Where Committed Fees become payable under Section 4.2.7 (Committed Fees), then, except as expressly agreed in a writing signed by bOpus, for each Subscription Term that has not begun under Section 4.1.1 (Initial Term) on the date on which the termination takes effect, including a renewal Subscription Term: (a) no fees for that Subscription Term are accelerated or payable under Section 4.2.7, but this does not limit any other right, remedy or claim of bOpus, including its claim for damages for your breach, and fees for that Subscription Term invoiced before the termination takes effect remain payable under their original invoices; (b) you shall pay bOpus (i) the costs bOpus has actually incurred for that Subscription Term and cannot cancel or recover, including for hardware ordered, third-party licenses, connectivity or carrier commitments, and shipping, and (ii) the charges for professional, implementation or other services performed for that Subscription Term at the rates stated in the applicable Ordering Document or statement of work, each as shown on a bOpus invoice with reasonable supporting detail; and (c) where an Ordering Document expressly states that a price or discount on any subscription is conditional on that Subscription Term, you shall pay, for each month of service actually delivered at the conditional price, the difference between the price charged and the price that Ordering Document states as applying without the condition or, if it states none, one-twelfth (1/12) of the one-year reference price under Section 4.2.2 (Annual Subscription Terms) for that month. The amounts under clauses (b) and (c) are payable under this Agreement for costs incurred, services performed and concessions given, and not as damages or a penalty, and they are payment obligations within Section 8.4 (Exceptions); they include only amounts not already invoiced, and amounts already invoiced remain payable under their original invoices. The amounts under clauses (b) and (c) for a Subscription Term are credited against the fees paid or payable for that Subscription Term, so that bOpus does not recover for the same Subscription Term both those amounts and the fees that covered them. Each invoice under this Section 4.2.7.1, and each invoice for the amount payable under the recapture sentence of Section 4.2.7, is due thirty (30) days after bOpus issues it to you, the dispute period for it under Section 4.2.5 (General Payment Due Date) ends on that due date, and interest under Section 4.2.8 (Late Interest) runs only from that due date. bOpus shall refund the fees you paid for each Subscription Term that has not begun, whenever paid, to the extent they exceed the amounts payable under clauses (b) and (c) for that Subscription Term, together with any taxes bOpus collected on the refunded fees, to the extent refundable under applicable law; the amount of that refund is stated in this sentence, and it is otherwise netted and paid as provided in Section 5.3 (Effect of Termination), except that bOpus pays it within ninety (90) days after the later of the date on which the termination takes effect and the date of your payment.

4.2.8. Late Interest. Each Undisputed Overdue Amount bears interest from its due date, even where its dispute period ends after that date, until paid at the rate of one and one-half percent (1.5%) per month, or the maximum rate permitted by applicable law, if lower. Interest accrues only on principal amounts and never on accrued interest. Notwithstanding the first sentence of this Section 4.2.8, an amount you dispute in good faith under Section 4.2.5 (General Payment Due Date) accrues no interest while it remains disputed; to the extent the dispute is resolved in bOpus' favor, interest accrues on that amount from the date of resolution. Interest is payable only when invoiced by bOpus, and accrued interest is not overdue

until the due date of the invoice that states it. bOpus applies each payment you make first to the oldest undisputed principal amount then due, then to other principal amounts in order of their due dates, and then to accrued interest.

4.3. Suspension of Services. If your account is thirty (30) days or more overdue, in addition to any of its other rights or remedies (including but not limited to any termination rights set forth herein), bOpus reserves the right to suspend your access to bOpus Performance Cloud without liability to you until such amounts are paid in full. Within a reasonable time after written notice by bOpus that your use of the bOpus Performance Cloud service is having a detrimental impact on bOpus' ability to provide bOpus Performance Cloud to its other customers, bOpus reserves the right, at its sole discretion, to suspend or limit your access to bOpus Performance Cloud.

5. TERM AND TERMINATION

5.1. Term. This Agreement is effective as of the Effective Date and expires on the date of expiration or termination of the last to end of the Subscription Terms under all Ordering Documents.

5.2. Termination for Cause. Either party may terminate this Agreement (including all related Ordering Documents) if the other party (a) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach including without limitation your failure to pay, provided that bOpus may terminate this Agreement immediately upon any breach of Section 1.11 (General Restrictions) or if you violate any other restrictions contained in Section 2 (Customer Data and Your Obligations), or Section 11 (Export Control), in each case only where the breach or violation is material or remains uncured after bOpus' written notice of it; (b) ceases operation without a successor, as "ceases operation" and "successor" are defined in this Section 5.2(b); or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter). A termination under Section 5.2(a) for Unavailability exceeding a Material Availability Threshold designated under Section 5.2.2(b) reaches only as far as Section 5.2.2(b) (Material Availability Threshold) provides; every other termination under this Section 5.2 is a termination of this whole Agreement (including all related Ordering Documents). For purposes of Section 5.2(a), a breach by bOpus of its data-protection obligations (including its obligations concerning the security of Customer Data) is cured when bOpus has contained the incident, remediated its root cause and given the notifications that applicable law requires, and cure never requires the recovery of data that has been disclosed. That cure test applies only to breaches of data-protection obligations; Unavailability of the Hosted Service (each as defined in Section 5.2.2(c)), including Unavailability caused by an attack, is cured only as provided in Section 5.2.2 (Material Availability Threshold), so that no single incident is subject to two cure tests.

Cessation of Operation; Successor. This paragraph and the next paragraph form part of Section 5.2(b). For purposes of Section 5.2(b): (i) a party "ceases operation" only if it permanently stops conducting its business; (ii) bOpus ceases operation only if bOpus and every successor of bOpus permanently stop providing bOpus Performance Cloud to bOpus' customers generally before the end of your then-current Subscription Terms or of any later Subscription Term for which bOpus has received payment (directly or

through an Authorized Partner), as shown either by bOpus' written notice of cessation or by bOpus Performance Cloud remaining wholly unavailable to substantially all of bOpus' customers for thirty (30) consecutive days after your written notice to bOpus under Section 12.6 (Notice); (iii) bOpus does not cease operation by reason of an event described in Section 12.11 (Force Majeure) or in the last sentence of Section 6.3 (Warranty Disclaimer); a suspension under Section 4.3 (Suspension of Services) or 12.13 (Authorized Partner); a change of name, brand or designation (Section 12.8 (Entire Agreement)); the retirement or discontinuation of, or any other change to, any feature, product or service line while bOpus Performance Cloud otherwise continues; any interruption of availability that does not meet the test in clause (ii); or an orderly announced wind-down under which bOpus or a successor continues to provide bOpus Performance Cloud to you through the end of the portion of each of your Subscription Terms for which bOpus has received payment, directly or through an Authorized Partner; and (iv) a "successor" of a party means any assignee of that party under Section 12.1 (Assignment) and any person that acquires all or substantially all of the business or assets of that party to which this Agreement relates and, in the case of bOpus, also includes any person that acquires or operates bOpus Performance Cloud. The term "successor" in this Section 5.2(b) applies to both parties and is distinct from, and does not limit or depend on, the term "Successor Entity" in Section 12.1.1 (Assignment to New Entity).

Cessation Refund. If you terminate this Agreement under Section 5.2(b) because bOpus has ceased operation without a successor, you may elect, for each Ordering Document and its Paid Term (as defined in Section 5.7 (Continuity Use)), either Continuity Use under Section 5.7 or a refund under this Section 5.2(b) (the "Cessation Refund"), in the manner and within the election period provided in Section 5.7(c), and subject to the default in Section 5.7(c) where you make no timely election. The Cessation Refund for an Ordering Document is the refund provided by the refund formula in Section 5.3 (Effect of Termination) as of the termination date, calculated, netted and paid as provided in Section 5.3 (Effect of Termination), and bOpus will pay it within ninety (90) days after the close of the election period under Section 5.7(c). For a Subscription Term purchased through an Authorized Partner under Section 12.13 (Authorized Partner), the Cessation Refund is limited to the fees bOpus actually received for that Subscription Term and is paid to the person that paid those fees to bOpus. Except as expressly agreed in a writing signed by bOpus, the Cessation Refund, or Continuity Use where elected, is your sole and exclusive remedy, and bOpus' entire liability, for bOpus' cessation of operation, the early end of your Subscription Terms and the cost of replacing bOpus Performance Cloud; claims that arose before the termination date, including under Sections 9.1 (bOpus Indemnification) and 10 (Confidential Information), are not released and remain subject to Section 8 (Limitation of Remedies and Damages). The Cessation Refund is available only to you, and no refund is payable under this Section 5.2(b) where bOpus terminates under Section 5.2(b) or 5.2(c) by reason of your cessation of operation or insolvency.

Termination is not an exclusive remedy, except where this Agreement specifies an exclusive remedy, including Sections 5.3, 5.6, 5.7, 5.8, 6.1 and 9.1. Each exclusive remedy specified in this Agreement, whether or not listed in the preceding sentence (including the Cessation Refund under Section 5.2(b) and the refund on termination under the Chronic Unavailability paragraph of Section 5.2.2 (Material Availability Threshold)), applies except where applicable law mandates another remedy, and except as expressly agreed in a writing signed by bOpus.

5.2.1. Time to Exercise. A party’s right to terminate this Agreement under Section 5.2(a) for a breach lapses if that party does not give written notice of termination within thirty (30) days after the cure period for that breach expires, notwithstanding the sentence of Section 12.7 (Amendments; Waivers) providing that no waiver will be implied from conduct or failure to enforce or exercise rights. In this Section 5.2.1, the “cure period” is the thirty (30) day period in Section 5.2(a), which may be extended only by a writing signed by the breaching party. A lapse under this Section 5.2.1 ends only the right to terminate for that breach; it does not waive the breach, any amounts owed, any damages (subject to Section 8 (Limitation of Remedies and Damages)) or any other right or remedy. The lapse does not apply to, and this Section 5.2.1 does not limit: (i) your failure to pay amounts when due, which is a continuing breach, so that bOpus may give notice of termination at any time while any Undisputed Overdue Amount remains unpaid after the cure period; (ii) termination under the proviso to Section 5.2(a) for breach of Section 1.11 (General Restrictions), Section 2 (Customer Data and Your Obligations) or Section 11 (Export Control); (iii) termination under Section 5.2(b) or 5.2(c); (iv) any right of bOpus under Section 12.13 (Authorized Partner); (v) suspension under Section 4.3 (Suspension of Services); or (vi) termination following an audit under Section 12.10 (Audit Rights) that discloses access not permitted under this Agreement, including the sharing of credentials contrary to Section 1.8 (Authorized Users) or misuse contrary to Section 1.9 (Client Sublicensees). If a breach that has been cured recurs, the recurrence is a new breach that requires a new written notice and a new cure period, and a continuing breach supports a fresh notice of breach at any time while it continues. Section 12.16 (Application of This Version) applies this Section 5.2.1, including its exclusions, as a transition rule to breaches first notified before your Binding Date, and states when the thirty (30) days run for those breaches.

(x) Payment after the cure period. If you pay an Undisputed Overdue Amount after the cure period for that amount has ended, bOpus’ right to terminate this Agreement under Section 5.2(a) for that failure to pay continues for thirty (30) days after bOpus receives the payment. bOpus’ acceptance of a late payment does not waive that right or any other right or remedy, as provided in Section 12.7.

