

CHANNEL EXCHANGE RESELLER TERMS AND CONDITIONS ("TERMS")

These Terms are between intY (as defined below) and Reseller (as defined below) and set out the terms and conditions upon which Reseller is appointed to resell Services (as defined below) to its customers via Channel Exchange (as defined below). By clicking to accept these Terms as part of the sign-up process to become a reseller of intY, Reseller agrees to be bound by these Terms. intY reserves the right to change and/or modify these Terms from time to time and any changes or modifications will be effective from the date that they are made available on Channel Exchange. Reseller should frequently review these Terms as, by continuing to access and/or use Channel Exchange after any changes and/or modifications become effective, Reseller confirms its acceptance of any such changes and/or modifications.

These Terms apply to the Agreement (as defined below) to the exclusion of any other terms that Reseller seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

1. DEFINITIONS AND INTERPRETATION

1.1 In these Terms the following words have the following meanings:

"Agreement"	means the agreement between intY and Reseller which incorporates and is subject to these Terms as from the Effective Date;
"Applicable Laws"	means all applicable statutory and other acts, regulations, rules, instruments, provisions and codes of conduct in force from time to time;
"Business Day"	means any day which is not a Saturday, Sunday or public holiday in the United States of America;
"Channel Exchange"	means the cloud marketplace known as Channel Exchange and owned by intY which enables customers to purchase Services;
"Confidential Information"	means any information or data relating to intY that is proprietary or confidential including (but not limited to) information relating to software, services or designs; commercial or technical know-how, research or technology; business operations and strategies; accounts, financial or contractual arrangements; customers, clients or suppliers past, present or future, or their dealings, transactions or affairs; and pricing and marketing, provided directly or indirectly by intY to Reseller or otherwise acquired by Reseller, orally or in writing or in any other tangible or intangible form or by demonstrations whether before on or after the date of the Agreement and whether or not marked as confidential;

"Control"	means the beneficial ownership of more than fifty percent (50%) of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company and controls, controlled and the expression change of control shall be construed accordingly;
"Effective Date"	means the date on which intY sends confirmation that Reseller has been accepted as a reseller of intY;
"End User"	means any third party who purchases Services from Reseller;
"EULA"	means the End User License Agreement comprising intY's standard terms of use for access to and the use of Channel Exchange from time to time in force and which is incorporated into and forms part of the Agreement;
"Flow Down Terms"	means the license terms and any acceptable use policy of a Vendor for use of a Service as made available on Channel Exchange and as may be updated from time to time;
"Intellectual Property Rights"	means any and all intellectual property rights of any kind existing anywhere in the world whether or not registered and all applications, renewals and extensions of the same and whenever arising, registered or applied to be registered including copyright, database rights, design rights, patents, trademarks, service marks, trade names and other rights in goodwill, the right to sue for passing off, business names and domain names, rights in know-how, trade secrets and other confidential information;
"intY"	means intY USA, Inc., a Florida Corporation whose principal place of business is at 6 Logue Court, Greenville, SC 29615;
"License"	means a license granted by a Vendor to an End User to use a Service through acceptance of the relevant Flow Down Terms;
"Privacy Legislation"	means any and all applicable data protection and privacy laws, regulations and/or codes of conduct in any relevant jurisdiction relating to the processing and/or security of personal data and to direct marketing in each case, to the extent in force from time to time and which apply to a party, and as such are updated, amended or replaced from time to time and any laws or regulations ratifying, implementing, adopting, supplementing or replacing such laws;

"Reseller"	means the person entering into the Agreement with intY, being the person who clicks to accept these Terms as part of the sign-up process to become a reseller of intY;
"Service Cancellation Date"	means the date on which cancellation of a Service takes effect, as detailed in Clause 7.1.1;
"Trademarks"	means the trademark registrations, logos and names belonging and/ or registered to intY or any of its subsidiaries or affiliates, its licensors or a Vendor;
"Vendor"	means a third-party vendor of a Service;
"Virus"	means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices; and
"Vulnerability"	means a weakness in the computational logic (for example, code) found in software and hardware components that when exploited, results in a negative impact to the confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

- 1.2 A "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 Clause headings shall not affect the interpretation of these Terms and references to clauses are to the clauses in these Terms.
- 1.4 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 A reference to "writing" or "written" includes email.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended,

extended or re-enacted from time to time.

- 1.8 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.

