

SUBSCRIPTION TERMS OF SERVICE

IMPORTANT: PLEASE READ THESE TERMS OF SERVICE (“TERMS OF SERVICE”) CAREFULLY BEFORE USING THE SUBSCRIPTION SERVICES. BY USING THE SUBSCRIPTION SERVICES, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY THESE TERMS OF SERVICE. THESE TERMS OF SERVICE WILL SUPERSEDE ANY AND ALL AGREEMENTS OR TERMS OF SERVICE GOVERNING ANY USE OF THE SUBSCRIPTION SERVICES PREVIOUSLY PROVIDED BY TUNGSTEN (AND ITS PREDECESSORS IN INTEREST) TO YOU. IF AND ONLY IF YOU ARE USING THE SUBSCRIPTION SERVICES KNOWN AS THE TUNGSTEN E-INVOICE NETWORK ACCOUNTS PAYABLE SERVICE THEN THE ADDITIONAL TERMS OF SERVICE IN THE ANNEX 1 (“TERMS OF SERVICE FOR TUNGSTEN E-INVOICING NETWORK”) SHALL ALSO APPLY. TO THE EXTENT THERE IS ANY CONFLICT BETWEEN THE TERMS OF SERVICE FOR E-INVOICING NETWORK AND THESE TERMS OF SERVICE, THE TERMS OF SERVICE FOR TUNGSTEN E-INVOICING NETWORK SHALL PREVAIL.

1. Subscription Services.

(a) **Subscription Services.** Subject to the terms and conditions of these Terms of Service, Tungsten Automation Corporation (formerly Kofax, Inc.) and its subsidiaries and affiliates (“Tungsten”) grants you the nontransferable right to access and use the software subscription services as described in one or more valid agreements and/or order documents (the “Agreement”) between you and Tungsten identifying the specific subscription services and the limitations on use (including, without limitation, volume limitations or a specific type of function, transaction or other use limitations, or any other usage restrictions described in Tungsten product documentation) (the “Subscription Services”), such Agreement which sets forth the service fees and other terms and conditions applicable for the Subscription Services. The Subscription Services can be subject to the storage you acquired as described in the Agreement, such storage which you may upgrade upon payment of additional fees at Tungsten’s then current pricing.

(b) **Subscription Services Platform.** Tungsten will provide the Subscription Services through Tungsten’s computer software and datacenter facilities (the “Subscription Services Platform”), which Tungsten will manage and maintain. Any web endpoints on the Subscription Services Platform requiring a certificate will be set up with a Tungsten provided DNS name and third party SSL certificate. You may not provide your own internal or external CA-generated certificates. The Subscription Services Platform may be operated by Tungsten or by one or more third parties under agreements with Tungsten.

(c) **Subscription Services Support.** Tungsten will provide you support for the Subscription Services at the level of Subscription Services Support purchased as provided in the Agreement, and you consent to Tungsten’s application of all upgrades, enhancements and new releases to the Subscription Services Platform. You will be solely responsible to notify Tungsten immediately of any support issues as provided in the Agreement, and, at your expense, to train your users on use of the Subscription Services, be familiar with and leverage the use of Tungsten online support, designate a key contact for Subscription Service support communications, and provide Tungsten timely return of requested troubleshooting data in order to perform root cause analysis for support issues being experienced with the Subscription Services. You consent to Tungsten’s collection and use of data and information related to your access and use of the Subscription Services to provide the Subscription Services Support and to verify your use of the Subscription Services within the terms of these Terms of Service, including any limitations upon your use of the Subscription Services.

(d) **Subscription Services Availability Commitment.** Tungsten’s Subscription Services availability commitment is to provide you the ability to access the Subscription Services Platform 99.5% of the time, subject to outages of the Subscription Services Platform for maintenance. These commitments do not constitute a warranty or guarantee, and the Subscription Services are subject to the limitation of warranties as provided in these Terms of Service. Your sole and exclusive remedy in the event Tungsten fails to meet this service commitment or fails to comply with any other terms of these Terms of Service will be termination of the Subscription Services and these Terms of Service, such termination effected by written notice to Tungsten.

