

SHAREARCHIEVER INC

SHAREARCHIVER CLOUD SERVICES AGREEMENT

This ShareArchiver Cloud Services Agreement (**Cloud Services Agreement**), together with the Order Form, is a legal agreement between (1) you (**you**) and (2) the ShareArchiver company named on the Order Form (**us, we or Supplier**) for:

- ShareArchiver software (**Software**);
- printed materials and online documentation (available at <https://sharearchiver.com> to enable you to use and understand the Software (**Documentation**);
- the cloud subscription services provided by us to you under this Cloud Services Agreement as described in the Documentation (**Subscription Services**);
- the storage subscription services provided by us to you for the storage of your data in the Archive Data Storage (**Storage Services**); and
- support services as further defined in the Schedule (**Support Services**).

We provide the Services to you on the basis of this Cloud Services Agreement. We remain the owners of the Software and Documentation at all times.

We make the Services, applications and platforms available to you as a subscriber via the internet for the purpose of your business operations.

We have agreed to provide and you have agreed to take and pay for our Services subject to these terms and conditions.

1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in this Cloud Services Agreement.

Additional Archive Volume; the additional Archive Volume purchased by you in accordance with clause 3.

Applicable Data Protection Laws; To the extent the Canadian law applies, the law of Ontario, Canada or any other applicable law in force in Canada which relates to the protection of personal data.

Archive Data Customer Data in native raw form, meaning before data compression, deduplication and encryption.

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Archive Data Storage;	Specialized system or repository designed for long term preservation, archival and management of Archive Data.
Archive Services Subscription;	The subscription purchased by you which entitle you to access and use the Subscription Services and the Documentation in accordance with this Cloud Services Agreement.
Archive Data Storage Volume Subscription;	The subscription purchased by you which entitle you to access and use the Storage Services for storage, backup and retrieval of a mutually agreed volume of Archive Data.
Archive Volume;	mean the volume of data transferred for archiving in uncompressed form, fully hydrated and without de-duplication, if any, purchased by you as set out in the Order Form.
Business Day;	a day other than a Saturday, Sunday or public holiday in Ontario, Canada when banks in Ontario, Canada are open for business.
Confidential Information;	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 10.5 and 10.6 and includes all information concerning the business, affairs, customers, clients or suppliers of the other party or any of their affiliates.
Customer Data;	the data inputted by you or the Archive Data Storage for the purpose of using the Services, excluding Customer Personal Data.
Customer Personal Data;	any personal data which we process in connection with this Cloud Services Agreement, in the capacity of a processor on your behalf.
Effective Date;	has the meaning set out in the Order Form.
Fees;	all fees set out in section 6 of the Order Form and any other fees agreed in writing between us from time to time.

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Initial Subscription Term;	the initial subscription term of this Cloud Services Agreement as set out in the Order Form.
Intellectual Property Rights;	patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
Normal Business Hours;	9.00am to 5.00pm local Ontario, Canada time, each Business Day.
Order Form;	the ShareArchiver order form.
Purpose;	the purposes for which the Customer Personal Data is processed, as set out in clause 5.6.1.
Renewal Period;	the period described in clause 13.1.
Services;	has the meaning set out in the Order Form.
Subscription Fee;	the subscription fees payable by you to us for the Services, as set out in the Order Form.
Subscription Term;	means the Initial Subscription Term together with any subsequent Renewal Periods.
Support Services;	the support services as set out in the Schedule.
Supplier Personal Data;	any personal data which we process in connection with this Cloud Services Agreement, in the capacity of a controller.

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Virus;

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.

1.2 Clause and paragraph headings shall not affect the interpretation of this Cloud Services Agreement.

1.3 Unless the context otherwise requires, words in the singular shall include the plural and, in the plural, shall include the singular.

2. SUBSCRIPTIONS

2.1 Subject to you purchasing the Archive Services Subscription in accordance with clause 8.1, the restrictions set out in this clause 2 and the other terms and conditions of this Cloud Services Agreement, we hereby grant to you a non-exclusive, non sublicensable and non-transferable right to access and use the Subscription Services and the Documentation during the Subscription Term solely for your internal business operations.