2. **APPOINTMENT**

- 2.1 intY appoints Reseller as its non-exclusive reseller to market and sell the Services exclusively to End Users on the terms of these Terms.

- 2.2 The Reseller will adhere to any territorial restrictions that may apply to the scope of its appointment as stipulated on Channel Exchange or by the Vendor in the Flow Down Terms.

- 2.3 Nothing in these Terms shall prevent intY from appointing other partners, resellers, and/or agents and/or from selling Services itself direct to end users or any other third parties.

- 2.4 Reseller shall be entitled to describe itself as an "Authorized Reseller" of intY but shall not:

2.4.1 represent itself as an agent of intY for any purpose;

2.4.2 pledge intY's credit or give any condition or warranty or make any representation on intY's behalf or commit intY to any contracts;

2.4.3 make any representations, warranties, guarantees or other commitments with respect to the specifications, features or capabilities of Channel Exchange and/or Services which are inconsistent with those contained in the promotional material or documentation supplied to Reseller by intY (including, without limitation, the EULA) or a Vendor (as applicable); and/or

2.4.4 incur any liability on behalf of intY howsoever arising.

- 2.5 Reseller's appointment under this Clause 2 only grants to Reseller a non-exclusive, non-transferable license to sell Services to End Users and does not transfer any right, title or interest in or to any such Services and/or in Channel Exchange to Reseller and/or its End Users. Use of the terms "sell", "sold", "license", "purchase", "license fees" and "price" will be interpreted in accordance with this Clause.

- 2.6 Reseller shall inform intY immediately of any changes in ownership or Control of Reseller and/or of any change in its organisation.

3. **SUPPLY OF SERVICES**

- 3.1 Subject to Reseller complying with the license restrictions placed upon Reseller under Clause 2 above and the terms of the EULA published on Channel Exchange from time to time, intY shall provide Reseller with online access to Channel Exchange during the term of the Agreement solely for the purpose of managing the provision of Services to End Users via Channel Exchange.

- 3.2 intY shall provide End Users with limited second and third line support subject to

Reseller having first supplied the End User with comprehensive first line support using adequately trained and competent support staff and Reseller having fulfilled all of its obligations under Clause 4.1.6 of this Agreement. In the event that intY persistently receives support requests from End User(s) that it reasonably considers should have been resolved as first line support issues by Reseller, then intY reserves the right to withhold support from such End Users (without any liability to Reseller and/or End Users) and refer them back to the Reseller to comply with its first line support obligations to the End Users.

- 3.3 Reseller shall be solely responsible for the security of any logins and/or passwords provided or made available to it by intY in order for Reseller to access Channel Exchange. Reseller shall ensure that such logins and/or passwords are kept secure and confidential at all times and are only used by its personnel for the purposes of managing the provision of Services to End Users and not by any third party or for any other purpose. Reseller will promptly notify intY if it suspects or becomes aware of any unauthorized use of such logins and/or passwords.
- 3.4 intY does not warrant or represent that:
 - 3.4.1 Reseller and/or the End User's use of the Services will be uninterrupted or error-free;
 - 3.4.2 the Services, and/or the information obtained through the Services will meet Reseller's and/or End User's requirements; or
 - 3.4.3 the Services and/or Channel Exchange will be free from Viruses and/or Vulnerabilities.
- 3.5 intY is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and Reseller acknowledges that Services may be subject to limitations, delays and other problems inherent in the use of such communication facilities.
- 3.6 Without prejudice to any other rights or remedies to which intY may be entitled, intY may suspend Reseller, its employees, agents, resellers and any End Users' access to the Services without notice if any payment due from Reseller to intY is not made by the due date for payment. No compensation or credit will be issued in respect of any period for which the Services may have been suspended and/or terminated as a result of non-payment, and Reseller will indemnify intY in respect of any claims against intY arising from it invoking its rights under this Clause 3.6.
- 3.7 intY is entitled at any time to make changes to the Services available via Channel Exchange and shall give notice of such changes to Reseller as soon as reasonably practicable.
- 3.8 Reseller shall contract on its own account directly with each End User for the sale of the Services at such price as Reseller shall determine at its sole discretion.
- 3.9 Reseller shall manage the purchase of new Services via Channel Exchange.

- 3.10 Reseller shall manage all End Customer requirements for license quantity changes of existing Services via Channel Exchange.
- 3.11 Reseller shall be liable for all costs accrued on a usage basis by End Users.
- 3.12 On request, Reseller shall provide to intY such information about the End Users as reasonably required by intY for its purposes, including but not limited to, managing and enforcing the terms of the Flow Down Terms and the EULA with such End Users and as required in order for intY to provide second and third line support.