(e) **Client Component Software.** If the Subscription Services includes a software client component installed in your desktop environment, you are hereby granted a non-exclusive and non-transferable license to use such software for the term of Subscription Services. Any portion of such software that constitutes third party software, including software provided under a public license, is licensed to Customer subject to the terms and conditions of the software license agreements set forth in the thirdpartylicenses.txt file accompanying the client component software.

(f) **Customer Responsibilities.** You are responsible, at your expense, for providing the desktop and application environment necessary for the implementation and execution of the Subscription Services, providing maintenance, service, security and administration for such application environment, providing network connectivity between your local environment and the Subscription Services Platform, and paying all third-party access fees incurred by you to access and use the Subscription Services. You also will provide Tungsten with timely access to your desktop and application environment and functional and/or information technology staff to implement, deliver and support the Subscription Services. You are responsible for compliance with your obligations under this Agreement by any third parties you engage for the implementation and/or provision of other services associated with the Subscription Services.

(g) **Your Data and Information.** You are solely responsible for the accuracy and completeness of any and all data and information located on the Subscription Services Platform, and Tungsten makes no representation or warranty of any kind, either express or implied, regarding the quality, accuracy or validity of the data and information available from or on the Subscription Services Platform. Tungsten will not be liable to you or to any third party for any liabilities, damages, losses, penalties, costs or expenses suffered by you or any third party arising from any inaccuracy, incompleteness or invalidity of any such data and information or, absent Tungsten’s gross negligence or intentional act or omission, any modification, corruption, loss or breach of security with respect to any such data and information.

(h) **Aggregate Data.** Tungsten may remotely compile, collect, copy, modify, publish and use anonymous and aggregate data and information generated from or based on your access and use of the Subscription Services for analytical and other business purposes, including to enable Tungsten to provide you services and improve Tungsten’s products and services. The data and information collected by Tungsten will be aggregated and will include only system level information, and will not include any of your document or business data, identify your users, or include any Personally Identifiable Information (as defined in Section 9 below). Tungsten will own such data and information and its rights to use such data and information will survive the termination of these Terms of Service and the Subscription Services, although such data and information will be subject to the confidentiality and non-disclosure agreements between you and Tungsten.

2. Use of Subscription Services.

(a) **Use of Subscription Services.** You will not use, or encourage, promote, facilitate or instruct others to use the Subscription

Services or Subscription Services Platform in any manner which (a) disrupts the normal use of the Subscription Services Platform by Tungsten or other users of the Subscription Services Platform, (b) impacts the privacy, integrity or security of Tungsten or such other users, (c) is legally actionable between private parties, (d) violates any local, state, federal or international law or regulation, or (e) allows unauthorized access to or use of the Subscription Services. You will be solely responsible for all content and data placed upon the Subscription Services Platform by you or your authorized users of the Subscription Services and the Subscription Services Platform.

(b) Restrictions. You will use the Subscription Services only for your internal business purposes and your direct benefit. You will not modify, enhance or create derivative works based upon the Subscription Services or supplemental materials associated with Subscription Services, any such modification, enhancement, derivative work or other improvement which will be Tungsten's exclusive property and governed under these Terms of Service.

(c) Security Measures. Tungsten may require you to maintain secure passwords for use of the Subscription Services. You will keep confidential and not disclose to any third parties any user identifications, passwords, account numbers or account profiles, and you will have sole responsibility for maintaining the confidentiality of and preventing the unauthorized use of any secure passwords, and for otherwise preventing any unauthorized access to the Subscription Services Platform from or through your facilities, telecommunications and internet services.

(d) U.S. Government License Rights. If you are a U.S. Government entity, then all Subscription Services and other services provided to you are provided under the commercial license rights and restrictions generally applicable under these Terms of Service. If a U.S. Government entity has a need for rights not conveyed under the terms of these Terms of Service, it must negotiate with Tungsten to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written agreement with Tungsten specifically conveying such rights.