(y) Repeated late payment. If, within any twelve (12) month period, bOpus gives you written notice under Section 5.2(a) of your failure to pay an amount when due on three (3) or more occasions, each at least thirty (30) days after the previous counted notice, bOpus may terminate this Agreement (including all related Ordering Documents) without any further cure period, by written notice given within sixty (60) days after the third such notice, whether or not the amounts have since been paid. Each such notice must identify the overdue invoice, and the third notice must state that it is the third notice within twelve (12) months and that bOpus may terminate under this Section 5.2.1(y). bOpus may give a notice on any day after the amount falls due, but a notice counts toward the three only if the amount it identifies is an Undisputed Overdue Amount that remains unpaid ten (10) business days after its due date, and Section 12.16 (Application of This Version) limits the count to notices given on or after your Binding Date. A termination under this Section 5.2.1(y) takes effect on the date bOpus specifies in its termination notice, which may not be earlier than thirty (30) days after that notice is given. As provided in Section 4.2.7 (Committed Fees), no Committed Fees are payable on a termination under this Section 5.2.1(y). bOpus will refund, for each Ordering Document, the refund provided by the refund formula in Section 5.3 (Effect of Termination) as of the date the termination takes effect, which includes the amount under clause (1)(ii)

of the Refund Formula and Netting paragraph of Section 5.3, calculated, netted and paid as provided in Section 5.3 (Effect of Termination), and bOpus will pay it within ninety (90) days after the termination takes effect. If any Undisputed Overdue Amount remains unpaid when bOpus gives its termination notice, bOpus may instead terminate under Section 5.2(a), and the consequences of that termination apply. This Section 5.2.1(y) does not apply to purchases made through an Authorized Partner under Section 12.13 (Authorized Partner).

5.2.2. Material Availability Threshold.

(a) Nature. This Section 5.2.2 applies only to Unavailability of the Hosted Service (each as defined in Section 5.2.2(c)). Apart from bOpus' records, figures and remediation obligations in Sections 5.2.2(e) and 5.2.2(f), each of which is enforceable only as provided in this Section 5.2.2, and except as expressly agreed in a writing signed by bOpus, this Section 5.2.2 operates only as a condition on termination under Section 5.2(a) (Termination for Cause) and as the basis of the termination right in the final paragraph of this Section 5.2.2 (Chronic Unavailability). It is not a service-level commitment, warranty or guarantee of availability. Sections 6.1 (Limited Warranty), 6.2 (Exclusions) and 6.3 (Warranty Disclaimer) continue to apply, including the statement in Section 6.1 that bOpus does not warrant that your use of bOpus Performance Cloud will be uninterrupted or error-free. Failures of particular features, reports, alerts, data collectors, data ingestion or integrations are not Unavailability and remain subject to Section 6 on its own terms. Unavailability is not a material breach of this Agreement unless the Material Availability Threshold is exceeded, and exceeding the Material Availability Threshold does not by itself establish a material breach. Termination for chronic Unavailability is governed by the final paragraph of this Section 5.2.2. Nothing in this Section 5.2.2 implies that any other matter is or is not a material breach.

(b) Threshold. The "Material Availability Threshold" is exceeded if Unavailability (i) exceeds seven (7) hours in each of two (2) consecutive Measured Months (as defined in Section 5.2.2(c)), or (ii) exceeds thirty-six (36) hours in any one (1) Measured Month. A different threshold applies only if it is expressly designated as the Material Availability Threshold in the applicable Ordering Document, issued, signed and accepted as provided in Section 8.5 (Ordering Documents), or in another writing signed by bOpus. A threshold so designated: (1) applies to the Ordering Document that designates it or, where it is designated in another writing signed by bOpus, to the Ordering Document or Ordering Documents that writing names, in each case for that Ordering Document's Subscription Term, in addition to (and not in place of) the threshold in clauses (i) and (ii); (2) uses the definitions, exclusions and measurement rules in this Section 5.2.2 unless the Ordering Document or other writing signed by bOpus that designates it states otherwise; and (3) if exceeded, permits termination under Section 5.2(a) only of the Ordering Document or Ordering Documents to which it applies under clause (1), notwithstanding the words "including all related Ordering Documents" in Section 5.2, unless the Ordering Document or other writing signed by bOpus that designates it expressly states that exceeding the designated threshold permits termination of this Agreement as a whole. A threshold designated in another writing signed by bOpus that names no Ordering Document has effect only if that writing expressly states that exceeding the designated threshold permits termination of this Agreement as a whole. Where one or more Ordering Documents alone are terminated under clause (3), bOpus will refund, for each Ordering Document so terminated, the refund provided in Section 5.3 (Effect of Termination), calculated for that Ordering

Document alone and otherwise calculated, netted and paid, and within the time provided, in Section 5.3 (Effect of Termination) for a termination so scoped; but if the Ordering Document or other writing signed by bOpus that designates the threshold expressly states a different refund, the refund stated there applies in its place. The same applies, for the Ordering Documents the designating writing covers, where that writing expressly grants termination of this Agreement as a whole and expressly states a different refund. Otherwise, termination of this Agreement as a whole on grounds of Unavailability remains subject to clauses (i) and (ii) and to the final paragraph of this Section 5.2.2. A Partner Agreement never designates a Material Availability Threshold, and no bOpus Performance Cloud Support Policy target, statement of work figure, quote, proposal, invoice or other statement is a Material Availability Threshold unless it is expressly designated as one in the manner required by this clause (b).

(c) Definitions. “Hosted Service” means bOpus’ hosted sign-in service for bOpus Performance Cloud and the main application page of each product under your active Ordering Documents. “Availability” of the Hosted Service, for any minute, means that the minute is not Unavailable. A minute is “Unavailable” if, during that minute, a test sign-in to the hosted sign-in service made from outside bOpus’ hosting environment fails or does not complete within sixty (60) seconds, or the main application page of a product requested from outside bOpus’ hosting environment does not load within sixty (60) seconds, in either case because of a failure within bOpus’ hosting environment that lasts at least five (5) consecutive minutes. A failure of the hosted sign-in service makes the whole minute Unavailable for every product. A minute in which only some products under your active Ordering Documents are Unavailable counts as the fraction of a minute equal to those products’ share of the annualized fees (each determined as provided in Section 4.2.1) under your active Ordering Documents, in each case for the subscription year in which that minute falls. Slowness that does not cause a test to fail is not Unavailability. “Unavailability” means the total of Unavailable minutes in the period concerned, expressed in hours, and bOpus’ “Availability figure” for a period is bOpus’ statement of the Unavailability it has measured for that period. “Measured Month” means a calendar month that begins on or after your Binding Date (as defined in Section 12.16 (Application of This Version)), and no minute before your Binding Date is counted under this Section 5.2.2. Calendar months, calendar days, business days and all other times under this Section 5.2.2 are determined in Coordinated Universal Time (UTC), and a “business day” under this Agreement means any Monday through Friday, determined in UTC.

(d) Exclusions. A minute is not Unavailable to the extent the failure results from: (i) identity providers or single sign-on services that you or your Authorized Users use, or your or your Authorized Users’ networks, devices, browsers or other systems, including any network-level block, rate limit or security control applied to network addresses because of traffic originating from them; (ii) email, SMS or other third-party message delivery; (iii) an individual Authorized User’s credentials, lockout or rate limiting; (iv) scheduled maintenance notified at least forty-eight (48) hours in advance through bOpus Performance Cloud or by email to your administrative contact, up to eight (8) hours in a calendar month (maintenance beyond eight (8) hours in a calendar month, and maintenance not so notified, is not excluded); (v) failures of the internet or electronic communications outside bOpus’ hosting environment; (vi) an event described in Section 12.11 (Force Majeure); or (vii) your breach of this Agreement, or a suspension under Section 4.3 (Suspension of Services) or 12.13 (Authorized Partner). Evaluation Access (as defined in Section 1.6

(Evaluation Access)), and any product provided only under it, is not measured under this Section 5.2.2, and no minute of it is counted. For the purpose of counting Unavailability under this Section 5.2.2 only, software, components, and hosting and infrastructure providers that bOpus selects to provide the Hosted Service are part of bOpus' hosting environment, and a failure in them is not excluded under clause (v) or under Section 6.2(iii) unless it qualifies under clause (vi); Sections 6.3 and 12.11 otherwise apply as written. Unavailability caused by an attack on the Hosted Service, including denial-of-service, credential-stuffing and ransomware attacks and bOpus' containment of them, is not excluded under clause (v) or (vi) or by reason of any security or data-protection provision of this Agreement, except to the extent it results from a cause described in clause (i), (iii) or (vii). Nothing in this Section 5.2.2 excuses, reduces, suspends or conditions your obligation to pay fees and other amounts when due.

(e) Measurement and records. (i) All Unavailability arising from a single continuous incident is attributed to the calendar month in which the incident began. Unavailability arising from incidents with the same cause within one calendar month is aggregated and counted once, as a single shortfall for that month, and Unavailability from that cause in a later calendar month is a new shortfall counted in that later month. A single cause is a single shortfall across all Ordering Documents and products it affects and is counted once, not once for each Ordering Document. Unavailability counts toward the Material Availability Threshold, the cure test in Section 5.2.2(f) and the final paragraph of this Section 5.2.2 whether or not a Remedial Credit (as defined in Section 5.6 (Remedial Credits)) has been issued or accepted for it, and no Remedial Credit prevents termination where this Section 5.2.2 permits it. (ii) Any monitoring records bOpus keeps of tests made as described in Section 5.2.2(c) are presumed accurate as to the intervals they cover unless you show otherwise. For any interval those records do not cover, Unavailability is determined from other contemporaneous records, including support requests you submitted during that interval. (iii) bOpus will retain any such monitoring records for at least eighteen (18) months after the end of the month to which they relate. On your written request made within thirty (30) days after the end of a Measured Month, bOpus will deliver its Availability figure for that Measured Month, and for any earlier Measured Month within the same period of twelve (12) consecutive calendar months that you identify in the request, within ten (10) business days after receiving the request. If bOpus does not deliver a timely requested Availability figure within those ten (10) business days, the consequence is the one stated in the final paragraph of this Section 5.2.2, and for every other purpose Unavailability may be shown from the other contemporaneous records described in clause (ii).

(f) Notice and cure. Written notice of breach based on the Material Availability Threshold must be given within thirty (30) days after the end of the Measured Month (or, for a designated threshold measured over a different period, the end of that measurement period) in which the threshold is exceeded, and an exceedance not notified within that period does not support termination under Section 5.2(a). Except as expressly agreed in a writing signed by bOpus, this Section 5.2.2 does not extend, waive or loosen the time limits or other conditions in Section 6.2 for any claim made under Section 6.1, and a matter pleaded as a breach of Section 6.1 remains subject to Sections 6.1 and 6.2 on their own terms. For the Material Availability Threshold in clause (b)(i) or (b)(ii), cure means restoration of Availability of the Hosted Service and Unavailability of no more than seven (7) hours during the thirty (30) day cure period under Section 5.2(a). For a designated threshold, cure means the cure test stated in the Ordering Document or other

writing signed by bOpus that designates it, and a designated threshold measured over a period longer than the cure period must state its own cure test there. If the Ordering Document or other writing signed by bOpus that designates a threshold does not state a cure test, cure means restoration of Availability of the Hosted Service and, during the cure period, (1) for a threshold measured over a period longer than the cure period, no further day, hour or other unit that counts toward that threshold, and (2) for any other designated threshold, compliance with that threshold measured over the cure period. As Section 5.2 (Termination for Cause) provides, Unavailability is cured only as provided in this Section 5.2.2(f). bOpus will use commercially reasonable efforts to remediate the root cause of Unavailability that exceeds the Material Availability Threshold, but completing or demonstrating that remediation within the cure period is not a condition of cure. Except as expressly agreed in a writing signed by bOpus, any failure to perform this remediation obligation is not a separate ground for termination or damages and is addressed only under this Section 5.2.2.