2.2 Subject to you purchasing the Archive Data Storage Volume Subscription in accordance with clause 8.1, the restrictions set out in this clause 2 and the other terms and conditions of this Cloud Services Agreement, we hereby grant to you a non-exclusive, non sublicensable and non-transferable right to access and use the Storage Services during the Subscription Term for storage, backup and retrieval of Archive Data solely for your internal business operations.

2.3 In relation to the Archive Data Storage, you undertake that:

2.3.1 the maximum volume of Archive Data that we authorise you to archive and use the Storage Services shall not exceed the Archive

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Volume you have purchased from time to time in relation to your Archive Data Storage Volume Subscription(s);

2.2.2 you shall have the necessary security on your systems to ensure that the Services are held securely;

2.2.3 you shall permit us to audit the Storage Services in order to verify that your use of the Storage Services does not exceed the Archive Data Storage Volume Subscriptions purchased by you. Such audit may be conducted no more than once per quarter, at our expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with your normal conduct of business; and

2.2.4 if any of the audits referred to in clause 2.2.3 reveal that you have underpaid Subscription Fees to us for the relevant Services, then without prejudice to our other rights, you shall pay to us an amount equal to such underpayment as calculated in accordance with the prices set out in the contract details within 10 Business Days of the date of the relevant audit.

2.3 In relation to the Archive Data Storage Volume Subscription, you undertake that:

2.3.1 you have purchased Archive Volume which is sufficient for both the reasonable needs of your business as at the Effective Date and for the duration of the Subscription Term; and

2.3.2 where your actual storage usage is equal to or exceeds 90% of the Archive Volume at any time, you will purchase Additional Archive Volume in accordance with clause 3.

2.4 You shall not access, store, distribute or transmit any Viruses, or any material during the course of your use of the Services that:

2.4.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.4.2 facilitates illegal activity;

2.4.3 depicts sexually explicit images;

2.4.4 promotes unlawful violence;

2.4.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

2.4.6 is otherwise illegal or causes damage or injury to any person or property;

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and we reserve the right, without liability or prejudice to our other rights to you, to disable your access to any material that breaches the provisions of this clause.

2.5 You shall not:

2.5.1 except as may be allowed by any applicable law which is incapable of exclusion by Cloud Services Agreement between the parties:

2.5.1.1 and except to the extent expressly permitted under this Cloud Services Agreement, attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software and/or Documentation (as applicable) in any form or media or by any means; or

2.5.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software; or

2.5.2 access all or any part of the Services in order to build a product or service which competes with the Services; or

2.5.3 use the Services to provide services to third parties; or

2.5.4 license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services available to any third party; or

2.5.5 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 2; or

2.5.6 introduce or permit the introduction of, any Virus into the Supplier's network and information systems.

2.6 You shall use all reasonable endeavours to prevent any unauthorized access to, or use of, the Services and, in the event of any such unauthorized access or use, promptly notify us in writing upon becoming aware of any such unauthorized access or use.

2.7 The rights provided under this clause 2 are granted to you only, and shall not be considered granted to any subsidiary, affiliate or a holding company of yours.

3. ADDITIONAL ARCHIVE VOLUME

3.1 Subject to clause 3.2 and clause 3.3, you may, from time to time during any Subscription Term, purchase Additional Archive Volume in excess of the Archive Volume set out in the Order Form.

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3.2 Where such Additional Archive Volume is:

3.2.1 a result of a storage requirement you have identified, you shall notify us in writing setting out your requirements; or

3.2.2 a result of reaching or exceeding the 90% threshold as set out in clause 2.3.2, we shall agree with you the amount of Additional Archive Volume you will be required to purchase based on your requirements and usage patterns.

We shall then provide you with a price for the Additional Archive Volume, which once accepted by you will be followed by our invoice. We can also provide you with our current monthly storage rates if you wish to pay for the Additional Archive Volume on a month-by-month basis, subject to our agreement.

3.3 You shall, within 30 days of the date of our invoice, pay to us the relevant fees for such Additional Archive Volume as set out in the Order Form and, if such Additional Archive Volume is purchased by you part way through the Initial Subscription Term or any Renewal Period (as applicable), such fees shall be pro-rated for the remainder of the Initial Subscription Term or then current Renewal Period (as applicable) or we shall submit our invoices on a monthly basis as described in clause 3.2.2.