3. Fees. The fees payable by you to Tungsten for the Subscription Services are as provided in the Agreement, and you will pay such fees as provided in the Agreement. You are required to pay all fees for the entire term of the Subscription Services as provided in the Agreement, and you may not cancel or terminate the Subscription Services during such term. You will pay all taxes or levies of whatever nature arising out of or in connection with the Subscription Services and these Terms of Service, excluding taxes based on Tungsten's net income.

4. Limited Warranty.

(a) Warranty. Tungsten warrants that it has the legal right to provide the Subscription Services to you; provided, that this warranty is void if you violate any of the limitations on use of the Subscription Services as provided in the Agreement.

(b) DISCLAIMERS. TUNGSTEN MAKES NO REPRESENTATIONS OR WARRANTIES CONCERNING THE SUBSCRIPTION SERVICES, EXPRESSED OR IMPLIED, EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS OF SERVICE, AND TUNGSTEN EXPRESSLY DISCLAIMS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ANY AND ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR SKILL AND CARE. ANY IMPLIED WARRANTIES THAT BY LAW CANNOT BE DISCLAIMED ARE LIMITED IN DURATION TO THE GREATER OF (A) NINETY (90) DAYS FROM THE DATE OF THIS AGREEMENT, OR (B) THE SHORTEST PERIOD PERMITTED BY LAW.

5. Indemnification. You will hold harmless, indemnify and defend Tungsten, its affiliates and their respective officers, directors, agents and employees (collectively, "Tungsten Parties") from and against any and all claims (including any and all liabilities, damages, losses, costs and expenses and reasonable attorneys' fees arising therefrom) to the extent arising out of any action or proceeding brought by a third party against any one or more of the Tungsten Parties (i) alleging injury, damage or loss resulting from your use of the Subscription Services in violation of these Terms of Service or the Agreement, (ii) alleging that your objects/images including metadata located upon the Subscription Services Platform infringe a copyright or patent, or misappropriate a trade secret of a third party, or (iii) related to any act or omission by you which is a breach by you of any of your obligations under these Terms of Service or the Agreement.

6. Limitation of Liability. UNDER NO CIRCUMSTANCES WILL TUNGSTEN BE LIABLE TO YOU FOR ANY PUNITIVE DAMAGES OR LOST PROFITS OR OTHER ECONOMIC LOSS, LOST OR DEGRADED DATA, INTERRUPTION OF BUSINESS, PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, OR FOR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR INCIDENTAL DAMAGES (INCLUDING WITHOUT LIMITATION ANY LOSS OF BUSINESS, REVENUE, GOODWILL OR USE), HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY, ARISING OUT OF THE USE OF (OR INABILITY TO USE) THE SUBSCRIPTION SERVICES, EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS APPLY TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING CAUSES OF ACTION ARISING OUT OF TERMINATION OF THE AGREEMENT, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, PRODUCT LIABILITY AND ANY OTHER TORTS. THE MAXIMUM AGGREGATE AMOUNT FOR WHICH TUNGSTEN MAY BE LIABLE UNDER THE AGREEMENT WILL BE LIMITED TO THE AMOUNTS ACTUALLY PAID OR PAYABLE BY YOU TO TUNGSTEN FOR THE SUBSCRIPTION SERVICES SUBJECT OF THE CLAIM FOR WHICH SUCH LIABILITY IS ASSERTED DURING THE EIGHTEEN (18) MONTHS PRECEDING THE CLAIM.

7. Ownership of Intellectual Property. Tungsten will retain all title to and ownership of all proprietary documentation, software, techniques, tools and processes used by Tungsten in providing the Subscription Services, or in utilizing software utilized by Tungsten in providing the Subscription Services or any tools associated with such software, including, without limitation, any software client component and all written materials, copyright and patent rights, and other intellectual property rights.

8. Term and Termination.

(a) Term. The term of these Terms of Service and the Subscription Services will commence on the date of the Agreement and will continue until the termination or expiration of the term as provided in the Agreement or these Terms of Service.

(b) Termination for Breach. Either party may terminate these Terms of Service, the Agreement and the Subscription Services effective thirty (30) days after written notice to the other in the event that the other breaches any material provision of these Terms of Service and has not cured such breach within such thirty (30) day period, except for your breach of any payment terms, which will have a ten (10) day cure period, and except for your violation of the use restrictions provided in these Terms of Service or the Agreement, which will permit Tungsten to immediately terminate these Terms of Service, the Agreement and the Subscription Services.