4. **RESELLER'S OBLIGATIONS**

4.1 Reseller shall:

- 4.1.1 use all reasonable endeavours to promote the sale of the Services to End Users;
- 4.1.2 employ an appropriate number of suitably trained and qualified personnel to ensure the proper fulfilment of the Reseller's obligations under this Agreement;
- 4.1.3 use all reasonable endeavours to prevent any unauthorized access to, or use of, the Services and/or Channel Exchange. In addition, in the event of any such unauthorized access or use, Reseller shall promptly notify intY in writing and provide all relevant information which intY may require or request;
- 4.1.4 procure that all End Users are aware of and accept the applicable Flow Down Terms and the EULA prior to the use of the Services and/or access to Channel Exchange (as relevant). Reseller shall notify all End Users of any changes to applicable Flow Down Terms and of any changes to the EULA and ensure that all End Users are bound by the most recent version of such terms;
- 4.1.5 not make any amendments to the EULA and/or the Flow Down Terms and/or enter into a contract with an End User that conflicts with any of the provisions in the EULA and/or the Flow Down Terms; and
- 4.1.6 provide first line support to End Users of the Services including but not limited to provision of assistance and consultation on the installation and use of the Services and/or Channel Exchange, timely responses to End Users' general queries regarding the Services and/or Channel Exchange and assistance to End Users in the diagnosis and correction of problems encountered in using the Services and/or Channel Exchange.

4.2 Reseller shall (and shall procure that End Users shall) not access, store, distribute or transmit any material during the course of Reseller's and/or the End Users' use of the Services and/or Channel Exchange that:

- 4.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
- 4.2.2 facilitates illegal activity;

- 4.2.3 depicts sexually explicit images;
 - 4.2.4 promotes unlawful violence;
 - 4.2.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;
 - 4.2.6 is otherwise illegal or causes damage or injury to any person or property; or
 - 4.2.7 contains (whether knowingly, deliberately, reasonably suspected to or otherwise) any Viruses.
- 4.3 Reseller acknowledges and agrees that intY reserves the right, without liability or prejudice to all its other rights and remedies, to disable Reseller and/or End User's access to any material that breaches the provisions of this Clause.

5. **INTY'S OBLIGATIONS**

intY shall provide such information and support as may be reasonably requested by Reseller to enable it to properly and efficiently discharge its duties under these Terms.

6. **PRICES AND PAYMENT**

- 6.1 The price payable by Reseller to intY for Services shall be as determined by intY and notified to Reseller from time to time.
- 6.2 intY shall give Reseller notice via Channel Exchange of any changes to the prices by publishing the new prices on Channel Exchange.
- 6.3 Any and all expenses, costs and charges incurred by Reseller in the performance of its obligations under the Agreement shall be paid by Reseller.
- 6.4 intY will invoice Reseller on a monthly basis. The sums due from Reseller to intY shall be solely determined by the records held by intY.
- 6.5 All prices are exclusive of any applicable taxes for which Reseller shall be additionally liable.
- 6.6 intY is an online supplier of continuous services and therefore cannot support the use of purchase orders on its invoices.
- 6.7 Reseller shall pay the full amount invoiced to it by reference to the currency of the Service purchased in each instance. Reseller shall set up an Automated Clearing House (ACH) or an automated credit card payment in Channel Exchange and payment will be due and taken by intY thirty (30) days after the date of invoice. Time for payment is of the essence. Failure to maintain a valid automated payment method in Channel Exchange may result in the suspension of Services without notice.
- 6.8 Reseller is solely responsible for the payment of all Services ordered or updated by Reseller or End Users using Reseller's log in credentials and/or for use or consumption by Reseller or End Users of any Vendor's Services which require additional payment.
- 6.9 Reseller shall not be entitled by reason of any set-off, counter-claim, abatement, or

other similar deduction to withhold payment of any amount due to intY, unless an error is discovered by either party, in which case the amount of set-off, counterclaim, abatement or other similar deduction shall be limited to the amount of the error. For the avoidance of doubt, Reseller shall be liable to pay to intY all sums due whether or not it has been paid the corresponding sums by the End User.