Chronic Unavailability. If Unavailability exceeds seven (7) hours in each of any three (3) Measured Months within any period of twelve (12) consecutive calendar months, you may terminate this Agreement as a whole, without notice of breach and without any cure period, as if for bOpus' uncured material breach, by written notice to bOpus given within the exercise period in this paragraph. You may request the Availability figure for the third such Measured Month (and for the earlier Measured Months concerned, identified in the request as provided in Section 5.2.2(e)(iii)) under Section 5.2.2(e)(iii) by written request made within thirty (30) days after the end of that third Measured Month, and bOpus will deliver it within ten (10) business days after receiving the request. The exercise period is thirty (30) days, running: (1) if you do not request the Availability figure within those thirty (30) days, from the end of the third such Measured Month; (2) if you request it in time and bOpus delivers it within those ten (10) business days, from the date bOpus delivers it; and (3) if you request it in time and bOpus does not deliver it within those ten (10) business days, from the last of those ten (10) business days, being the date delivery was due, in which case you may give notice on the basis of the other contemporaneous records described in Section 5.2.2(e)(ii). If you do not give notice within the exercise period, your right to terminate under this paragraph arising from that third Measured Month lapses. The exercise period, and not Section 5.2.1 (Time to Exercise), governs the time to exercise that right, and a notice given within it satisfies the conditions of Section 5.3 (Effect of Termination) that the termination be made in accordance with Section 5.2(a) and within the time allowed by Section 5.2.1. A termination under this paragraph is treated as a termination under Section 5.2(a) for bOpus' uncured material breach for purposes of Section 4.2.7 (Committed Fees), Section 5.3 (Effect of Termination), Section 5.6 (Remedial Credits) and Section 5.8 (Post-Termination Export) only, and bOpus will pay the refund provided in the Refund on Termination for bOpus' Breach paragraph of Section 5.3, which governs that refund, its timing, the unavailability of Continuity Use under Section 5.7 (Continuity Use) and its exclusivity. The figures in this paragraph apply whether or not an Ordering Document or other writing signed by bOpus designates a threshold under Section 5.2.2(b), and no designated threshold replaces them unless a writing signed by bOpus expressly states that it does.

5.3. Effect of Termination. Upon any termination or expiration of this Agreement, except as provided in Sections 5.7 (Continuity Use) and 5.8 (Post-Termination Export), you shall immediately cease any and all use of and access to bOpus Performance Cloud and destroy (or, at bOpus' request, return), any bOpus Confidential Information in its possession. You acknowledge that, except as exported or printed prior to termination or expiration by you as may be permitted through the functionality of bOpus Performance Cloud or as exported during the Export Window under Section 5.8, following the close of the Export Window (as tolled under Section 5.8) it shall have no further access to any Customer Data input into bOpus Performance Cloud, and that bOpus may delete any such data at any time thereafter. The access and Customer Data effects in the first two sentences of this Section 5.3 also apply, as to the products under each line of an Ordering Document, whenever that line ends while this Agreement continues, and run from that line's end date, subject to Section 5.8. Where Section 4.2.7 (Committed Fees) applies to a termination, the Committed Fees become due as provided in Section 4.2.7. If more than one notice of termination is given, the first notice of termination given that is effective governs the consequences of termination under this Agreement, a notice being effective for this purpose only if the grounds it states existed when it was given. Except where an exclusive remedy is specified in this Agreement, the exercise by either party of any remedy under this Agreement, including termination, will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

Refund on Termination for bOpus' Breach. If you terminate this Agreement under Section 5.2(a) (Termination for Cause) for bOpus' uncured material breach, then, for each Ordering Document and its Paid Term (as defined in Section 5.7 (Continuity Use)) for which you do not elect Continuity Use under Section 5.7, bOpus will pay you the refund provided by the refund formula in this Section 5.3 as of the termination date, calculated, netted and paid as provided in this Section 5.3, and subject to the default in Section 5.7(c) where you make no timely election. bOpus will deliver a statement of the refund and pay it within ninety (90) days after the close of the election period under Section 5.7(c), and not from the termination date. On a termination under the Chronic Unavailability paragraph of Section 5.2.2 (Material Availability Threshold), the refund under this paragraph is payable for every Ordering Document, no Continuity Use under Section 5.7 is available (except as expressly agreed in a writing signed by bOpus), and bOpus will deliver the statement and pay the refund within ninety (90) days after the termination date. Where a termination under Section 5.2(a) reaches only the Ordering Document that designates a Material Availability Threshold under Section 5.2.2 or the Ordering Document or Ordering Documents named in another designating writing signed by bOpus, this paragraph applies only to the Ordering Documents so terminated, no Continuity Use under Section 5.7 is available (except as expressly agreed in a writing signed by bOpus), and, unless such a writing makes Continuity Use available for that termination, bOpus will deliver the statement and pay the refund within ninety (90) days after the termination date, except to the extent that the designating writing expressly states a different refund, which then governs for those Ordering Documents. bOpus' obligation to pay the refund is subject to the set-off provided in this Section 5.3 and to the conditions that you terminated in accordance with Section 5.2(a), including Section 5.2.2 where the breach asserted is Unavailability of the Hosted Service (each as defined in Section 5.2.2(c)), and within the time allowed by Section 5.2.1 (Time to Exercise) or, for a termination under the Chronic Unavailability paragraph of Section 5.2.2, within the period stated in that paragraph; the refund is payable only upon an actual termination. Except as expressly agreed in a writing

signed by bOpus, the refund under this paragraph, or Continuity Use where elected, is your sole and exclusive remedy, and bOpus' entire liability, for the breach (or, on a termination under the Chronic Unavailability paragraph of Section 5.2.2, for that Unavailability and the early end of this Agreement), the early end of your Subscription Terms and the cost of replacing bOpus Performance Cloud; claims that arose before the termination date, including under Sections 9.1 (bOpus Indemnification) and 10 (Confidential Information), are not released and remain subject to Section 8 (Limitation of Remedies and Damages). Except as expressly agreed in a writing signed by bOpus, a failure of bOpus Performance Cloud to operate in substantial conformity with the Documentation is governed by Section 6.1 (Limited Warranty) and Section 6.2 (Exclusions) on their own terms, however it is framed, including where it is asserted as a breach of warranty or as a breach under Section 5.2(a) (except that, for purposes of Section 5.2(a) only, Unavailability of the Hosted Service is governed by Section 5.2.2), and nothing in Section 5.2.2 extends the claim period in, or otherwise loosens the conditions of, Section 6.2.

Refund Formula and Netting. This paragraph governs the refund under the preceding paragraph and every other refund that this Agreement states is calculated, netted and paid as provided in this Section 5.3, including the Cessation Refund under Section 5.2(b), the refund under Section 5.2.1(y), the refund on termination under the Chronic Unavailability paragraph of Section 5.2.2 (Material Availability Threshold), the fallback refund under Section 5.7 (Continuity Use) and each refund that Section 8.2 applies this paragraph to. (1) Formula. Where a refund for an Ordering Document is provided by the refund formula in this Section 5.3 as of a date, the refund is (i) for each line of that Ordering Document, the sum, for each day of the Subscription Term in progress on that date that remains after that date and for which bOpus received payment, of the Daily Rate for that line for that day, plus (ii) all fees bOpus received for any Subscription Term under that Ordering Document (including any renewal Subscription Term) that had not begun on that date, refunded in full, together with any taxes bOpus collected on the refunded fees, to the extent refundable under applicable law. No amount under clause (i) exceeds the fees bOpus actually received for the days refunded. (2) Value received. Each refund of fees for a Subscription Term is reduced only by value you actually received for that same Subscription Term, namely Remedial Credits applied to invoices for that Subscription Term, extension days of that Subscription Term actually served and cash Remedial Credits paid to you for that Subscription Term, each counted once, with extension days valued as provided in Section 4.2.1. A Remedial Credit issued but not yet applied, and extension days not yet served, are not value received. A refund under Section 6.1(a) (Limited Warranty) is never deducted, and extension days that fall on days for which you otherwise pay fees, including days of a renewal Subscription Term, are not days actually served. Days of Continuity Use are deducted only from a refund for the same Ordering Document and its Paid Term, and never from an amount that is already limited to days not served, including the fallback refund under Section 5.7(d). (3) Set-off. A refund is paid net only of Undisputed Overdue Amounts outstanding on the date bOpus pays it; amounts that are not Undisputed Overdue Amounts, including amounts you dispute, are never deducted or offset and remain live claims. (4) Unapplied value. On the end of this Agreement as a whole, however it ends and whether or not a refund is payable, all Remedial Credits issued but not yet applied, and all extension days not yet served (valued as provided in Section 4.2.1), for any Subscription Term, first offset Undisputed Overdue Amounts outstanding on the date bOpus pays them (including Committed Fees under Section 4.2.7 (Committed Fees) that are Undisputed Overdue Amounts), and any remainder

is paid to you within ninety (90) days after the end of this Agreement (or, where a refund is payable on that end, with that refund) and is never deducted from any refund. On any other refund, including a refund on the termination of a Subscription Term under Section 6.1 (Limited Warranty) or Section 9.1(c) (bOpus Indemnification) and a refund on a termination that reaches fewer than all Ordering Documents under Section 5.2.2, Remedial Credits issued but not yet applied and extension days not yet served are neither paid out nor deducted and remain subject to Section 5.6 (Remedial Credits). (5) Payment and limits. bOpus will pay each refund within ninety (90) days after the date stated in the provision granting it or, if none is stated, after the termination date. The limit in Section 8.2 applies to each refund only as provided in the Refunds and Credits paragraph and the Unearned-Fee Refunds paragraph of Section 8.2. No more than one refund consisting of the Cessation Refund under Section 5.2(b) or the refund under the preceding paragraph (including on a termination under the Chronic Unavailability paragraph of Section 5.2.2 or a termination scoped by a designated Material Availability Threshold) is payable for any Subscription Term, whatever ground of termination is asserted.

5.4. Survival. The following Sections shall survive any expiration or termination of this Agreement: Sections 1.11 (General Restrictions), 2 (Customer Data and Your Obligations), 3 (Ownership), 4.2 (Fees and Payment), 5 (Term and Termination, including without limitation Sections 5.5 (Post-Termination Competitive Restrictions), 5.6 (Remedial Credits), 5.7 (Continuity Use) and 5.8 (Post-Termination Export)), 6.3 (Warranty Disclaimer), 8 (Limitation of Remedies and Damages), 9.2 (Indemnification by You), 10 (Confidential Information), 11 (Export Control) and 12 (General Terms)

5.5. Post-Termination Competitive Restrictions.

5.5.1. Except as expressly agreed in a writing signed by bOpus, for a period of three (3) years following the later of the termination or expiration of this Agreement for any reason and the end of any Continuity Period under Section 5.7 (Continuity Use) ("Restricted Period"), you shall not, and shall ensure that your Affiliates, employees, contractors, and agents do not, directly or indirectly: (i) develop, create, manufacture, market, sell, license, or otherwise commercially exploit any software, system, or service that replicates or competes with bOpus Performance Cloud's functionality, including but not limited to manufacturing performance monitoring, downtime analysis, or production analytics systems, and that relies on or incorporates any bOpus Confidential Information or bOpus proprietary insight; or (ii) disclose to any third party, including but not limited to vendors, contractors, or service providers, or use for the benefit of any third party, any bOpus Confidential Information or bOpus proprietary insight in connection with that third party's developing, creating, manufacturing, marketing, selling, licensing, or otherwise commercially exploiting any software, system, or service that replicates or competes with bOpus Performance Cloud's functionality. In this Section 5.5, "bOpus proprietary insight" means bOpus' proprietary methodologies, including its data mapping methodologies, transformation rules and correlation definitions, and any other non-public information concerning the design of bOpus Performance Cloud, including the materials described in Section 3.1 (bOpus Technology), that bOpus disclosed or made available to you during the Subscription Term or any Continuity Period, and "Affiliates" has the meaning given to "Affiliate" in Section 1.8 (Authorized Users).