4. SERVICES

4.1 We shall, during the Subscription Term, provide the Services and make available them to you on and subject to the terms of this Cloud Services Agreement.

4.2 We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

4.2.1 planned maintenance carried out during the maintenance window of 8.00 pm to 5.00 am Ontario, Canada time; and

4.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that we have used reasonable endeavours to give you at least 6 hours' notice in advance,

and during any periods of maintenance, we will keep you informed of our progress via the status board.

4.3 We will, as part of the Services and at no additional cost to you, provide you with our Support Services during Normal Business Hours. We may amend the Support Services in our sole and absolute discretion from time to time. You may purchase enhanced support services separately at our then current rates.

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5. DATA PROTECTION

5.1 For the purposes of this clause 5, the terms controller, processor, data subject, personal data, personal data breach, and processing (or their equivalents as defined by the Applicable Data Protection Laws) shall have the meanings assigned to them by those laws.

5.2 We will both comply with all applicable requirements of Applicable Data Protection Laws. This clause 5 is in addition to, and does not relieve, remove or replace, either of our obligations or rights under Applicable Data Protection Laws.

5.3 The parties acknowledge that for the purposes of the Applicable Data Protection Laws, you are the data controller (i.e., you collect, use, or disclose Customer Personal Data in the course of commercial activities) and we are the data processor (i.e., we process Customer Personal Data on your behalf) in respect of the Customer Personal Data.

5.4 We shall maintain a register setting out the scope, nature and purpose of the processing we carry out, the duration of the processing and the types of Customer Personal Data. The parties acknowledge that we shall, in general, not have access to the Customer Personal Data stored outside the Archive Data Storage.

5.5 Without prejudice to the generality of clause 5.2, you will ensure that you have all necessary and appropriate consents and notices in place to enable lawful transfer of the Supplier Personal Data and Customer Personal Data to us for the duration and purposes of this Cloud Services Agreement.

5.6 Without prejudice to the generality of clause 5.2, we shall, in relation to Customer Personal Data:

5.6.1 process that Customer Personal Data only on your written instructions unless we are required by the Applicable Data Protection Laws to otherwise process that Customer Personal Data. Where we are relying on Applicable Data Protection Laws as the basis for processing Customer Personal Data, we shall notify you of this before performing the processing required by the Applicable Data Protection Laws unless those Applicable Data Protection Laws prohibit us from so notifying you on important grounds of public interest. We shall inform you if, in our opinion, your instructions infringe Applicable Data Protection Laws;

5.6.2 ensure that we have in place appropriate technical and organizational measures, to protect against unauthorized or unlawful processing of Customer Personal Data and against accidental loss or destruction of, or damage to, Customer Personal Data, appropriate

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to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymizing and encrypting Customer Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Customer Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organizational measures adopted);

5.6.3 ensure that all personnel who have access to and/or process Customer Personal Data are obliged to keep the Customer Personal Data confidential; and

5.6.4 assist you insofar as this is possible (taking into account the nature of the processing and the information available to us), at your cost and written request, in responding to any request from a data subject and in ensuring compliance with your obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

5.6.5 notify you without undue delay on becoming aware of a personal data breach involving the Customer Personal Data;

5.6.6 at your written direction, delete or return Customer Personal Data and copies thereof to you on termination of this Cloud Services Agreement unless required by Applicable Data Protection Laws to continue to process that Customer Personal Data. For the purposes of this clause 5.6.6 Customer Personal Data shall be considered deleted where it is put beyond further use by you; and

5.6.7 maintain records to demonstrate our compliance with this clause 5 and allow for reasonable audits by you or your designated auditor at your cost and expense, for this purpose, on reasonable written notice by you.

5.7 You hereby provide your prior, general authorization for us to:

5.7.1 appoint processors to process the Customer Personal Data, provided that we:

5.7.1.1 shall ensure that the terms on which we appoint such processors comply with Applicable Data Protection Laws,

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and are consistent with the obligations imposed on us in this clause 5;

5.7.1.2 shall remain responsible for the acts and omission of any such processor as if they were our acts and omissions;

5.7.1.3 shall inform you of any intended changes concerning the addition or replacement of the processors, thereby giving you the opportunity to object to such changes provided that if you object to the changes and cannot demonstrate, to our reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Laws, then you shall indemnify us for all losses, damages, costs (including legal fees) and expenses suffered or incurred by us in accommodating the objections.