- 6.10 If a payment due from Reseller is subject to tax (whether by way of direct assessment or withholding at its source), intY shall be entitled to receive from Reseller such amounts as shall ensure that the net receipt, after tax, is the same as it would have been were the payment not subject to tax.
- 6.11 intY shall not complete any forms or other documentation appertaining to a Reseller's taxation status or to payments made to intY, whether in relation to directly assessed or withholding taxes.
- 6.12 Without prejudice to any other rights or remedies to which intY may be entitled, in the event that any invoice is not paid in full when due, Reseller shall pay interest on the overdue amount at the rate of one and a half percent (1.5%) per month or the maximum permissible under applicable law, whichever is lower. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment.
- 6.13 Without prejudice to any other rights or remedies to which intY may be entitled, in the event that any invoice is not paid in full when due, intY shall be entitled to immediately terminate this Agreement and/or suspend and/or terminate all of the Services or any part of them at its sole discretion. In the event of suspension or termination, Reseller acknowledges (and shall procure such acknowledgement from End Users) that Reseller and/or End Users will not be able to access the Services, the applications or data and such data may be irrecoverable.

7. TERMINATING END USER SERVICES

- 7.1 In the event that Reseller wishes to cancel any Services purchased by an End User, Reseller must:
 - 7.1.1 provide the minimum notice required by the product of the cancellation of such End User's Services via Channel Exchange. For monthly billed Services, the cancellation will take effect on the date selected in Channel Exchange. For annually billed Services, the cancellation will take effect at the end of the twelve (12) month billing period;
 - 7.1.2 ensure that it promptly informs the relevant End User that they must backup any data held within the Services that they wish to keep ahead of the Service Cancellation Date. Any data held within the Services after the Service Cancellation Date will NOT be recoverable;
 - 7.1.3 ensure that all users authorized by the End User to access and use the Services are unassigned from Licenses to the Services being cancelled ahead of the Service Cancellation Date; and
 - 7.1.4 ensure all locally installed software relating to the Services is uninstalled

prior to the Service Cancellation Date.

- 7.2 Upon termination of a Service purchased by an End User, the End User's right to access and/or use the Service, along with any relevant License, shall immediately terminate and Reseller shall procure that the End User immediately ceases any use of the Service.
- 7.3 Reseller will continue to be liable to intY for all charges relating to active Services under its Reseller account within Channel Exchange until the relevant Service Cancellation Date.
- 7.4 Should Reseller request reactivation of an End User's Service(s) after any Service suspension or cancellation, intY reserves the right to charge Reseller professional services charges to reactivate and/or retrieve data relating to the suspended or cancelled Service(s) where intY deems recovery is possible.
- 7.5 intY is under no obligation to reactivate Services which have been suspended or cancelled unless intY deems that the cancellation was in error.

8. ADVERTISING AND PROMOTION

- 8.1 Reseller shall:
 - 8.1.1 be responsible for the promotion of Services at its own cost;
 - 8.1.2 observe all reasonable directions and instructions given to it by intY in relation to the promotion of the Services;
 - 8.1.3 conduct its business in a manner that reflects favourably at all times on intY and the good name, goodwill and reputation of intY and not enter into any contract or engage in any practice detrimental to intY's interests;
 - 8.1.4 avoid deceptive, misleading or unethical practices that are, or might be, detrimental to intY, Channel Exchange and/or the Services and shall not publish or employ, or co-operate in the publication or employment of, any false, misleading or deceptive advertising material or other representations with regard to intY, Channel Exchange and/or Services; and
 - 8.1.5 not use any of the Trademarks without express written consent from intY.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1 Reseller acknowledges and agrees that all Intellectual Property Rights in and to the Services belong to the Vendors and that use of the Services is subject to the Flow Down Terms.
- 9.2 Reseller acknowledges and agrees that all Intellectual Property Rights in and to Channel Exchange belong to intY and that use of Channel Exchange is subject to the EULA.
- 9.3 Without prejudice to the right of Reseller or any third party to challenge the validity of any Intellectual Property Rights of intY, Reseller shall not do or authorize any third party to do any act which would or might invalidate or be inconsistent with any

Intellectual Property Rights of intY and/or a Vendor and shall not omit or authorize any third party to omit to do any act which, by its omission, would have that effect or character.

9.4 Reseller shall have no rights in respect of any trade names or trademarks used by a Vendor in relation to a Service or its associated goodwill, and Reseller acknowledges that all such rights and goodwill shall inure for the benefit of and are (and shall remain) vested in the Vendor and/or its licensors.