5.5.2. You acknowledge and agree that: (i) the restrictions contained in this Section 5.5 are reasonable and necessary to protect bOpus' legitimate business interests, including but not limited to its trade secrets, proprietary methodologies, and competitive advantage; (ii) the three-year Restricted Period is reasonable given the nature of the technology and the time and investment required to develop competing solutions; (iii) you have received sufficient consideration under this Agreement to justify these restrictions; (iv) any violation of these restrictions would cause bOpus irreparable harm for which monetary damages alone would be inadequate.

5.5.3. In the event of a breach or threatened breach of this Section 5.5, bOpus shall be entitled to: (i) immediate injunctive relief without the requirement of posting a bond; (ii) monetary damages, including but not limited to lost profits, development costs, and loss of competitive advantage, for which your liability is not subject to Sections 8.1 and 8.2, as provided in Section 8.4 (Exceptions); (iii) recovery of legal costs and reasonable attorneys' fees.

5.5.4. Nothing in this Section 5.5 shall restrict your right to: (i) retain and use your Customer Data as defined in Section 2.1; (ii) develop solutions that do not rely on or incorporate bOpus Confidential Information or bOpus proprietary insight; (iii) procure, purchase, subscribe to or use a competing software, system or service from a third party, and merely doing so is never by itself a breach of this Section 5.5; or (iv) permit any employee or contractor to use the general skills, knowledge and experience that person possesses, other than bOpus Confidential Information and bOpus proprietary insight.

5.6. Remedial Credits.

(a) Remedial Credit Defined. “Remedial Credit” means a credit against your next invoice, an extension of service days, or a cash payment that bOpus provides for an identified event, and includes any refund under Section 6.1(a) or 6.1(b) (Limited Warranty) or Section 9.1(c) (bOpus Indemnification) (each such refund, a “Deemed Remedial Credit”). A credit, extension or payment that bOpus provides at its discretion is a Remedial Credit only if bOpus states in the credit document that it is provided for an identified event; that statement is not an admission that the event was a breach of this Agreement or that any amount was owed, and a credit offered as a goodwill gesture that carries that statement is a Remedial Credit. Each Remedial Credit, other than a Deemed Remedial Credit, is documented by a credit note issued by bOpus that is tied to the affected invoice and names the event and its date. A Deemed Remedial Credit is treated as a Remedial Credit only for purposes of Section 5.6(c) (Same-Event Offset) and of counting refunds and credits toward the limit in Section 8.2; Section 5.6(e) (Form of Remedial Credit) does not apply to it, and bOpus pays it in cash within the ninety (90) days provided in Section 6.1 or Section 9.1(c), as applicable. A Deemed Remedial Credit reduces a later recovery under Section 5.6(c) only to the extent that the later recovery covers the same fees and the same period as the refund.

(b) Exclusive Remedy. Except as expressly agreed in a writing signed by bOpus, and subject to Sections 5.6(d) (Minimum Value) and 5.6(f) (Fallback), a Remedial Credit is your sole and exclusive remedy for the identified event for which it is provided, and bOpus' entire liability for that event is to provide that Remedial Credit. A Remedial Credit applies to the identified event as a whole, across every Ordering Document affected by that event. This Section 5.6 limits only your remedies and does not limit any of

bOpus' rights or remedies, including under Section 4 (Subscription Term, Fees & Payment), Section 4.3 (Suspension of Services), Section 5.5 (Post-Termination Competitive Restrictions) and Section 12.10 (Audit Rights). This Section 5.6 does not apply to bOpus' obligations under Section 9.1, which are governed by that Section, except that a refund under Section 9.1(c) is a Deemed Remedial Credit as provided in Section 5.6(a). Nothing in this Section 5.6 limits either party's right to seek equitable relief under Section 10 (Confidential Information), and the provision of a Remedial Credit does not release any claim under Section 9.1 or Section 10, each of which remains subject to Section 8 (Limitation of Remedies and Damages) and to Section 5.6(c). Section 6.1 continues to govern warranty non-conformities on its own terms, including the exclusions in Section 6.2 (Exclusions). This Section 5.6 limits the remedies available for an identified event; it does not limit your right to terminate under Section 5.2(a) (Termination for Cause) as provided in Section 5.2.2 (Material Availability Threshold), including under the Chronic Unavailability paragraph of Section 5.2.2, and any Unavailability arising from an event that is the subject of a Remedial Credit continues to count for those purposes, as provided in Section 5.2.2(e)(i).

(c) Same-Event Offset. You recover for any event once, and never twice. Accordingly, any recovery you obtain from bOpus for an event, including any recovery under Section 9.1 or Section 10 and any recovery permitted under Section 5.6(f) (Fallback), is reduced only by the value you actually received for that event for the same Subscription Term (or, for a recovery that is not tied to a single Subscription Term, for the Subscription Terms during which the event occurred), namely Remedial Credits applied to invoices, extension days actually served, and cash Remedial Credits paid, including Deemed Remedial Credits subject to the last sentence of Section 5.6(a), each counted once. Days of Continuity Use under Section 5.7 (Continuity Use) that have actually been served reduce only a recovery that relates to the Ordering Document and Paid Term they serve. A Remedial Credit issued but not yet applied, and extension days not yet served, are not value received and are never deducted under this Section 5.6(c); they remain available to you as provided in Section 5.6(e) (Form of Remedial Credit), and are paid out only as provided in Section 5.3 (Effect of Termination). Where the recovery is a refund of fees, it is netted and paid as provided in Section 5.3 (Effect of Termination), calculated there where Section 5.3 provides its amount, and is not reduced again under this Section 5.6(c). Any amount bOpus owes you under this Section 5 is set off only against Undisputed Overdue Amounts, as provided in Section 5.3; amounts you dispute are never deducted or offset and remain live claims. For every purpose of this Section 5.6, a credit applied to an invoice and a cash payment are valued at their stated amount, and an extension day or a day of Continuity Use is valued as provided in Section 4.2.1; an extension day that falls on a day for which you otherwise pay fees, including a day of a renewal Subscription Term, is not a day actually served and has no value for any purpose of this Section 5.6, including Section 5.6(d).

(d) Minimum Value. A credit for Unavailability of the Hosted Service (each as defined in Section 5.2.2(c) (Definitions)) carries the exclusivity in Section 5.6(b) only if (i) its value, determined as provided in Section 5.6(c), is not less than the sum, for each affected Ordering Document line, of that line's Daily Rate multiplied by the number of calendar days on which that Unavailability occurred, a part-day counting as a whole day; or (ii) you have accepted a lesser credit as a Remedial Credit for that event in a writing signed by your duly authorized representative. bOpus may provide a credit of lesser value as a goodwill

gesture; such a credit is permitted and, to the extent you actually receive it, reduces any recovery for the same event as provided in Section 5.6(c), but it does not make this Section 5.6 your exclusive remedy for that event.

(e) Form of Remedial Credit. bOpus elects the form of each Remedial Credit, in the following order of preference: (i) a credit against your next invoice; (ii) where bOpus elects to provide additional service days, an extension booked as a separate no-charge line beginning at the end of the current period of the affected Ordering Document line, which never changes the dates of an existing line, never delays the start of the next Subscription Term and is subject to Section 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More) as to notice of non-renewal and renewal pricing; and (iii) a cash payment, which bOpus provides only where no future fees are payable to bOpus under any Ordering Document and pays within ninety (90) days after it issues the Remedial Credit. The form bOpus chooses, and any departure from that order of preference, never affects whether a credit is a Remedial Credit, its value under Section 5.6(c) or whether it carries the exclusivity in Section 5.6(b). For a subscription purchased through an Authorized Partner under Section 12.13 (Authorized Partner), a credit the Authorized Partner passes through to you for a shortfall of bOpus is a source of a Remedial Credit, and counts as a Remedial Credit or toward the limit in Section 8.2, only if bOpus issues its own credit note to the Authorized Partner naming you as the end customer, the event and the affected Ordering Documents.

(f) Fallback. If the exclusivity in Section 5.6(b) is held unenforceable, or a Remedial Credit is held to have failed of its essential purpose, then Section 8 still applies as provided in Section 8.3 (Failure of Essential Purpose), and every Remedial Credit, refund and extension day for the same event, to the extent you actually received it, is deducted from any recovery for that event as provided in Section 5.6(c).

5.7. Continuity Use.

(a) Availability of Continuity Use. If you terminate this Agreement (including all related Ordering Documents) under Section 5.2(a) (Termination for Cause) for bOpus' uncured material breach, or under Section 5.2(b) because bOpus has ceased operation without a successor ("ceases operation" and "successor" each having the meaning given in Section 5.2(b)), you may elect under Section 5.7(c) to continue to access and use bOpus Performance Cloud under an Ordering Document for the number of days remaining in its Paid Term on the termination date ("Continuity Use"; the period of Continuity Use under an Ordering Document is its "Continuity Period"). The Continuity Period begins on the day after the election period under Section 5.7(c) ends. "Paid Term" means, for each Ordering Document, the portion of the then-current Subscription Term for which bOpus received payment, directly or through an Authorized Partner, before the termination took effect, and, for a month-to-month subscription under Section 4.2.4 (First-Year Subscription Requirement), the then-current month. Except as expressly agreed in a writing signed by bOpus, Continuity Use is not available: on termination of an Ordering Document alone, including a termination under Section 5.2(a) that reaches only the Ordering Document or Ordering Documents named in an Ordering Document or another writing signed by bOpus that designates a Material Availability Threshold under Section 5.2.2 (Material Availability Threshold); on a termination

under the Chronic Unavailability paragraph of Section 5.2.2; on termination under Section 5.2(c); on the expiration or non-renewal of any Subscription Term; or on any termination by bOpus, including termination for your breach or non-payment.

(b) Scope. Except as expressly agreed in a writing signed by bOpus, Continuity Use is provided “AS IS” and only to the extent bOpus Performance Cloud remains operational, without warranty, support or service level of any kind, and includes no delivery of source code, database schemas, configurations, escrow materials or system credentials, no hardware service, no additional Authorized Users and no new features. Your Continuity Use remains subject to the terms of this Agreement that govern access to and use of bOpus Performance Cloud.

(c) Election. For each Ordering Document and its Paid Term, Continuity Use and the refund payable on termination are alternatives: on a termination under Section 5.2(a), Continuity Use or the refund under Section 5.3 (Effect of Termination); on a termination under Section 5.2(b), Continuity Use or the Cessation Refund. You make the election by irrevocable written notice delivered with your notice of termination or within ten (10) days after it, and your election period for an Ordering Document ends on the earlier of delivery of your election and that tenth (10th) day. If you make no timely election for an Ordering Document, you receive the refund under Section 5.3 or the Cessation Refund for it, as applicable, and no Continuity Use. Your access to bOpus Performance Cloud is suspended during the election period, and the days of that suspension do not reduce any Continuity Period or any Export Window under Section 5.8 (Post-Termination Export). Each day of Continuity Use counts as a day of service provided under the Ordering Document it serves.