(c) Rights and Obligations upon Termination or Expiration. Upon the expiration or termination of the Subscription Services, Tungsten will have no further obligation to provide the Subscription Services, and you will have no further rights to use or access the Subscription Services Platform; provided, however, that such termination or expiration will not excuse your obligation to pay in full fees

or other amounts due by you to Tungsten, nor entitle you to a refund of fees paid by you to Tungsten. In the event that migratable data, including but not limited to objects, images and metadata, is located on the Subscription Services Platform upon the termination or expiration of the Subscription Services – as part of an additionally purchased storage option or as part of the Subscription Services by default – Tungsten will deliver to you such data upon your request and payment to Tungsten of all amounts due by you to Tungsten under the Agreement, and of data migration fees, if any, at Tungsten's then current prices for such data migration services. If you fail to request such data or to pay all such amounts to Tungsten within ten (10) days following the expiration or termination of the Subscription Services, Tungsten may permanently delete such data from the Subscription Services Platform with no liability or further obligation to you with respect to such data.

(d) Continuing Obligations. The terms and conditions of these Terms of Service that by their nature and context are intended to survive any termination or expiration of the term of these Terms of Service and the Subscription Services, including, without limitation, Sections 3 (Fees), 5 (Indemnification), 6 (Limitation of Liability), 7 (Ownership of Intellectual Property), 8 (Term and Termination), 9 (Confidentiality and Nondisclosure) and 10 (Miscellaneous), will survive such termination or expiration for any reason and will be fully enforceable thereafter.

9. Confidentiality and Nondisclosure.

(a) Confidentiality and Nondisclosure. Tungsten will maintain the confidentiality of, and agrees to use the same care to prevent disclosure of, your confidential information and Personally Identifiable Information as it employs to avoid disclosure, publication or dissemination of its own information of a similar nature, but in no event less than a reasonable standard of care. Tungsten, however, may disclose Confidential Information and Personally Identifiable Information to its employees, directors, officers, affiliates, agents, subcontractors, attorneys, accountants or professional advisors, who have a need to have access to the Confidential Information and Personally Identifiable Information in providing the Subscription Services.

(b) Exclusion. Confidential information will not include information that (a) is or becomes publicly available other than through Tungsten, (b) is in Tungsten's possession at the time of disclosure, (c) is acquired by Tungsten from a third party, who provides the information without breaching any express or implied obligations or duties to you, (d) is disclosed by Tungsten with your prior written consent, (e) is independently developed by Tungsten without reference to confidential information, or (f) is disclosed in response to a valid order, or request of a court or other governmental body; provided, however, that unless prohibited by law or regulation, Tungsten will first give you notice of any such order, inquiry or request so that you may seek an appropriate protective order.

10. Miscellaneous.

(a) Notices. Except as otherwise provided above, notices pursuant to these Terms of Service must be in writing and will be deemed effectively delivered to you when delivered by email at the address specified in the Agreement, and to Tungsten by email to Tungsten's address specified in the Agreement. All notices so given will be deemed given upon the earlier of receipt or three (3) days after dispatch.

(b) No Assignment. You will not voluntarily or involuntarily in any form or manner, assign or, transfer, including any assignment or transfer by operation of law, the Subscription Services or any rights under these Terms of Service.

(c) Governing Law. These Terms of Service will be construed and governed in accordance with the internal laws of the State of Delaware, without regard to any rules of conflicts or choice of law provisions that would require the application of the laws of any other jurisdiction. The foregoing notwithstanding, however, if you acquired the Subscription Services in a country which is a member of the European Union (including the UK), the laws of that country will govern the interpretation of these Terms of Service and any claims arising hereunder, regardless of choice of laws principles of any other jurisdiction. In each case, these Terms of Service will be construed and enforced without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act.