5.7.2 transfer Customer Personal Data outside of Canada as required for the Purpose, provided that the Supplier shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, you shall promptly comply with any reasonable request from us, including any request to enter into any other document for protection of Customer Personal Data.

5.8 Either of us may, at any time with 30 days' notice, revise clause 5.7.2 by replacing it (in whole or part) with any applicable clauses necessary for protection of Customer Personal Data (**Amended Terms**). Such Amended Terms shall apply when replaced by attachment to this Cloud Services Agreement, but only in respect of such matters which are within scope of the Amended Terms.

6. OUR OBLIGATIONS

6.1 We undertake that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

6.2 The undertaking at clause 6.1 shall not apply to the extent of any nonconformance which is caused by your use of the Services contrary to our instructions, or modification or alteration of the Services by any party other than us or our duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, we will, at our expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertaking set out in clause 6.1. Notwithstanding the foregoing, we:

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6.2.1 do not warrant that your use of the Services will be uninterrupted or error-free; or that the Software, Services, Documentation and/or the information obtained by you through the Services will meet your requirements; and

6.2.2 are 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 you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

6.3 This Cloud Services Agreement shall not prevent us from entering into similar Cloud Services Agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Cloud Services Agreement.

6.4 We warrant that we have and will maintain for the Subscription Term all necessary licences, consents, and permissions necessary for the performance of our obligations under this Cloud Services Agreement.

7. YOUR OBLIGATIONS

7.1 You shall:

7.1.1 provide us with:

7.1.1.1 all necessary co-operation in relation to this Cloud Services Agreement; and

7.1.1.2 all necessary access to such information as may be required by us;

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

7.1.2 comply with all applicable laws and regulations with respect to your activities under this Cloud Services Agreement;

7.1.3 carry out all other responsibilities set out in this Cloud Services Agreement in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed by the parties, we may adjust any agreed timetable or delivery schedule as reasonably necessary;

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- 7.1.4 ensure that your employees, contractors and agents use the Services in accordance with the terms and conditions of this Cloud Services Agreement and you shall be responsible for their breach of this Cloud Services Agreement;
 - 7.1.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform our obligations under this Cloud Services Agreement, including without limitation the Services;
 - 7.1.6 ensure that your network and systems comply with the relevant specifications provided by us from time to time; and
 - 7.1.7 be solely responsible for procuring and maintaining your network connections and telecommunications links from your systems to our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.
- 7.2 You shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data. In the event of any loss or damage to Customer Data, your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by us in accordance with our archiving procedure. We shall not have access to Customer Data, (save where we are granted specific access by you) and therefore we shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party.

8. FEES

- 8.1 You shall pay the Fees in accordance with this clause 8.
- 8.2 You shall on the Effective Date provide to us approved purchase order information acceptable to us and any other relevant valid, up-to-date and complete contact and billing details and, if you provide:
 - 8.2.1 approved purchase order information to us, we shall invoice you either:
 - 8.2.1.1 on the Effective Date for the Fees payable in respect of the Initial Subscription Term and subject to clause 13.1, thereafter annually for the Fees payable in respect of the Renewal Period; or in the manner set out in the Order Form,

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and you shall pay each invoice in full within 30 days after the date of such invoice.

- 8.3 Where additional Services or products are requested during the Subscription Term, we will send you an invoice for the associated Fees. You are required to pay all such invoices in full within 30 days of the date of such invoice.
- 8.4 If we have not received payment in full within 14 days after the due date, and without prejudice to any other rights and remedies of ours:
- 8.4.1 we may, without liability to you, disable your password, account and access to all or part of the Services and we shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
- 8.4.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 4% over the then current base lending rate of Royal Bank of Canada from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 8.5 All amounts and Fees stated or referred to in this Cloud Services Agreement:
- 8.5.1 shall be payable in the currency billed;
- 8.5.2 are, subject to clause 12.4.2, non-cancellable and non-refundable;
- 8.5.3 are exclusive of value added tax or similar tax, which shall be added to our invoice(s) at the appropriate rate where applicable.
- 8.6 We shall be entitled to increase the Fees, at the start of each Renewal Period by no more than 5%, upon 90 days' prior notice to you and the Order Form shall be deemed to have been amended accordingly following such notice.