9.5 Reseller shall promptly give notice in writing to intY in the event that it becomes aware of:

9.5.1 any infringement or suspected infringement of Flow Down Terms or the EULA by it and/or by an End User;

9.5.2 any infringement or suspected infringement of the Trademarks or any other Intellectual Property Rights in or relating to the Services and/or Channel Exchange; and

9.5.3 any claim that any Service or the use, sale or other disposal of any Service infringes the rights (including the Intellectual Property Rights) of any third party.

9.6 In respect of any matter that falls within Clause 9.5.1 or 9.5.2:

9.6.1 intY shall in its absolute discretion, decide what action to take in respect of the matter (if any);

9.6.2 intY shall in its absolute discretion conduct and have sole control over any consequent action that it deems necessary and the Reseller shall on being so requested by intY and at intY's cost assist in taking all steps to defend the rights of intY including the institution intY's cost of any actions which it may deem necessary to commence for the protection of any of its rights; and

9.6.3 intY shall pay all costs in relation to any action where it has taken sole control and shall be entitled to all damages and other sums that may be paid or awarded as a result of that action.

9.7 In respect of any matter that falls within Clause 9.5.3 and on request from intY

9.7.1 intY and the Reseller shall, together with the relevant Vendor if deemed appropriate by intY agree:

9.7.2 what steps to take to prevent or terminate the infringement; and

9.7.3 the proportions in which they shall share the cost of those steps and any damages and other sums that may be awarded to or against them.

10. **CONFIDENTIALITY**

10.1 Reseller may have access to Confidential Information pursuant to the Agreement. Confidential Information shall not include information that:

10.1.1 is or becomes publicly known through no act or omission of Reseller; or

10.1.2 is lawfully disclosed to Reseller by a third party without restriction on disclosure; or

10.1.3 is independently developed by Reseller, which independent development can be shown by written evidence.

10.2 Reseller shall hold the Confidential Information secure and in confidence and not make the Confidential Information available to any third party or use the Confidential Information for any purpose other than the implementation of the Agreement. Reseller may disclose Confidential Information:

10.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the Reseller's obligations under the Agreement. Reseller shall procure that all such persons comply with the terms of this Clause 10; and

10.2.2 as may be required by law, a competent jurisdiction or any governmental or regulatory authority except that, to the extent permitted by law, Reseller shall give intY as much prior notice of such disclosure as possible and shall take into account the reasonable requests of intY in relation to the content of such disclosure.

10.3 This Clause 10 shall survive termination of the Agreement for any reason.

11. **DATA PROTECTION**

11.1 The terms "Data Controller", "Data Processor", "Data Subject", "processing", "Personal Data", "Personal Data Breach" and "appropriate technical and organisational measures" shall have the meanings set out in the applicable Privacy Legislation (as may be amended from time to time).

11.2 The parties acknowledge that when processing Personal Data relating to a Reseller or to an End Customer for the purposes of this Agreement, each party is acting as an independent Data Controller. The parties shall comply with the provisions and obligations imposed on them by the applicable Privacy Legislation at all times when processing Personal Data in connection with this Agreement.

11.3 Each party shall maintain records of all processing operations under its responsibility that contain at least the minimum information required by the applicable Privacy Legislation and shall make such information available to any data protection supervisory authority on request.

11.4 Without prejudice to the generality of Clause 11.2, Reseller shall ensure that it has all necessary and appropriate consents and notices in place to enable lawful transfer of the Personal Data to intY for the duration and purposes of this Agreement so that intY

may lawfully use, process and transfer the Personal Data in accordance with this Agreement.

11.5 Reseller shall notify intY immediately if it becomes aware of:

11.5.1 any unauthorized or unlawful processing, loss of, damage to or destruction of Personal Data that either party processes in connection with this Agreement;

11.5.2 any advance in technology and methods of working which is material to intY's security measures.

11.6 If either party receives any complaint, notice or communication which relates directly or indirectly to the processing of Personal Data by the other party or to either party's compliance with Privacy Legislation, it shall as soon as reasonably practicable notify the other party and it shall provide the other party with reasonable co-operation and assistance in relation to any such complaint, notice or communication.

