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disassembly or attempt in any way to reverse engineer the Licensed Product or to develop a competing product using, embodying or based upon the Licensed Product. Nothing in this Agreement shall preclude Prorigo from providing consulting services to other customers involving programs, processes or materials that are similar to or competitive with any programs, processes or for which consulting services were provided to Customer pursuant to this Agreement.

## **B. SUBSCRIPTION**

### **B.1 SUBSCRIPTION SERVICES.**

If Licensee purchases a subscription (a “**Subscription**”) to the Licensed Software pursuant to a Sales Order from either Prorigo or any Prorigo Authorized Partner (as defined below) (the “**Subscription Provider**”) and solely for so long as Licensee remains current in payments for the Subscription, the Subscription shall include the following services (“**Subscription Services**”):

The term Licensed Software shall include new versions, upgrades and updates to the Licensed Software that are generally released by Prorigo to its licensees that purchase a Subscription (each, a “**Subscriber**”).

The Subscription Provider shall provide the following services in connection with a Subscription (collectively, the “**Subscription Services**”): Correction of a verifiable and reproducible failure of the Licensed Software to conform substantially to the applicable Documentation (an “**Error**”) that are reported to the Subscription Provider by Licensee;

Email support per a schedule specified in the Sales Order;

Access to training materials as specified in the Sales Order;

Tracking and reporting of Licensee issues;

Providing to Subscriber a license key which permits Subscriber to download and use Solutions and software tools that are only available to Subscribers;

Additional services made available or offered by the Subscription Provider in writing from time to time.

### **B.2 MAINTENANCE SUPPORT SERVICES**

Prorigo will provide maintenance support services during the Subscription Term including error correction and the provision of new releases for the Licensed Product in conformance with Prorigo’s then current standard maintenance support policy. Customer shall implement all error corrections, enhancements and updates provided to Customer by Prorigo. If during the Subscription Term Prorigo determines that an error or problem with the Licensed Product is due to (i) a modification of the Licensed Product by Customer, (ii) Customer’s failure to promptly implement all error corrections, enhancements or updates provided by Prorigo, or (iii) Customer’s failure to comply with Prorigo’s then current standard maintenance policy, then the time and expense associated with the services rendered by Prorigo to correct such error shall be payable by Customer in accordance with Prorigo’s current consulting pricing. Any new releases provided by Prorigo shall be considered Licensed Product and shall be governed in accordance with the terms and conditions of this Agreement.

### **B.3 SUBSCRIPTION PRICING.**

The Subscription package pricing is the annual cost for Subscription Services per one production instance and shall be based upon the current number of Authorized Users of Licensee. The pricing for Subscription Services for the Initial Term (as defined below) must be paid by Licensee prior to the

commencement date of the Initial Term and, in any event, prior to a Subscription Provider providing any Subscription Services.

A Subscription will automatically renew for a period of the same duration as in the Sales Order unless Licensee gives written notice of its intent not to renew 90 days before the end of the then-current term

At the end of the Initial Term and each subsequent Renewal Term, the Subscription Provider and Licensee will mutually agree on the subscription costs for the new term.

In the event a Subscription is not renewed in accordance with the terms of this Agreement, any Licensed Software that is distributed as Subscriber paid Licensed Software will be terminated automatically by the expiring license key

Prorigo Partners are not authorized to modify the terms of this Agreement or make any promises or commitments on Prorigo' behalf, and Prorigo is not bound by any obligations to Licensee other than as set forth in this Agreement.

### **C. PROFESSIONAL SERVICES**

Licensee, from time to time, may obtain certain professional services ("**Professional Services**") on a chargeable basis from either Prorigo or an Prorigo Authorized Partner (the "**Service Provider**") as set forth in a separate statement of work ("**SOW**") executed by Licensee and the Service Provider. The SOW will have details of the agreed scope, delivery timelines and costs. Professional Services may include, but are not limited to, installation, training, process consulting, development and/or implementation services. Except as otherwise specifically provided in an SOW, each SOW shall be governed by the terms of this Agreement. To the extent of any conflict between the terms of the SOW and this Agreement, the terms of the SOW shall control but only to the extent of the Professional Services performed thereunder.

### **D. PAYMENT**

All Licensed Product fees, shipping and handling, if any, in connection with this Agreement, will be billed to and paid in full by Customer in U.S. Dollars within 30 days of issuance of Prorigo's invoice to Customer. Customer shall pay as interest the lesser of 1 1/2% per month or the highest rate allowable by law, on all sums hereunder which remain unpaid thirty (30) days after due, such interest will automatically commence on the due date, plus reasonable attorney's fees and costs incurred by Prorigo in collecting overdue amounts and in enforcing this Agreement. Licensed Product fees and other charges do not include any taxes. If Prorigo is required to pay any taxes in connection with this Agreement, other than taxes based on Prorigo's net income, such taxes will be billed to and paid by Customer or the amount due Prorigo shall be grossed-up to provide Prorigo that same amount after such tax as it would have received without the imposition of such tax.

### **E. LIMITED WARRANTY; EXCEPTIONS AND DISCLAIMERS**

Prorigo warrants for Customer's benefit alone, that at the time of delivery, the Licensed Product will conform substantially to the applicable Documentation accompanying the Licensed Product. Customer's exclusive remedy and Prorigo's sole responsibility under this warranty shall be for Prorigo to use reasonable efforts to remedy any failure of the Licensed Product to conform to such Documentation provided Customer has reported in writing to Prorigo the claimed failure within a thirty (30) day period following delivery of the Licensed Product (the "Warranty Period"). In addition, Prorigo shall have no liability under the foregoing warranty if (i) Customer or anyone else modifies the Licensed Product without Prorigo's prior written consent, (ii) the failure to conform is caused in whole or part by persons other than Prorigo or by products, equipment or computer programs not

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#### **F. LIMITATION OF LIABILITY**

IN NO EVENT SHALL EITHER PARTY (INCLUDING ANY PRORIGO PARTNER) BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, EXEMPLARY, SPECIAL, STATUTORY OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, LOSS OF USE OR DATA, DAMAGE TO SYSTEMS OR EQUIPMENT, BUSINESS INTERRUPTION OR COST OF COVER GOODS) IN CONNECTION WITH OR ARISING OUT OF THE DELIVERY, PERFORMANCE OR USE OF THE LICENSED SOFTWARE OR THE TERMS OF THIS AGREEMENT, REGARDLESS OF WHETHER IT WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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NO CLAIM ARISING OUT OF THIS AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT AGAINST PRORIGO MORE THAN THE SHORTER OF ONE YEAR OR THE MINIMUM PERIOD ALLOWED BY LAW AFTER THE CAUSE OF ACTION HAS OCCURRED.

#### **G. TERM AND TERMINATION**

This Agreement shall commence on the date on which you download, install or use, whichever is earlier, the Licensed Software.

Without prejudice to any other rights or remedies available pursuant to the terms of this Agreement or pursuant to applicable law, rule or regulation, this Agreement or any portion hereof may be terminated pursuant to the following terms and conditions: Either party may terminate this Agreement or any portion hereof upon written notice to the other party if such other party fails to comply with the material terms and conditions of this Agreement (including any payment due) and fails to cure such non-compliance within thirty (30) days following receipt of written notice of such failure from the non-breaching party.

#### **H. GOVERNING LAW**

This Agreement shall be deemed to be made and entered into pursuant to the laws of the State of Florida, United States of America