9. PROPRIETARY RIGHTS

- 9.1 You acknowledge and agree that we and/or our licensors own all intellectual property rights in the Software, Subscription Services, the Documentation, the Storage Services and the Support Services. Except as expressly stated herein, this Cloud Services Agreement does not grant you any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Software, Subscription Services, the Documentation, the Storage Services or the Support Services.
- 9.2 We confirm that we have all the rights in relation to the Software, Subscription Services, the Documentation, the Storage Services and the Support Services

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that are necessary to grant all the rights we purport to grant under, and in accordance with, the terms of this Cloud Services Agreement.

10. CONFIDENTIALITY

10.1 Each of us may be given access to Confidential Information from each other in order to perform our obligations under this Cloud Services Agreement. A party's Confidential Information shall not be deemed to include information that:

10.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

10.1.2 was in the other party's lawful possession before the disclosure;

10.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

10.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence; or

10.1.5 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

10.2 We shall each hold the other Party's Confidential Information in confidence and, unless required by law, not make the other Party's Confidential Information available to any third party, or use the other Party's Confidential Information for any purpose other than the implementation of this Cloud Services Agreement.

10.3 We shall each take all reasonable steps to ensure that the other Party's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Cloud Services Agreement.

10.4 Neither of us shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.

10.5 You acknowledge that details of the Services, and the results of any performance tests of the Services, constitute our Confidential Information.

10.6 We acknowledge that your Customer Data is your Confidential Information.

10.7 No party shall make, or permit any person to make, any public announcement concerning this Cloud Services Agreement, its contents or any part thereof without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any

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relevant securities exchange), any court or other authority of competent jurisdiction.

10.8 The above provisions of this clause 10 shall survive termination of this Cloud Services Agreement, however arising.

11. INDEMNITY

11.1 You shall defend, indemnify and hold harmless us, our officers, directors, employees and agents against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your use of the Services and the Documentation, provided that:

11.1.1 we are given prompt notice of any such claim;

11.1.2 we provide reasonable co-operation to you in the defence and settlement of such claim, at your expense; and

11.1.3 you are given sole authority to defend or settle the claim.

11.2 We shall defend you, your officers, directors and employees against any claim that the Services infringe any patent, in the country where you use the Services, effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:

11.2.1 we are given prompt notice of any such claim;

11.2.2 you provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and

11.2.3 we are given sole authority to defend or settle the claim.

11.3 In the defence or settlement of any claim, we may procure the right for you to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Cloud Services Agreement on five Business Days notice to you without any additional liability or obligation to pay liquidated damages or other additional costs to you in connection with the termination of this Cloud Services Agreement.

11.4 In no event shall we, our officers, directors, employees, agents, contractors and sub-contractors be liable to you to the extent that the alleged infringement is based on:

11.4.1 a modification of the Services by anyone other than us; or

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11.4.2 your use of the Services in a manner contrary to the instructions given to you by us; or

11.4.3 your use of the Services after notice of the alleged or actual infringement from us or any appropriate authority.

11.5 The foregoing and clause 12.4.2 states your sole and exclusive rights and remedies, and our (including our, officers, directors, employees, agents' and contractors and sub-contractors) entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12. LIMITATION OF LIABILITY

12.1 This clause 12 sets out our entire financial liability (including any liability for the acts or omissions of our officers, directors, employees, agents, contractors and sub-contractors) to you:

12.1.1 arising under or in connection with this Cloud Services Agreement;

12.1.2 in respect of any use made by you of the Services, Documentation or any part of them; and

12.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Cloud Services Agreement.