12. **ANTI-BRIBERY**

12.1 Reseller shall:

12.1.1 comply with all Applicable Laws against bribery, corruption, inaccurate books & records, inadequate internal controls and money-laundering, including but not limited to the U.S. Foreign Corrupt Practices Act and the Bribery Act 2010 ("Anti-Corruption Laws"), and Reseller agrees that it has established and shall maintain throughout the term of this Agreement its own policies and procedures to ensure continued compliance with all such legislation and guidance;

12.1.2 not engage in any activity, practice or conduct which would constitute an offence under Anti-Corruption Laws;

12.1.3 promptly report to intY any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of the Agreement and/or the sale of Services; and

12.1.4 immediately notify intY in writing if a foreign public official becomes and officer or employee of Reseller and/or acquires a direct or indirect interest in Reseller (and Reseller warrants that it has no foreign public officials as officers or employees and/or direct or indirect owners at the date of this Agreement).

12.2 Reseller shall ensure that any person associated with Reseller who is performing services in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on Reseller in this Clause 12 ("**Relevant Terms**"). Reseller shall in all circumstances be responsible for the observance and performance by such persons of the Relevant Terms, and shall in all circumstances be directly liable to intY for any breach by such persons of any of the Relevant Terms howsoever arising.

12.3 Breach of this Clause 12 shall be deemed a material breach, which is irremediable,

under Clause 15.3.1.

- 12.4 For the purposes of this Clause 12, a person associated with the Reseller includes but is not limited to any subcontractor or agent of the Reseller.

13. **WARRANTIES**

- 13.1 Each party represents, warrants and undertakes that:

13.1.1 it has full capacity and authority and all necessary consents to enter into and to perform the Agreement and to grant the rights and licenses referred to in the Agreement; and

13.1.2 it shall comply with all Applicable Laws in the performance of its obligations under the Agreement.

- 13.2 Except as expressly and specifically provided in these Terms, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

- 13.3 Reseller shall indemnify and keep intY fully and effectively indemnified in respect of any and all claims made by an End User against intY relating to Channel Exchange and/or the Services, except where such claim arises as a direct result of the default and/or negligence of intY.

14. **LIMITATION OF LIABILITY**

- 14.1 Subject to Clause 14.3, intY shall not be liable to Reseller in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), by way of indemnity or otherwise for any special, incidental, consequential, indirect, exemplary and/or punitive damages or liabilities; loss of profits; loss of revenue; loss of use; loss of goodwill; loss of reputation; loss of/or damage to data; costs of recreating lost data; the cost of any substitute equipment, program, or data; in all cases regardless of whether the possibility of such damages or liabilities have been communicated to intY and regardless of whether intY has or gains knowledge of the existence of such damages or liabilities.

- 14.2 Subject to Clause 14.3, the cumulative, aggregate liability of intY (including, without limitation, for costs awarded under the Agreement) to Reseller for all claims, liabilities and damages arising out of or in relation to the Agreement, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), by way of indemnity, or otherwise, shall not exceed the lower of:

14.2.1 monies actually paid by Reseller to intY under the Agreement in the twelve (12) months preceding the date on which the claim arose; or

14.2.2 one hundred thousand dollars (USD\$100,000).

- 14.3 Nothing in these Terms shall exclude or limit intY's liability for:

14.3.1 fraud or fraudulent misrepresentation;

14.3.2 personal injury or death caused by the negligence of its employees in connection with the performance of their duties hereunder; or

14.3.3 any other liability that cannot be excluded by law.

15. TERM AND TERMINATION

15.1 The Agreement shall commence on the Effective Date and shall continue until terminated as provided in these Terms.

15.2 intY may terminate the Agreement on not less than thirty (30) days' written notice to Reseller at any time. Reseller may terminate the Agreement upon written consent from intY.

15.3 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Agreement with immediate effect on written notice and without liability to the other if the other party:

15.3.1 commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within twenty-one (21) days of that party being notified in writing of the breach;

15.3.2 is unable to pay its debts as they fall due; becomes insolvent; enters into liquidation (whether voluntary or compulsory); an administration order is made or a receiver and/or administrative receiver is appointed in respect of all or any of the other party's assets; the other party makes or proposes a voluntary arrangement with its creditors; if any procedural step is taken in relation to or with a view to any of the above; or if any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the foregoing events; and/or

15.3.3 suspends or ceases or threatens to suspend or cease to exist or to carry on trading or a substantial part of its business.