(d) Privacy. Tungsten will observe applicable data protection laws and will not use information that does or can be used to personally identify you, your employees or customers other than as set out in this Section 10, as well as in Tungsten's Privacy Policy ("Privacy Policy") <http://www.tungstenautomation.com/legal/privacy>. By submitting such personal data in relation to these Terms of Service and the Agreement, and their fulfillment, you consent to such personal data being processed to fulfill these Terms of Service and the Agreement. You particularly accept that Tungsten may collect, process and store some or all of the following personal data which you have provided or will provide to Tungsten in relation to these Terms of Service and the Agreement: your employee's and your customer's contact names and corresponding postal addresses, e-mail addresses, telephone numbers, payment processing data, etc. (hereafter "Personal Data"). Data, including Personal Data, will be stored in an electronic database maintained on servers in the geographical area where the Subscription Services are deployed by Tungsten. The Personal Data will be used by Tungsten exclusively for the purposes of facilitating these Terms of Service and the Agreement. In case Tungsten processes your personal data, as a data processor within the meaning of the General Data Protection Regulation (EU) 2016/679, in the context of your use of the Subscription Services, the Tungsten's Data Processing Addendum applies.

(e) Attorneys' Fees. In any action to interpret or enforce these Terms of Service, the prevailing party will be awarded all court costs and reasonable attorneys' fees and costs and expenses of investigation incurred.

(f) Entire Agreement. These Terms of Service and the Agreement constitute the entire understanding and agreement between the parties with respect to the subject matter of these Terms of Service and the Agreement, and supersede all previous agreements and communications between the parties concerning such subject matter, including, without limitation, any terms in a purchase order or other purchasing document provided by you which conflict with or are in addition to the terms of Terms of Service or the Agreement. No modifications may be made to these Terms of Service or the Agreement except in writing, signed by both parties.

(g) Severability. The provisions of these Terms of Service and the Agreement are severable, and if any one or more such provisions is determined to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of any of the remaining provisions or portions thereof will not be affected or impaired thereby and will nevertheless be binding between the parties. In the event any provision of these Terms of Service or the Agreement is found to be invalid, illegal, or unenforceable, the parties will endeavor to modify that provision in a manner that gives effect to the intent of the parties in entering into these Terms of Service.

(h) Export. The Subscription Services are subject to United States export control jurisdiction, and may not be shipped, transferred, re-exported into any country, or used for any purpose prohibited by any applicable international and national legal instruments that apply to the Subscription Services, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by the United States and other governments. You agree that you will not export or re-export the Subscription Services without first having obtained applicable United States or foreign government export licenses or permissions.

(i) **Force Majeure.** Neither party will be liable or deemed to be in default for any delay or failure in performance under these Terms of Service or the Agreement (except for payment obligations) resulting, directly or indirectly, from acts of God, civil or military authority, acts of the public enemy, war, riots, civil disturbances, insurrections, accidents, fire, explosions, earthquakes, floods, the elements, strikes, labor disputes or any causes beyond its reasonable control; provided that the party failing to perform in any such event will promptly resume or remedy, as the case may be, the performance of its obligations hereunder as soon as practicable.

(j) **Compliance with Laws.** The parties agree to comply with any and all laws and governmental requirements that apply to their respective performance under these Terms of Service and the Agreement. You agree that you are solely responsible for determining and complying with any and all laws and governmental requirements applicable or incident to your use of the Subscription Services, including, without limitation, data protection laws affecting your use or the retention of data, including any obligation to obtain consents related to any disclosure of personal data.

ANNEX 1
TERMS OF SERVICE FOR TUNGSTEN E-INVOICING NETWORK

- 1.** The Tungsten e-Invoice Network Accounts Payable Service includes the provision of such services to an Affiliate, as implemented from time to time, (the “Authorized Affiliate”), and the following shall apply:

 - (a)** You will ensure that any Authorized Affiliates’ access and use of the Tungsten e-Invoice Network Accounts Payable Services is only for their internal business purposes and direct benefit and within the scope of purchased Tungsten e-Invoice Network Accounts Payable Service;
 - (b)** You will only allow the Authorized Affiliates access and use of the Tungsten e-Invoice Network Accounts Payable Service to the extent such Tungsten e-Invoice Network Accounts Payable Service have been sufficiently purchased and only in accordance with the Terms of Service, the Terms of Service for Tungsten e-Invoicing Network and the Agreement, including any limitations on the number of seat licences or concurrent licenses or any transaction or term limitations;
 - (c)** You agree and will procure that each of your Authorized Affiliate agrees that a material condition of the use of the Tungsten e-Invoicing Network Accounts Payable Service is that (i) you will have at all relevant times full authority and consent and will procure that you have full authority and consent from each Authorized Affiliate to access and use the Subscription Services Platform, and to Tungsten accessing and using the Subscription Services Platform in relation to the storage and processing of Content (ii) you will have at all relevant times full authority and consent and will procure that you have full authority and consent from each Authorized Affiliate to instruct Tungsten in relation in each case to their Content and the Tungsten e-Invoicing Network Accounts Payable Service to be provided to or for you or such Authorized Affiliate (iii) you will at all times be responsible for all acts and omissions of any Authorized Affiliates in connection with access to and use by or on behalf of such Authorized Affiliates of the Tungsten e-Invoice Network Accounts Payable Service and access to and use by you and by any Authorized Affiliate of the Tungsten e-Invoice Network Accounts Payable Service will constitute acknowledgment and acceptance by you and by such Authorized Affiliates that the terms of the Tungsten e-Invoice Network Accounts Payable Service is provided on the terms stated in these Subscription Terms of Service.
 - (d)** You agree and will procure that each of your Authorized Affiliates agree that upon termination of the Tungsten e-Invoice Network Accounts Payable Service, for whatever reason, all rights to allow such access and to use and to access Subscription Services Platform terminate automatically and with immediate effect and you shall immediately discontinue to allow such access and use of the Subscription Services. Same applies regarding a particular entity in the event that this particular entity is no longer an Affiliate, an Authorized Affiliate or in the event that the contractual arrangement between you and a particular Authorized Affiliate regarding such access and use terminates.
 - (e)** To the extent it is relevant to the Tungsten e-Invoice Network Accounts Payable Service, in order to compare the actual users of the Tungsten e-Invoice Network Accounts Payable Service with the authorized group of users, you will inform Tungsten upon request (i) to which entity a user belongs and (ii) if this entity is an Affiliate.
 - (f)** An “Affiliate” means any entity, which controls, is controlled by or is under the common control with you. The terms "control", "controlling" and "controlled" refer to the legal, beneficial or equitable ownership, direct or indirect, of more than fifty (50) percent of the aggregate of the voting equity interest interests in such entity.
 - (g)**
- 2.** In respect to the Subscription Services known as Tungsten e-Invoice Network Accounts Payable Service, the type of service provided for each Supplier will depend upon the geographic location of the Supplier (as further described in the Tungsten Network e-Invoice Accounts Payable Partner Service Specification and the Universal Compliance Guide (both of which form part of these Terms of Service). “Supplier” in the context of these Terms of Service for Tungsten Network E-Invoicing means a supplier of good and/or services to a you or one of your Authorized Affiliates in scope.
- 3.** In the event there is any change to the “Tungsten e-Invoice Network Compliant Countries” and/or “Tungsten e-Invoice Network Commercial Data Transfer Service Countries” as set out in the Universal Compliance Guide, the parties acknowledge that it may be necessary to modify the terms of these Terms of Service and/or the Tungsten e-Invoice Network Accounts Payable Partner Service Specification (including pricing) to reflect such changes.
- 4.** You further acknowledge that certain jurisdictions may be subject to local requirements impacting on how the Tungsten e-Invoice Network Accounts Payable Service is provided in a particular country which may be different to the standard service model. Current differences in these countries are summarized in the Universal Compliance Guide and where applicable, the Tungsten e-Invoice Network Compliant Countries Archive Guide document and are outlined in detail in the “Country Chapters” of the compliance guides, copies of which are available on the Portal. Tungsten will make updated copies of those documents available to you from time to time. You shall therefore discuss and agree in good faith any changes to these Terms of Service (including changes to the terms, pricing, and service descriptions under the same whether in these Terms of Service or the Agreement as whole) reasonably required in order to implement such local requirements and any updated local requirements (such agreement not to be unreasonably withheld or delayed by either Tungsten or you).
- 5.** You will not and procure that any Authorized Affiliates will not (i) contravene any legal and/or regulatory requirements applicable to you or them when using the Subscription Services Platform or use (or permit any other person to use) the Subscription Services Platform in connection with any unlawful purpose; (ii) use the Subscription Services Platform to process, collect or store personal data relating to any user (including personnel thereof) of the Subscription Services Platform or any third party without their prior written consent (iii) use the Subscription Services Platform to process or store any unlawful, defamatory, obscene, libelous, menacing, racially or otherwise objectionable or invasive content, or any content which infringes a third party’s intellectual property rights and/or (iv) include any real (i.e. non test data) or personal data (sensitive or otherwise) relating to an identifiable living individual in any data submitted to the Subscription Services Platform for testing purposes.
- 6.** Tungsten will provide support directly to you and any Authorized Affiliate in accordance with the Tungsten e-Invoice Network Accounts Payable Partner Service Specification (or as Tungsten may otherwise agree in writing from time to time in connection with particular resale arrangements). Save as we may agree in writing it is not intended that Partner will provide support to Customers in connection with the provision of the Tungsten e-Invoice Network Accounts Payable Service.
- 7.** You will not interfere with or attempt to interfere with the operation of the Subscription Platform, including by means of (i) overloading, flooding and/or crashing (ii) copy, download, reproduce, disseminate, publish, transmit, modify, reverse engineer, use any part of the Subscription Services Platform and/or any documentation provided by Tungsten save to the extent expressly permitted in writing by Tungsten.
- 8.** Tungsten makes no representation or warranty of any kind, either express or implied, regarding the quality, accuracy or validity of the