12.2 Except as expressly and specifically provided in this Cloud Services Agreement:

12.2.1 you assume sole responsibility for results obtained from the use of the Services by you, and for conclusions drawn from such use. We shall have no liability of any kind whatsoever for any damage caused by errors or omissions in any information, instructions or scripts provided to us by you in connection with the Services, or any actions taken by us at your direction;

12.2.2 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute, common law, tort or any other theory of law are, to the fullest extent permitted by applicable law, excluded from this Cloud Services Agreement; and

12.2.3 the Services are provided to you on an 'as is' basis.

12.3 Nothing in this Cloud Services Agreement excludes our liability:

12.3.1 for death or personal injury caused by our negligence; or

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13.3.2 for fraud or fraudulent misrepresentation.

12.4 Subject to clause 12.2 and clause 12.3:

12.4.1 we shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Cloud Services Agreement; and

12.4.2 our total aggregate liability in contract restitution or otherwise, arising in connection with the performance or contemplated performance of this Cloud Services Agreement shall be limited to 125% of the total Fees paid for the Services during the 12 months immediately preceding the date on which the claim arose.

13. TERM AND TERMINATION

13.1 This Cloud Services Agreement shall, unless otherwise terminated as provided in this clause 13, commence on the Effective Date and shall continue for the Initial Subscription Term and, thereafter, this Cloud Services Agreement shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:

13.1.1 either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Cloud Services Agreement shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

13.1.2 otherwise terminated in accordance with the provisions of this Cloud Services Agreement.

13.2 We may terminate this Cloud Services Agreement immediately by written notice to you if:

13.2.1 you commit a material or persistent breach of this Cloud Services Agreement which you fail to remedy (if remediable) to our satisfaction within 14 days after the service of written notice requiring you to do so; or

13.2.2 you fail to pay any amount due under this Cloud Services Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment,

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in such circumstances, we shall retain the Fees paid in relation to the unexpired portion of the Subscription Term.

13.3 Without affecting any other right or remedy available to it, either party may terminate this Cloud Services Agreement with immediate effect by giving written notice to the other party if:

13.3.1 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of any bankruptcy statute to which the other party is subject;

13.3.2 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

13.3.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

13.3.4 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

13.3.5 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

13.3.6 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

13.3.7 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;

13.3.8 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

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- equivalent or similar to any of the events mentioned in clause 13.3.1 to clause 13.3.7 (inclusive);
- 13.3.9 the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- 13.3.10 the warranty given by us in clause 6 of this Cloud Services Agreement is found to be untrue or misleading.
- 13.4 On termination of this Cloud Services Agreement for any reason:
- 13.4.1 all licences granted by us to you under this Cloud Services Agreement shall immediately terminate;
- 13.4.2 each party shall return and make no further use of any equipment, property, Confidential Information, Documentation and other items (and all copies of them) belonging to the other party;
- 13.4.3 we may destroy or otherwise dispose of any of your data in our possession unless we receive, no later than thirty days after the effective date of the termination of this Cloud Services Agreement, a written request for the delivery to you of the then most recent back-up of your data. We shall use reasonable commercial endeavours to deliver the back-up to you within 30 days of receipt of such a written request, provided that you have, at that time, paid the Fees outstanding at and resulting from termination (whether or not due at the date of termination). You shall pay all reasonable expenses incurred by us in returning or disposing of Customer Data as set out on the Order Form or otherwise agreed in writing between us;
- 13.4.4 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 this Cloud Services Agreement which existed at or before the date of termination shall not be affected or prejudiced; and
- 13.4.5 subject to clause 13.4, we shall immediately stop processing all Customer Data and prevent your access to the Services.
- 13.5 Upon termination of this Cloud Services Agreement, we are able to provide you with a read only annual licence to access your Archive Data environment. This licence would enable you to read, search and export data out of the environment. There is a Read Only Archive Fee for this facility as set out in the Order Form.

SHAREARCHIEVER INC**14. COMMUNICATIONS BETWEEN US**

14.1 If any provision in this Cloud Services Agreement requires you to communicate with us or give us notice in writing, you should send this to us by both pre-paid post addressed to the ShareArchiver INC at Suite 700, 2425 Matheson BLVD East, Mississauga, Ontario, Canada, L6H1Y7 (or to any other alternate address communicated to you by us in writing) or by email to accounts@sharearchiver.com. We will confirm receipt by contacting you in writing or by email.