(d) Fallback Refund. Except as expressly agreed in a writing signed by bOpus, if, during a Continuity Period, bOpus Performance Cloud becomes unavailable for reasons within bOpus’ control and is not restored within thirty (30) days, your sole and exclusive remedy, and bOpus’ entire liability, for that unavailability and for the rest of that Continuity Period is a refund of the unserved days of that Continuity Period, counted from the first day of that unavailability, at the Daily Rate of each Ordering Document line it serves, not exceeding the fees bOpus received for those days, together with any taxes bOpus collected on the refunded fees, to the extent refundable under applicable law (the “fallback refund”). That Continuity Period ends at the end of that thirty (30) day period. The fallback refund is the amount stated in this Section 5.7(d) and is otherwise calculated, netted and paid as provided in Section 5.3 (Effect of Termination), and bOpus will pay it within ninety (90) days after the end of that thirty (30) day period. Days of Continuity Use count toward the limit in Section 8.2 once, as served, and days refunded unserved count when the refund is issued.

5.8. Post-Termination Export.

(a) Export Window. When the Subscription Term under an Ordering Document ends without renewal for any reason, including on the expiration or termination of this Agreement, you may, on written request delivered to bOpus, export the Customer Data associated with that Ordering Document during the thirty (30) days beginning on the latest of (i) the day after that Subscription Term’s end date, (ii) where an election under Section 5.7(c) is available for that Ordering Document, the day after the election period

under Section 5.7(c) ends, and (iii) where a Continuity Period applies to that Ordering Document, the day after that Continuity Period ends, as tolled under Section 5.8(e) (the “Export Window”). The Export Window is not part of any Subscription Term and does not renew or extend any Subscription Term.

(b) Scope and Format. During the Export Window, bOpus will provide read-only access for one administrator you designate in your request, solely to use the self-service export functionality of bOpus Performance Cloud that exists at the start of the Export Window. Export access does not include data ingestion, alerts or scheduled reports. Export through that self-service functionality, in the file formats it produces at the start of the Export Window (“standard format”), is provided at no charge. Except as expressly agreed in a writing signed by bOpus, and other than the production of identity records under Section 5.8(c) (Identity Records), bOpus has no obligation to provide assisted, custom or other non-standard exports; bOpus may, at its discretion, offer such an export under a separate Ordering Document, and no standing rate for such exports applies.

(c) Identity Records. Except as expressly agreed in a writing signed by bOpus, identity records are exported only as follows. On your written request delivered within the Export Window, bOpus will produce them at no charge, within a commercially reasonable time after receiving the request, through its identity management API, as a fixed list of fields that bOpus maintains, limited to your organizations in bOpus Performance Cloud, and never as copies of database tables or logs. That production is subject to Sections 5.8(d) (Payment Condition) and 5.8(e) (Export Failure; Release). Fields of a user’s account record that are shared across organizations, such as email address, telephone number, profile data and last sign-in time, are exported only for users whose organization memberships are solely in your organizations; for any other user, only that user’s membership and role data in your organizations is exported. No export includes any credential verifier, in any format or under any algorithm, including password hashes, multi-factor authentication secrets, time-based one-time password seeds, backup codes, and passkey or WebAuthn credentials.

(d) Payment Condition. bOpus’ obligations under this Section 5.8, other than obligations under applicable data-protection law described in Section 5.8(f) (Deletion), are conditioned only on payment of Undisputed Overdue Amounts for periods of service actually provided. Amounts payable under Section 4.2.7 (Committed Fees), including Section 4.2.7.1 (Subscription Terms Not Yet Started), and under Section 2.2.4 (Prohibited Data) are excluded from this condition; bOpus’ claim for those excluded amounts survives in full and is not waived by bOpus permitting export.

(e) Export Failure; Release. If, during the Export Window, you notify bOpus in writing that an export (including a production of identity records under Section 5.8(c)) has failed, bOpus will make a commercially reasonable re-delivery, and, except as expressly agreed in a writing signed by bOpus, that re-delivery is your sole and exclusive remedy for the failure. The Export Window is tolled from your notice until bOpus completes the re-delivery. If you do not request an export, or do not complete it, within the Export Window as tolled, you release bOpus from all claims relating to the return, retention or deletion of that Customer Data and of those identity records, subject to Section 5.8(f).

(f) Deletion. After the Export Window as tolled closes, bOpus may delete the Customer Data and identity records associated with that Ordering Document at any time but has no obligation to do so, except where applicable data-protection law requires bOpus to delete or return personal data, which bOpus will do as that law requires; the release in this Section does not extend to obligations under that law. Backup copies are removed in the ordinary course of bOpus' backup cycle and remain subject to Section 10 (Confidential Information) until removed. A user account that is also associated with another customer's organization or with another bOpus service is not deleted; bOpus will only remove it from your organizations.

(g) Retention. Notwithstanding any expiration, termination, deletion or release, bOpus may retain, for the periods required by applicable law (including tax and excise record-keeping law) and as needed to establish or defend claims: (i) records that applicable law requires bOpus to keep; (ii) billing, tax and excise records, including your legal name, billing address and state, invoices, credit notes, Ordering Documents and statements of work, payment and bank records, revenue recognition schedules, tax-exemption certificates and reseller permits; (iii) evidence of your acceptance of this Agreement and of bOpus' policies; and (iv) records needed to establish or defend claims.

6. LIMITED WARRANTY

6.1. Limited Warranty. bOpus warrants to you that bOpus Performance Cloud will operate in substantial conformity with the applicable Documentation. bOpus does not warrant that your use of bOpus Performance Cloud will be uninterrupted or error-free, nor does bOpus warrant that it will review the Customer Data for accuracy or that it will preserve or maintain the Customer Data without loss. bOpus' sole liability (and your sole and exclusive remedy) for any breach of this warranty shall be, in bOpus' sole discretion and at no charge to you, to use commercially reasonable efforts to correct the reported non-conformity, or if bOpus determines such remedy to be impracticable, to allow you to terminate the applicable Subscription Term and receive as its sole remedy a refund of: (a) the monthly subscription fees specified in the applicable Ordering Document which are allocable to the thirty (30) day period prior to the date the warranty claim was made and (b) any fees you have pre-paid for use of bOpus Performance Cloud or related services it has not received as of the date of the warranty claim. Any refund under this Section 6.1 shall be paid in cash within ninety (90) days after you terminate the applicable Subscription Term under this Section 6.1, together with any taxes bOpus collected on the refunded fees, to the extent refundable under applicable law, and a refund under Section 6.1(b) is netted and paid as provided in Section 5.3 (Effect of Termination), as applied by the unearned-fee refunds paragraph of Section 8.2. A refund under Section 6.1(a) or 6.1(b) is a Deemed Remedial Credit only as provided in Section 5.6(a) (Remedial Credit Defined). Except as expressly agreed in a writing signed by bOpus, this Section 6.1 governs any non-conformity of bOpus Performance Cloud with the applicable Documentation on its own terms, subject to the exclusions in Section 6.2 (Exclusions), whether or not the non-conformity is also an event for which a Remedial Credit is provided or is asserted under another provision of this Agreement.

6.2. Exclusions. The above warranty shall not apply: (i) unless you make a claim within thirty (30) days of the date on which the condition giving rise to the claim first appeared; (ii) if bOpus Performance Cloud is used with hardware or software not authorized in the Documentation; (iii) if the error was caused by misuse, unauthorized modifications or third-party hardware, software or services; (iv) to any Evaluation Access or other use provided on a no charge or evaluation basis.

6.3. Warranty Disclaimer. THIS SECTION IS A LIMITED WARRANTY AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, BOPUS PERFORMANCE CLOUD, INCLUDING WITHOUT LIMITATION THE THIRD-PARTY CODE ARE PROVIDED “AS IS”. NEITHER BOPUS NOR ITS LICENSORS MAKES ANY OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES SHALL BE LIMITED AS PROVIDED HEREIN. BOPUS SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES AND OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF BOPUS.

7. SUPPORT AND SECURITY.

7.1. During the Subscription Term, bOpus Performance Cloud is subject to the support terms and security procedures set forth in the then-current bOpus Performance Cloud Support Policy.

8. LIMITATION OF REMEDIES AND DAMAGES

8.1. EXCEPT AS PROVIDED IN SECTION 8.4 (EXCEPTIONS), NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF USE, LOST OR INACCURATE DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, COSTS OF DELAY OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

8.2. EXCEPT AS PROVIDED IN SECTION 8.4, EACH PARTY’S ENTIRE LIABILITY AND OBLIGATION TO THE OTHER PARTY FOR ALL CLAIMS ATTRIBUTED TO A TWELVE-MONTH PERIOD SHALL NOT EXCEED, IN TOTAL AGGREGATE, THE LESSER OF (A) THE AGGREGATE ANNUALIZED FEES UNDER ALL ORDERING DOCUMENTS FOR THAT TWELVE-MONTH PERIOD, EXCLUDING TAXES, OR (B) US $1,000,000. FOR PURPOSES OF THIS SECTION 8.2: (I) TWELVE-MONTH PERIODS ARE COUNTED CONSECUTIVELY FROM THE EFFECTIVE DATE, AND A CLAIM IS ATTRIBUTED TO THE PERIOD IN WHICH THE EVENT GIVING RISE TO IT OCCURRED; (II) ALL CLAIMS ARISING FROM THE SAME EVENT, FROM RELATED EVENTS OR FROM A COMMON CAUSE ARE AGGREGATED AND ATTRIBUTED TO THE SINGLE PERIOD IN WHICH THE FIRST OF THOSE EVENTS

OCCURRED; (III) A CLAIM ARISING FROM AN EVENT AFTER THE EXPIRATION OR TERMINATION OF THIS AGREEMENT IS ATTRIBUTED TO THE FINAL PERIOD, BEING THE PERIOD IN WHICH THAT EXPIRATION OR TERMINATION OCCURRED; (IV) THE AGGREGATE ANNUALIZED FEES FOR A TWELVE-MONTH PERIOD ARE ONE FIGURE FOR THAT PERIOD, WHICH APPLIES TO EVERY CLAIM ATTRIBUTED TO THAT PERIOD HOWEVER MANY EVENTS ARE ATTRIBUTED TO IT, AND ARE THE GREATEST TOTAL, ON ANY SINGLE DAY OF THAT PERIOD ON WHICH THIS AGREEMENT WAS IN EFFECT, OF THE ANNUALIZED FEES OF ALL ORDERING DOCUMENT LINES IN EFFECT ON THAT DAY, THE ANNUALIZED FEE OF A LINE ON A DAY BEING THAT LINE'S ANNUALIZED FEE FOR THE SUBSCRIPTION YEAR IN WHICH THAT DAY FALLS, DETERMINED AS PROVIDED IN SECTION 4.2.1; AND (V) IF NO ANNUALIZED FEE CAN BE DETERMINED UNDER (IV) FOR A PERIOD, THE AMOUNT IN (A) FOR THAT PERIOD IS THE FEES PAID OR OWED BY YOU TO BOPUS UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE FIRST CLAIM ATTRIBUTED TO THAT PERIOD, EXCLUDING TAXES AND ANY COMMITTED FEES UNDER SECTION 4.2.7 (COMMITTED FEES).