15.4 Without prejudice to any other rights or remedies to which intY may be entitled, intY may terminate the Agreement with immediate effect on written notice and without liability to Reseller:

15.4.1 in the circumstances set out in Clause 6.13;

15.4.2 if Reseller does or omits to do anything that has the intention or effect of damaging intY's business or reputation or of reducing the brand value of Channel Exchange; or

15.4.3 if Reseller undergoes a change of Control.

16. EFFECTS OF TERMINATION

16.1 Upon termination, Reseller shall destroy all marketing materials and other documents used in the sale and marketing of Channel Exchange and/or Services.

- 16.2 Upon termination of this Agreement, all rights and licenses of the Reseller under this Agreement shall terminate.
- 16.3 The termination of the Agreement shall not of itself give rise to any liability on the part of intY to pay any compensation to Reseller for loss of profits or goodwill, to reimburse Reseller for any costs relating to or resulting from such termination, or for any other loss or damage including but not limited to any loss of data by Reseller or End User. For the avoidance of doubt intY will not refund any subscription or other fees paid to it in respect of any subscription period after the date of termination.
- 16.4 Termination of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 16.5 Any clause of this Agreement that expressly or by implication is intended to survive termination or expiration of this Agreement shall remain in full force and effect.

17. **NON-SOLICITATION**

Reseller during the term of the Agreement or within a period of twelve (12) months after the termination of the Agreement, shall not (without the prior written consent of intY) approach directly or indirectly with a view to employing, engaging or sub-contracting on any basis whatsoever any person who has been involved under the employ of intY in the provision of the Services under the Agreement other than by means of a national advertising campaign open to all comers and not specifically targeted at any of the staff of the other party.

18. **FORCE MAJEURE**

- 18.1 Neither party shall in any circumstances be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes, failure of a utility service or transport or telecommunications network, power outage, internet backbone failure, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, epidemic or pandemic, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations, provided that if the period of delay or non-performance continues for three months, the party not affected may terminate the Agreement by giving 30 days' written notice to the other party.

19. **GENERAL**

- 19.1 No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

- 19.2 If any term of the Agreement is found to be illegal, invalid or unenforceable under any Applicable Laws, such term shall, insofar as it is severable from the remaining terms (or capable of modification), be deemed omitted from the Agreement (or modified as appropriate) and shall in no way affect the legality, validity or unenforceability of the remaining terms which shall remain in full force and effect.
- 19.3 Each of the parties acknowledges and agrees that in entering into the Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Agreement or not) other than as expressly set out in the Agreement. Nothing in this Clause 19.3 shall, however, operate to limit or exclude any liability for fraud.
- 19.4 These Terms and any documents referred to in them (including the EULA) constitute the entire agreement and understanding of the parties and supersede any previous agreement between the parties relating to the subject matter of the Agreement.
- 19.5 Except as set out in these Terms, no variation of the Agreement by Reseller, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by intY.
- 19.6 Reseller shall not, without the prior written consent of intY, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement. intY may assign, transfer or subcontract any of its rights and/or obligations to any subsidiary, affiliate or to any acquirer of all or substantially all of intY's assets or business relating to the subject matter of the Agreement. This Agreement will be binding upon assignment and will inure to the benefit of the parties and their respective successors, permitted assigns.
- 19.7 Nothing in the Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorize any party to make or enter into any commitments for or on behalf of any other party.
- 19.8 The provisions of this Agreement are for the sole benefit of the parties hereto, their successors and permitted assigns, and they will not be construed as conferring any rights to third-parties (including any third-party beneficiary rights).
- 19.9 Any notice given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first class post, recorded delivery post or pre-paid airmail where appropriate providing proof of delivery to the other party at such address as is notified by that party for such purposes from time to time and in the case of notices sent to intY, a copy shall also be provided by email to Intelisys_Legal@scansource.com.
- 19.10 A notice delivered by hand will be deemed to have been received when delivered. A correctly addressed notice sent by pre-paid post will be deemed to have been received in the case of pre-paid recorded delivery two (2) Business Days after the date of posting, or in the case of US Mail, three (3) Business Days after the date of posting.

20. **LAW AND JURISDICTION**

20.1 This Agreement shall be construed and enforced in accordance with the laws of South Carolina without regard to the conflicts of law provisions thereof. All claims, actions, disputes, controversies or suits shall be litigated exclusively in the courts of South Carolina. Each party specifically consents to service of process by and the jurisdiction of and venue in those courts and Reseller, if not a resident of the United States, hereby appoints the Secretary of State of South Carolina as its agent for service of process in the United States.