data and information available from or on the Subscription Services Platform (“Content”) other than for the purposes of validating, formatting, translating and/or augmenting such data or information as expressly stated in the Tungsten e-Invoice Network Accounts Payable Partner Service Specification. All commercial/legal terms relating to the commercial transactions to which any data or information relates are solely between you/the relevant Authorized Affiliate and each relevant Supplier. You and your Authorized Affiliates will provide to Tungsten all necessary information to prepare and maintain your data profile(s) on the Tungsten e-Invoice Network Accounts Payable Service and authorize Tungsten to process, copy and use all Content and the information contained in all applicable data profile(s) in connection with the Tungsten e-Invoice Network Accounts Payable Service provided from time to time by or on behalf of Tungsten to you and your Authorized Affiliates. You confirm that Tungsten and its affiliates will be entitled to rely on the information given as being accurate and complete.

9. You will notify Tungsten promptly in writing if you become aware of any unauthorized access to or use of the Subscription Services Platform or any attempt to gain such access or in any way breach the security of the Subscription Services Platform.

10. Suppliers: Tungsten will be entitled to contact, deal and share information with prospective in-scope Suppliers in connection with the provision or prospective provision of the Tungsten e-Invoicing Network Subscription Service and you will and Authorized Affiliates will provide Tungsten with all reasonable assistance to facilitate Tungsten’s supplier enrolment service as referenced in the Tungsten e-Invoice Network Accounts Payable Service Specification.

11. Third Party Networks

(a) While conducting Supplier enrolment, Tungsten may identify suppliers released by you to Tungsten for enrolment who have existing arrangements in place with a third party electronic invoice service provider (“Third Party Service Provider”) for the electronic processing of invoices to their customers (“Third Party Suppliers”).

(b) It will at all times be for Tungsten to determine in its sole discretion whether taking delivery of invoice data in such circumstances is technically and commercially feasible. If Tungsten determines it is feasible, you acknowledge your agreement to the terms set out in the following paragraphs (iii) to (viii) below, operates as a material precondition of Tungsten taking delivery of invoice data from designated Third Party Suppliers via a relevant Third Party Service Provider.