REFUNDS AND CREDITS. EVERY REFUND OR CREDIT PAYABLE BY BOPUS UNDER ANY PROVISION OF THIS AGREEMENT OR ANY ORDERING DOCUMENT, INCLUDING EVERY REFUND UNDER SECTION 4.2.7.1 (SUBSCRIPTION TERMS NOT YET STARTED), THE CESSATION REFUND UNDER SECTION 5.2(b) (TERMINATION FOR CAUSE), THE REFUND UNDER SECTION 5.2.1(y) (TIME TO EXERCISE), THE REFUND UNDER SECTION 5.3 (EFFECT OF TERMINATION), INCLUDING ON A TERMINATION UNDER SECTION 5.2.2 (MATERIAL AVAILABILITY THRESHOLD), THE FALLBACK REFUND UNDER SECTION 5.7 (CONTINUITY USE), AND EVERY REFUND UNDER SECTION 6.1 (LIMITED WARRANTY) AND SECTION 9.1 (BOPUS INDEMNIFICATION), AND EVERY REMEDIAL CREDIT UNDER SECTION 5.6 (REMEDIAL CREDITS), INCLUDING EXTENSION DAYS VALUED AT THE DAILY RATE, AND EVERY DAY OF CONTINUITY USE UNDER SECTION 5.7, VALUED AT THE DAILY RATE (TOGETHER, "REFUND AND CREDIT AMOUNTS"), COUNTS TOWARD THE LIMIT IN THIS SECTION 8.2, AND ALL REFUND AND CREDIT AMOUNTS AND ALL OTHER LIABILITY ATTRIBUTED TO THE SAME TWELVE-MONTH PERIOD FORM ONE POOL UNDER THAT LIMIT. EACH REFUND AND CREDIT AMOUNT: (1) IS ATTRIBUTED TO THE TWELVE-MONTH PERIOD TO WHICH THE EVENT IT RELATES TO IS ATTRIBUTED UNDER THIS SECTION 8.2; (2) COUNTS ONCE ONLY, A CREDIT OR EXTENSION DAYS WHEN ISSUED, CONTINUITY DAYS AS THEY ARE SERVED (OR, FOR CONTINUITY DAYS REFUNDED UNSERVED, WHEN THAT REFUND IS ISSUED), AND A REFUND WHEN PAID, A REFUND BEING MEASURED AFTER DEDUCTION OF ANY REMEDIAL CREDIT THAT HAS ALREADY COUNTED BUT BEFORE ANY SET-OFF OF AMOUNTS YOU OWE; AND (3) DOES NOT REDUCE THE ANNUALIZED FEES ON WHICH THE LIMIT IS MEASURED, WHICH ARE ALWAYS MEASURED GROSS. NOTHING IN THIS SECTION 8.2 CREATES A RIGHT TO ANY REFUND OR CREDIT OR INCREASES THE LIMIT.

UNEARNED-FEE REFUNDS. EVERY REFUND OF FEES PAID FOR ANY PORTION OF A SUBSCRIPTION TERM THAT BOPUS HAS NOT PROVIDED, INCLUDING FEES PREPAID FOR A SUBSCRIPTION TERM THAT HAS NOT STARTED, WHEREVER IN THIS AGREEMENT THAT REFUND IS STATED, IS PAYABLE IN FULL, AS DETERMINED UNDER THE PROVISION STATING IT

AND THE NEXT SENTENCE, EVEN WHERE IT EXCEEDS THE PORTION OF THE LIMIT IN THIS SECTION 8.2 THEN REMAINING, IN WHICH CASE NO PART OF THE LIMIT REMAINS FOR THAT PERIOD. EACH SUCH REFUND IS CALCULATED, NETTED AND PAID AS PROVIDED IN SECTION 5.3 (EFFECT OF TERMINATION), EXCEPT THAT WHERE THE PROVISION STATING THE REFUND STATES ITS OWN MEASURE OF THE FEES REFUNDED (INCLUDING SECTIONS 4.2.7.1, 6.1(b) AND 9.1(c)), THAT MEASURE IS THE CALCULATION, AND THE NETTING, THE SET-OFF AND ANY PAYMENT OF REMEDIAL CREDITS ISSUED BUT NOT APPLIED AND EXTENSION DAYS NOT SERVED ARE AS, AND ONLY TO THE EXTENT THAT, SECTION 5.3 PROVIDES.

FEE AWARDS. EVERY AWARD UNDER SECTION 12.4 (ATTORNEYS' FEES AND COSTS), AGAINST EITHER PARTY, IN AN ACTION, OR THE PART OF AN ACTION, ON A CLAIM SUBJECT TO THE LIMIT IN THIS SECTION 8.2, OTHER THAN A COLLECTION FEE AWARD, FORMS PART OF THAT PARTY'S LIABILITY UNDER THIS AGREEMENT FOR PURPOSES OF THIS SECTION 8.2 AND COUNTS TOWARD THE LIMIT. IF THE PRECEDING SENTENCE IS HELD UNENFORCEABLE IN WHOLE OR IN PART, INCLUDING UNDER ANY STATUTE OR RULE OF LAW GOVERNING THE RECOVERY OF ATTORNEYS' FEES, THAT HOLDING AFFECTS ONLY THAT SENTENCE, AND THE REST OF THIS SECTION 8 CONTINUES TO APPLY AS WRITTEN.

8.3. Failure of Essential Purpose. The parties agree that the limitations specified in this Section 8 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose. Except as expressly agreed in a writing signed by bOpus, where this Agreement grants you a remedy together with a provision making that remedy sole and exclusive, including the refund under Section 5.3 (Effect of Termination) on your termination under Section 5.2(a), the Cessation Refund under Section 5.2(b) (Termination for Cause), the election between continuity and refund under Section 5.7 (Continuity Use), and the credit floor that conditions exclusivity under Section 5.6 (Remedial Credits), the grant and its exclusivity form one paired term, and the sentence of Section 8.2 providing that refunds are paid in full and never truncated by the limit and the sentence providing that they count toward that limit are likewise one paired term: if either half is held unenforceable, the other half falls with it, notwithstanding Section 12.2 (Severability), and the limitations in this Section 8 continue to apply. Where a grant falls under the preceding sentence, every credit, refund and added day already received for the same event, to the extent actually received, remains deductible from any later recovery as provided in Section 5.6. The two preceding sentences do not apply to bOpus' defense and indemnification obligations under Section 9.1 (bOpus Indemnification), which continue in effect whether or not any provision of Section 9.1 making a remedy sole or exclusive is held unenforceable.

8.4. Exceptions. SECTIONS 8.1 AND 8.2 DO NOT APPLY TO THE FOLLOWING, AND AMOUNTS OWED UNDER THE PAYMENT OBLIGATIONS EXCEPTED BELOW DO NOT COUNT TOWARD THE SECTION 8.2 LIMIT:

(a) CUSTOMER BREACH: YOUR BREACH OF SECTION 1.9 (CLIENT SUBLICENSEES), SECTION 1.11 (GENERAL RESTRICTIONS), SECTION 2.2.2 (HEALTH INFORMATION), SECTION 2.2.3 (PAYMENT CARD DATA), SECTION 5.5 (POST-TERMINATION COMPETITIVE RESTRICTIONS) OR SECTION 11 (EXPORT CONTROL), WHETHER THE BREACH OCCURS DURING OR AFTER THE

SUBSCRIPTION TERM; YOUR OBLIGATIONS UNDER SECTION 2.2.4 (PROHIBITED DATA); YOUR LIABILITY FOR DAMAGES ARISING OUT OF ANY CLIENT SUBLICENSEE'S USE OF BOPUS PERFORMANCE CLOUD; IF SECTION 4.2.7 (COMMITTED FEES) IS HELD UNENFORCEABLE IN WHOLE OR IN PART, BOPUS'S CLAIM FOR DAMAGES FOR LOSS OF THE FEES IT WOULD HAVE RECEIVED FOR THE REMAINDER OF THE THEN-CURRENT SUBSCRIPTION TERM, OTHER THAN WHERE THE EXCEPTIONS IN SECTION 4.2.7 WOULD HAVE APPLIED TO THE ENDING OF THAT SUBSCRIPTION TERM; AND ANY AWARD UNDER SECTION 12.4 (ATTORNEYS' FEES AND COSTS) IN AN ACTION, OR THE PART OF AN ACTION, ON A CLAIM DESCRIBED IN THIS CUSTOMER-BREACH LIMB, WHICHEVER PARTY PREVAILS;

(b) INDEMNIFICATION BY YOU: YOUR OBLIGATIONS UNDER SECTION 9.2 (INDEMNIFICATION BY YOU);

(c) PAYMENT OBLIGATIONS: YOUR OBLIGATIONS TO PAY ALL FEES UNDER THIS AGREEMENT AND ANY ORDERING DOCUMENT; TAXES UNDER SECTION 4.2.6; INTEREST UNDER SECTION 4.2.8 (LATE INTEREST); COMMITTED FEES AND ALL OTHER AMOUNTS UNDER SECTION 4.2.7 (COMMITTED FEES), INCLUDING AMOUNTS UNDER SECTION 4.2.7.1 (SUBSCRIPTION TERMS NOT YET STARTED); EXCESS USAGE FEES AND AUDIT COSTS UNDER SECTION 12.10 (AUDIT RIGHTS); AND ALL AMOUNTS YOU AGREE TO PAY UNDER ANY ORDERING DOCUMENT OR STATEMENT OF WORK, INCLUDING FOR PROFESSIONAL OR PROJECT SERVICES, DEPOSITS, AND PASS-THROUGH CELLULAR, SHIPPING, TRAVEL AND EXCISE CHARGES; PROVIDED THAT, IF YOU RECEIVED BOPUS PERFORMANCE CLOUD UNDER A PARTNER AGREEMENT, THIS PAYMENT LIMB COVERS ONLY AMOUNTS YOU OWE DIRECTLY TO BOPUS UNDER CLAUSE (b) OF SECTION 12.13 (AUTHORIZED PARTNER).

NO AMOUNT UNDER ANY LIMB OF THIS SECTION 8.4 COUNTS TOWARD OR USES UP THE SECTION 8.2 LIMIT. ANY COLLECTION FEE AWARD, AS DEFINED IN SECTION 12.4 (ATTORNEYS' FEES AND COSTS), IS ALSO OUTSIDE SECTIONS 8.1 AND 8.2 AND DOES NOT COUNT TOWARD THE SECTION 8.2 LIMIT. EXCEPT AS PROVIDED IN SECTION 8.6, FOR A COLLECTION FEE AWARD UNDER SECTION 12.4, FOR REFUNDS PAYABLE IN FULL UNDER THE UNEARNED-FEE REFUND SENTENCE OF SECTION 8.2, AND AS EXPRESSLY AGREED IN A WRITING SIGNED BY BOPUS (INCLUDING AN AMENDMENT UNDER SECTION 12.7 OR A CARVE-OUT UNDER SECTION 8.5), BOPUS'S LIABILITY OF EVERY KIND, INCLUDING FOR ANY REFUND, CREDIT, INDEMNITY OR OTHER OBLIGATION UNDER THIS AGREEMENT OR ANY ORDERING DOCUMENT, HOWEVER ARISING AND WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, REMAINS SUBJECT TO SECTIONS 8.1 AND 8.2. THE PRECEDING SENTENCE DOES NOT APPLY TO AN AWARD UNDER SECTION 12.4 THAT THE CUSTOMER-BREACH LIMB OF THIS SECTION 8.4 PLACES OUTSIDE SECTIONS 8.1 AND 8.2.

8.5. Ordering Documents. This Section 8.5 applies only to Ordering Documents issued by bOpus. This Agreement may be supplemented, varied or modified only by: (1) text written and approved by bOpus in an Ordering Document as permitted by this Section 8.5; (2) a modification bOpus makes under Section 12.7 (Amendments; Waivers) (including a version taking effect as provided in Section 12.16 (Application

of This Version)); or (3) an amendment executed under Section 12.7 or another written agreement signed by a duly authorized representative of bOpus that expressly varies this Agreement. No purchase order, rider, business form, portal term or boilerplate issued or used by you modifies this Agreement or any Ordering Document, whether or not bOpus acknowledges, accepts, fulfills or invoices against it; any such document is for administrative purposes only and has no legal effect except as provided in Section 12.7, and no Partner Agreement modifies this Agreement or binds bOpus, as provided in Section 12.13 (Authorized Partner). Except in an Ordering Document or acknowledgement that is a written agreement signed by bOpus under the sentence following clause (y) below, an Ordering Document may vary only (A) the products, quantities, fees, Subscription Term and renewal it states, the payment schedule and any extended payment terms it states, the live data storage period under Section 2.4 (Storage of Customer Data), and the terms and conditions of any conditional discount or other conditional concession it states, and (B) the following, each of which may vary this Agreement, including this Section 8, to the extent the Ordering Document expressly so states: (i) an amendment executed under Section 12.7; (ii) a Material Availability Threshold designated under Section 5.2.2 (Material Availability Threshold); (iii) an early-end fee measure stated under Section 4.2.7 (Committed Fees); and (iv) service credits stated in the Ordering Document. Each matter in clause (B) is effective only if it is (x) stated in a document issued by bOpus and signed by a duly authorized representative of bOpus, and (y) accepted by you either by countersignature or by your issuing a purchase order that expressly references that bOpus document. An Ordering Document, quote or acknowledgement issued by bOpus and signed by a duly authorized representative of bOpus, and accepted by you as described in clause (y), is a written agreement signed by bOpus for all purposes of this Agreement, including clause (3) above, Section 8.4 (Exceptions) and every provision that applies except as expressly agreed in a writing signed by bOpus, and it varies any provision of this Agreement, including this Section 8 and whether or not the matter is listed in clause (B), to the extent it expressly so states. A schedule of service credits greater than the credit floor in Section 5.6 (Remedial Credits) exists only in a document that meets clauses (x) and (y), and never in a purchase order rider or other document of yours. Any other text in an Ordering Document that purports to vary this Agreement has no effect. Nothing in this Section 8.5 permits any variation of Section 8.6 (Liability That Cannot Be Limited).

8.6. Liability That Cannot Be Limited. NOTHING IN THIS AGREEMENT OR ANY ORDERING DOCUMENT (INCLUDING SECTIONS 6.1, 8.1, 8.2, 8.3 AND 8.4 AND ANY PROVISION STATING A SOLE OR EXCLUSIVE REMEDY OR A CREDIT-ONLY REMEDY) LIMITS OR EXCLUDES EITHER PARTY'S LIABILITY FOR: (A) DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; (B) ITS FRAUD OR FRAUDULENT MISREPRESENTATION; OR (C) ANY OTHER LIABILITY, TO THE EXTENT THAT LIABILITY CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW. THIS SECTION 8.6 PREVAILS OVER ANY CONFLICTING PROVISION OF THIS AGREEMENT OR ANY ORDERING DOCUMENT AND MAY NOT BE VARIED UNDER SECTION 8.5 (ORDERING DOCUMENTS). EXCEPT AS STATED IN THIS SECTION 8.6, ALL LIMITATIONS AND EXCLUSIONS IN THIS AGREEMENT APPLY IN FULL. EACH PARTY ACKNOWLEDGES THAT, IN ENTERING INTO THIS AGREEMENT AND EACH ORDERING DOCUMENT, IT HAS NOT RELIED ON ANY STATEMENT, REPRESENTATION, ASSURANCE OR WARRANTY, WHETHER MADE INNOCENTLY OR NEGLIGENTLY, THAT IS NOT

EXPRESSLY SET OUT IN THIS AGREEMENT OR THAT ORDERING DOCUMENT; NOTHING IN THIS SENTENCE LIMITS OR EXCLUDES LIABILITY FOR FRAUD OR FRAUDULENT MISREPRESENTATION.

9. INDEMNIFICATION

9.1. bOpus Indemnification. bOpus shall defend you from and against any claim by a third party alleging that bOpus Performance Cloud, when used as authorized under this Agreement, infringes a U.S. patent, U.S. copyright, or U.S. trademark and shall indemnify and hold your harmless from and against any damages and costs awarded against you or agreed to in settlement by bOpus (including reasonable attorneys' fees). Provided that bOpus shall have received from you: (i) prompt written notice of such claim (but in any event notice in sufficient time for bOpus to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation from you. If your use of bOpus Performance Cloud is (or in bOpus' opinion is likely to be) enjoined, if required by settlement or if bOpus determines such actions are reasonably necessary to avoid material liability, bOpus may, in its sole discretion: (a) substitute for bOpus Performance Cloud substantially functionally similar programs and documentation; (b) procure for you the right to continue using bOpus Performance Cloud; or if (a) and (b) are not commercially reasonable, (c) terminate the Agreement and refund to you the subscription fees paid by you for the portion of the Subscription Term which was paid by you but not rendered by bOpus. A refund under clause (c) never exceeds the fees bOpus actually received for the affected subscription; where you purchased through an Authorized Partner under Section 12.13 (Authorized Partner), the fees "paid by you" for purposes of clause (c) are the fees bOpus received for your subscription, and amounts you paid the Authorized Partner above those fees are not refundable by bOpus. bOpus will pay any refund under clause (c) in cash within ninety (90) days after the termination, together with any taxes bOpus collected on the refunded fees, to the extent refundable under applicable law. A refund under clause (c) is a Deemed Remedial Credit only as provided in Section 5.6(a) (Remedial Credit Defined). Except as expressly agreed in a writing signed by bOpus, the exclusivity in Section 5.6 does not limit this Section 9.1, but the same-event offset in Section 5.6 applies to any recovery under this Section 9.1. The foregoing obligations of bOpus shall not apply: (1) if bOpus Performance Cloud is modified by any party other than bOpus, but solely to the extent the alleged infringement is caused by such modification; (2) if bOpus Performance Cloud is combined with other non-bOpus Performance Cloud services or processes not provided or authorized by bOpus, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of bOpus Performance Cloud; (4) to any action arising as a result of Customer Data or any third-party components contained within or uploaded to bOpus Performance Cloud; or (5) if you settle or make any admissions with respect to a claim without bOpus' prior written consent. SECTIONS 8 AND 9 SET FORTH BOPUS' AND ITS LICENSORS' SOLE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

9.2. Indemnification by You. Subject to this Section 9, you shall defend bOpus from and against any and all claims by third parties (including any Client Sublicensees and Contractors) resulting from or relating to: (i) the Customer Data, including without limitation any claim based on your breach or alleged breach of Section 2.2 (Your Obligations) or alleging that the Customer Data infringes upon any valid patent, copyright, trademark, trade secret, or other proprietary right of, or otherwise harms, such third party; (ii) any breach by you of Section 1.9 (Client Sublicensees); or (iii) a Client Sublicensee's use of bOpus Performance Cloud, and shall indemnify and hold bOpus harmless from and against any damages and costs awarded against bOpus or agreed in settlement by you (including reasonable attorney's fees) resulting from such claims, provided that you shall have received from bOpus: (i) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation from bOpus. You may not settle any such claim relating to bOpus Performance Cloud without bOpus' prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

10. CONFIDENTIAL INFORMATION.

10.1. Use of Confidential Information. Each party (as "Receiving Party") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any software, Pricing, documentation or technical information provided by bOpus (or its agents), performance information relating to bOpus Performance Cloud, and the terms and conditions of this Agreement shall be deemed Confidential Information of bOpus without any marking or further designation. Customer Data shall be deemed your Confidential Information without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information to anyone other than its affiliates, employees and consultants ("Representatives") who have a need to know and who agree in writing to keep the information confidential on terms no less restrictive than those contained in this Agreement. Both bOpus and you will ensure that their respective Representatives comply with this Agreement and will be responsible for any unauthorized use or disclosure of Confidential Information by such Representatives. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by employees of the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information could

cause substantial harm for which damages alone would not be a sufficient remedy, and therefore upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

10.2. Privacy Policy: Your use of the Software, Support and Maintenance or Professional Services is subject to bOpus' Privacy Policy, a current version of which is available at https://bopus.ai.

10.3. Text Messaging. Where you or your Authorized Users opt in, bOpus may send account, service and operational notifications (for example, line-down alerts, page activity and meeting reminders) and two-way support replies by SMS/MMS text message to the mobile number provided. Consent to receive text messages is not a condition of purchasing any bOpus product or service. Message frequency varies; message and data rates may apply. Recipients may opt out at any time by replying STOP to any message or by changing their notification settings, and may reply HELP or contact support@bopus.ai for assistance. Text messaging opt-in data and consent will not be shared with or sold to any third party. The text messaging program is further described in the Privacy Policy.

11. Export Control

11.1. You acknowledge that bOpus Performance Cloud is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of foreign governments. You agree that (1) all use, exports, and imports related to this Agreement will be in compliance with these laws and regulations and (2) you shall not allow any third party to export, re-export, or transfer any part of Software in violation of these laws and regulations. The foregoing obligations include but are not limited to you or a third party exporting, transferring, or importing the Software to: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. or foreign governments; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of- concern) or applicable international specially-designated parties or economic sanctions programs; (iii) to any end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority. bOpus may exercise its right under Section 5.2 (Termination for Cause) to terminate this Agreement immediately for a breach of this Section 11 only where the breach is material or remains uncured after written notice from bOpus.

12. GENERAL TERMS

12.1. Assignment.

12.1.1. Assignment to New Entity. bOpus may, for strategic purposes, including the creation of a specialized entity to manage its subscription services, assign this Agreement in its entirety to a subsidiary, an affiliate, or a new legal entity created through a spin-off, divestiture, or other form of

corporate reorganization (hereafter the “Successor Entity”). In the event of such an assignment, the Successor Entity will be considered the “bOpus” party under this Agreement and will assume all of bOpus's rights and obligations without altering the terms and conditions of your subscription. bOpus shall provide you with written notice of any such assignment.

12.1.2. This Agreement will bind and inure to the benefit of each party’s permitted successors and assigns. Without limiting Section 12.1.1 (Assignment to New Entity), bOpus may assign this Agreement to any affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of bOpus’ assets or voting securities. You may not assign or transfer this Agreement, in whole or in part, without bOpus’ written consent except that you may assign this Agreement, in whole but not in part, without bOpus’ written consent in connection with any merger, consolidation, sale of all or substantially all of you assets, or any similar transaction provided that: (i) the assignee must not be a direct competitor of bOpus; (ii) you provide prompt written notice of such assignment to bOpus; (iii) the assignee is capable of fully performing your obligations under this Agreement, and (iv) the assignee agrees to be bound by the terms and conditions of this Agreement. Any attempt to transfer or assign this Agreement without such written consent will be null and void.