12. You agree (on your own behalf and on behalf of your Authorized Affiliates) that:

(a) Tungsten’s sole role will be to act as a conduit for the electronic transmission to you (and as applicable Authorized Affiliates) of invoices of Third Party Suppliers submitted to Tungsten by a Third Party Service Provider and accepted by Tungsten for such transmission. Accordingly, Tungsten will not be responsible to any person on any basis for generating and creating any tax invoice of, or obtaining any required consent and authority from, a relevant Third Party Supplier and Tungsten will not guarantee or provide any assurance or advice as to tax or legal compliance in connection with any data processed by Tungsten and received from a Third Party Supplier;

(b) a Third Party Service Provider will (subject to applicable law mandating otherwise) bear no responsibility to any person on any basis for the content of invoices submitted to that Third Party Service Provider by a Third Party Supplier;

(c) no Third Party Service Provider will be deemed to be or construed as an agent, consultant, sub-contractor or partner of Tungsten for any purpose;

(d) Tungsten will not be liable to any person on any basis for any act or omission of a Third Party Service Provider or a Third Party Supplier or for any breach of this Agreement arising as a result of or in connection with any such act or omission;

(e) Tungsten will not be required on behalf of any person or entity to impose any or any minimum insurance requirements on a Third Party Service Provider or to obtain or exercise any audit rights in relation to a Third Party Service Provider; and

(f) Tungsten will be under no obligation to interconnect with any Third Party Service Provider or to continue with any connection in place at any time. Any agreement by Tungsten to interconnect with a Third Party Service Provider will constitute confidential information of Tungsten for the purposes of the Tungsten E-Invoicing Network Terms of Service.

13. Where a lawful regulatory agent (including a tax authority) requires access to Content held by Tungsten on your behalf (or on behalf of one of your Authorized Affiliates), Tungsten will be entitled to grant such access and will, to the extent lawfully entitled to do so, inform you (or your Authorized Affiliate) in writing of such access being granted. Tungsten will have no liability on any basis to you or your Authorized Affiliate in relation to the granting of such access.

14. Tungsten will have the right at all times to deny or restrict access to and/or use of the Subscription Services Platform by any person whom Tungsten suspects may not be duly authorized for or appropriately utilizing such access or use rights or upholding Tungsten’s legitimate commercial interests and that Tungsten will bear no liability to any person on any basis in connection with any such denial or restriction of access or use.

15. You and your Authorized Affiliates will each:

(a) be responsible for maintaining current VAT (or local equivalent) registrations and other statutory filings with all applicable governmental and regulatory authorities;

(b) notify Tungsten in writing of the identifying numbers of all such registrations from time to time;

(c) in timely fashion in each case, provide such information, undertake such acts and effect such acknowledgements as may reasonably be required from time to time under or in accordance with the Tungsten e-Invoice Network Accounts Payable Service Specification.

(d) be responsible for remitting, reporting, accounting for and reclaiming its taxes in accordance with all relevant requirements;

(e) be responsible for retaining and storing all digitally signed human readable invoice documents submitted via the Subscription Services Platform to the extent and for such period as may be required by applicable laws and regulations from time to time;

(f) notify Tungsten in writing if any data or Content that Tungsten process, store and/or collect on your behalf or on behalf of one of your Authorized Affiliates will or may contain Sensitive Personal Data. If any data/Content is submitted to the Subscription Services Platform you or by your Authorized Affiliate, or on your behalf or on behalf of your Authorized Affiliate that will/may contain Sensitive Personal Data it is recommended to select a secure transmission method/delivery option (and failure to do so is not at Tungsten’s risk). “Sensitive Personal Data” means Personal Data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, data concerning health or sex life and data consisting of information as to the commission or alleged commission of any offence or any proceedings for any offence or alleged offence or the disposal of such proceedings or the sentence of any court in such proceedings; data relating to investigations, enquiries or disclosures for law enforcement purposes.

16. You and your Authorized Affiliates will each ensure that access to the Subscription Services Platform is only made by their respective Customer Users who have in each case been duly authorized to do so and are using valid and appropriate Tungsten -generated service access credentials. You and your Authorized Affiliates will be responsible at all times for the acts and omissions of all Customer Users from time to time accessing the Subscription Services Platform.