12.2. Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

12.3. Governing Law; Jurisdiction and Venue. Excluding conflict of laws rules, this Agreement shall be governed by and construed under (a) the laws of the State of Washington, U.S. if you are located in North or South America, (b) the laws of Japan if you are located in Japan, (c) the laws of Singapore if you are located in Asia (excluding Japan) or Australia, or (d) the laws of England and Wales if you are is located outside of North or South America, Asia and Australia. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the courts of (i) Seattle, Washington when the laws of Washington apply, (ii) Tokyo, Japan when the laws of Japan apply, (iii) Singapore when the laws of Singapore apply, or (iv) London when the laws of England and Wales apply. Nothing in this section shall restrict bOpus’ right to bring an action (including for example a motion for injunctive relief) against you in the jurisdiction where your place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Agreement.

12.4. Attorneys’ Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys’ fees and costs in connection with such action. A “Collection Fee Award” means an award under this Section 12.4, in favor of whichever party prevails, of attorneys’ fees and costs incurred in an action or counterclaim to collect amounts claimed to be owed under the payment obligations excepted in Section 8.4 (Exceptions), including any appeal and any proceeding to enforce a resulting judgment; for a customer described in Section 12.13 (Authorized Partner), a Collection Fee Award covers only an action or counterclaim to collect amounts claimed to be owed by you directly to bOpus under Section 12.13(b).

12.5. bOpus' Customer List. You agree that bOpus may disclose you as a customer of bOpus and use your name and logo on bOpus' website and in bOpus' promotional materials.

12.6. Notice. Any notice or communication required or permitted under this Agreement shall be in writing or in electronic format. If to bOpus by mail, such notice or report shall be sent to bOpus at 8524 W. Gage Blvd, STE A357, Kennewick WA 99336 to the attention of "Legal Department". If to bOpus by email, such notice or report shall be sent to: sales@bopus.ai. If to you such notice or report shall be sent to the mailing or email address you provided upon placing your order. Notices and reports sent by mail shall be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if sent by certified or registered mail (return receipt requested); or (c) one day after it is sent if by next day delivery by a major commercial delivery service. Any notices and reports sent by email shall be effective upon receipt of the same.

12.7. Amendments; Waivers. From time to time, bOpus may modify this Agreement. Unless otherwise specified by bOpus, changes become effective for existing subscription customers upon renewal of the then- current Subscription Term. bOpus will use reasonable efforts to notify you of the changes through communications through bOpus Performance Cloud, email, or other means. You may be required to click to accept the modified Agreement before using bOpus Performance Cloud in a renewal Subscription Term, and in any event continued use of bOpus Performance Cloud during the renewal Subscription Term will constitute your acceptance of the version of the Agreement in effect at the time the renewal Subscription Term begins. Further, from time to time, bOpus may modify the bOpus Performance Cloud Support Policy referenced in Section 7, however bOpus shall not substantially reduce the overall level of beneficial service provided to you under the bOpus Performance Cloud Support Policy existing as of commencement of the then-current Subscription Term, unless such reduction results from governmental regulation or requested modifications by you or is otherwise agreed to by you. Except as set forth in this Section 12.7 and Section 8.5 (Ordering Documents), no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived. No provision of any purchase order or other business form employed by you, including any electronic invoicing portals and vendor registration processes, will supersede the terms and conditions of this Agreement, and any such document relating to this Agreement shall be for administrative purposes only and shall have no legal effect, except that it may serve as your acceptance of an Ordering Document as provided in the preamble to this Agreement, and that a written notice of non-renewal contained in it takes effect to the extent provided in Section 4.1.2 (Renewal Terms for Subscriptions of 6 Months or More). bOpus's acknowledgment or acceptance of a purchase order or other business form employed by you, including through any electronic invoicing portal or vendor registration process, is not by itself an amendment of this Agreement; this sentence does not affect any Ordering Document, quote or acknowledgement issued and signed by bOpus and accepted as provided in Section 8.5, or any other writing signed by bOpus that expressly amends this Agreement.

12.8. Entire Agreement. This Agreement (including each Ordering Document, and any exhibits or attachments to an Ordering Document or other writing signed by bOpus) is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and

oral agreements and communications relating to the subject matter of this Agreement. You acknowledge that bOpus Performance Cloud is an on-line, subscription-based product, and that in order to provide improved customer experience bOpus may make changes to bOpus Performance Cloud (which may include making available different or substitute code compared to those available as of the Effective Date), and bOpus will update the Documentation accordingly. You expressly acknowledge and agree that bOpus markets and sells its products and services under various names, brands, and designations, all of which constitute part of bOpus Performance Cloud for purposes of this Agreement. The rights, restrictions, and obligations set forth in this Agreement apply to all bOpus products and services provided on a hosted, cloud, or software-as-a-service basis, regardless of how such products and services are identified in quotes, invoices, ordering documents, marketing materials, or other communications. No variation in product naming, branding, or marketing designations shall affect the applicability of this Agreement to such products or services.

12.9. Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

12.10. Audit Rights. You understand that bOpus may monitor your use of bOpus Performance Cloud in order to verify that you have not exceeded its permitted number of Authorized Users. If bOpus becomes aware of any excess usage of bOpus Performance Cloud, then you will pay for the excess usage and for any ongoing excess usage at bOpus' then-current rates. Upon bOpus' written request, you shall furnish bOpus with a signed certification certifying that bOpus Performance Cloud is being used pursuant to the terms of this Agreement, including any access and user limitations. With prior reasonable notice, bOpus may audit your compliance with this Agreement, your use of bOpus Performance Cloud, and your software monitoring system and records, provided such audit is during regular business hours. If such inspections or audits disclose that you have accessed or permitted access to bOpus Performance Cloud in a manner that is not permitted under this Agreement, then bOpus may terminate this Agreement pursuant to Section 5 and you are liable for the reasonable costs of the audit in addition to any other fees, damages and penalties bOpus may be entitled to under this Agreement and applicable law.

12.11. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which occur after the signing of this Agreement and which are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, failure or diminishment of power or telecommunications or data networks or services, or refusal of a license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

12.12. Government End-Users. bOpus Performance Cloud is commercial computer software. If the user of bOpus Performance Cloud is an agency, department or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure or transfer of bOpus Performance

Cloud, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. bOpus Performance Cloud was developed fully at private expense. All other use is prohibited.

12.13. Authorized Partner. If you received bOpus Performance Cloud under an agreement ("Partner Agreement") with an authorized bOpus reseller, partner ("Authorized Partner") then, notwithstanding anything to the contrary in this Agreement: (a) your use of bOpus Performance Cloud is subject to any additional terms in the Partner Agreement, including any limitations on use of bOpus Performance Cloud in conjunction with third-party applications; and (b) you agree to pay the Authorized Partner the fees agreed in the Partner Agreement and you have no direct payment obligations to bOpus for that purchase under Section 4.2 (Fees and Payment), including Section 4.2.7 (Committed Fees), except that you remain directly liable to bOpus for: (i) excess usage and audit costs under Section 12.10 (Audit Rights); (ii) damages for your breach of this Agreement; (iii) amounts for any products or services you purchase directly from bOpus or otherwise agree to pay to bOpus directly in a writing signed by bOpus; and (iv) any Collection Fee Award, and any other award under Section 12.4 (Attorneys' Fees and Costs) as provided there. If your warranty and support terms stated in your Partner Agreement are different than what is stated in Section 6 or 7 herein, then bOpus has no warranty or support obligations to you under this Agreement (although the disclaimers of warranties in Section 6.3 still apply to you). If your warranty and support terms passed on in your Partner Agreement are as stated herein, then Section 6 and 7 shall apply to you as written. Notwithstanding anything in this Agreement to the contrary, (i) the Partner Agreement may not modify any of the remaining terms of this Agreement and (ii) the Partner Agreement is between you and the Authorized Partner and is not binding on bOpus. bOpus may suspend your access to bOpus Performance Cloud, or terminate this Agreement (including your right to use bOpus Performance Cloud), in the event bOpus fails to receive payment for your use of bOpus Performance Cloud from the Authorized Partner or if you breach any term of this Agreement.

12.14. Third Party Beneficiaries. bOpus, its affiliates and its licensors may be third party beneficiaries of this Agreement. No other third party, including without limitation Client Sublicensees under Section 1.9, is intended to be a beneficiary of this Agreement entitled to enforce its terms directly.

12.15. Language. Regardless of any language into which this Agreement may be translated, the official, controlling and governing version of this Agreement shall be exclusively the English language version

12.16. Application of This Version. bOpus specifies under Section 12.7 (Amendments; Waivers), as that Section reads in the version of this Agreement that governed you immediately before this version, that, for an existing customer, the changes in this version take effect for the whole Agreement on that customer's Binding Date, and that, for purposes of that Section 12.7's click-to-accept and continued-use sentences, the version in effect for you at the start of any renewal Subscription Term is the version that governs you under this Section 12.16. Except as expressly agreed in a writing signed by bOpus, this Section 12.16 controls over any other provision of this Agreement as to when this version binds you. The "version date" is the date bOpus first publishes this version, as stated on this version. Your "Binding Date" is the earlier of: (a) the first day of the first renewal of any of your Subscription Terms under Section 4.1.2

(Renewal Terms for Subscriptions of 6 Months or More) or Section 4.1.3 (Renewal Terms for Monthly Subscriptions) for which the deadline for written notice of non-renewal falls after the later of the version date and the date bOpus's notice of this version is given to you under Section 12.6 (Notice); and (b) for the first Ordering Document dated on or after the version date that you accept, other than an Ordering Document that only renews an existing Subscription Term, the later of the date of that Ordering Document and the date you accept it. For clause (b), the date of an Ordering Document decides which version it can trigger, and the date you accept it decides when this version binds you; once this version binds you, this Section 12.16 alone decides which version governs, and no Ordering Document applies a different version by its date. A renewal does not by itself trigger clause (b): an Ordering Document or invoice that only renews a Subscription Term does not bind you to this version, whatever its date and notwithstanding any statement in it that it is governed by the version of this Agreement in effect on its date, and a renewal on its own binds you to this version only under clause (a). If you first accept this Agreement on or after the version date, you are bound by this version from that first acceptance, and the date of that acceptance is your Binding Date. Until your Binding Date, the version of this Agreement that governed you immediately before this version continues to govern your entire Agreement. On your Binding Date, this version governs your entire Agreement, including every Ordering Document and every line under it, whatever its date, and no Ordering Document or line moves to this version separately from the rest. This version applies prospectively only, from your Binding Date: it does not reopen any payment made, credit or refund provided, or notice given before your Binding Date, except as this Section 12.16 states, and which version governs any breach, claim, outage or other event is decided only by the date it is first notified in writing by either party to the other, as the following sentences provide. Any breach, claim, outage or other event first notified in writing by either party to the other before your Binding Date is governed from beginning to end by the version of this Agreement that governed you when it was first notified, even if it continues after your Binding Date, except that credits and refunds bOpus provided to you before your Binding Date count toward the Section 8.2 limit under this version from your Binding Date, and except as the next sentence provides. Despite the preceding sentence, Section 5.2.1 (Time to Exercise), including its exclusions, applies as a transition rule to every breach first notified before your Binding Date: where the cure period under Section 5.2(a) for that breach ended before your Binding Date, the thirty (30) days in Section 5.2.1 run from your Binding Date, and where that cure period ends on or after your Binding Date, the thirty (30) days run as provided in Section 5.2.1 from the end of that cure period; and only written payment notices given on or after your Binding Date count toward the three notices required under Section 5.2.1(y). Any breach, claim, outage or other event first notified on or after your Binding Date is governed by this version, subject to every provision of this Agreement that is keyed to your Binding Date. Section 4.2.7 (Committed Fees), including Section 4.2.7.1 (Subscription Terms Not Yet Started), applies only to Subscription Terms beginning on or after your Binding Date.