14.2 If we have to contact you or give you notice in writing, we will do so by both pre-paid post and email to the addresses you provide or confirm to us and you will confirm receipt of the same by contacting us in writing or by email.

15. FORCE MAJEURE

We shall have no liability to you under this Cloud Services Agreement if we are prevented from or delayed in performing our obligations under this Cloud Services Agreement, or from carrying on our business, by acts, events, omissions or accidents beyond our reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving our workforce or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, pandemic or epidemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors, provided that you are notified of such an event and its expected duration.

16. OTHER IMPORTANT TERMS

16.1 We may assign, transfer or delegate our rights and obligations under this Cloud Services Agreement in whole or in part, to an affiliate or in connection with any subsequent merger, consolidation, sale of all or substantially all of our assets or equity interests or similar transaction involving us or a successor company. We will always tell you in writing if this happens and we will ensure that the transfer will not affect your rights under this Cloud Services Agreement.

16.2 You may only transfer your rights or your obligations under this Cloud Services Agreement to another person if we agree in writing to such transfer.

16.3 This Cloud Services Agreement does not give rise to any third-party rights or entitle a third party to enforce any term of this Cloud Services Agreement.

16.4 Nothing in this Cloud Services Agreement is intended to or shall operate to create a partnership between us, or authorise either of us to act as agent for the other, and neither of us shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not

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limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

- 16.5 Each of us acknowledges and agrees that in entering into this Cloud Services Agreement neither of us is relying on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Cloud Services Agreement or not) relating to the subject matter of this Cloud Services Agreement, other than as expressly set out in this Cloud Services Agreement. In the event of any inconsistency between this Cloud Services Agreement, and the Order Form, the Order Form shall prevail.
- 16.6 Except as expressly provided in this Cloud Services Agreement the rights and remedies provided under this Cloud Services Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.
- 16.7 This Cloud Services Agreement, the Schedule and any documents annexed as appendices to this Cloud Services Agreement contain the whole agreement between us relating to the subject matter.
- 16.8 Each of the paragraphs of this Cloud Services Agreement operates separately. If any court or relevant authority decides that any of them are unlawful, the remaining paragraphs will remain in full force and effect.
- 16.9 If we do not insist immediately that you do anything you are required to do under these terms, or if we delay in taking steps against you in respect of your breaking this contract, that will not mean that you do not have to do those things and it will not prevent us taking steps against you at a later date.
- 16.10 **Which laws apply to this Cloud Services Agreement and where you may bring legal proceedings.** This Cloud Services Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Ontario, Canada.

The parties shall first attempt to negotiate in good faith to resolve the dispute or claim for a minimum period of 5 Business Days following the service of written notice by one party to the other party informing it about the dispute or claim. If the dispute or claim remains unresolved following the good faith negotiations, then such dispute or claim shall be finally settled in accordance with the laws of the with the laws of Ontario, Canada.

Each of us irrevocably agrees that the courts of Ontario, Canada shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Cloud Services Agreement or its subject matter or formation (including non-contractual disputes or claims).

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The Schedule

1. DEFINITIONS

The following definitions apply in this Schedule.

Business Day: a day other than a Saturday, Sunday or public holiday in Ontario, Canada when banks in London are open for business.

Commercially Reasonable Efforts: the same degree of priority and diligence with which we meet the support needs of our other similar customers.

Contact List: a current list of telephone numbers and e-mail addresses provided to you to enable you to make Support Requests.

Customer Cause: any of the following causes:

- (a) any improper use, misuse or unauthorized alteration of the Software by you;
- (b) any use of the Software by you in a manner inconsistent with the then-current Documentation;
- (c) the use by you of any hardware or software not provided by us; or
- (d) the use of a non-current version or release of the Software.

Fault: any failure or error of the Software referred to in the Service Level Table.

Help Desk Support: any support provided by help desk technicians sufficiently qualified and experienced to identify and resolve most support issues relating to the Software.

Higher-level Support: any higher-level support provided by contacting the Higher-Level Support on the Contact List.

Out-of-scope Services: any of the following services:

- (a) any services provided by us in connection with any apparent problem regarding the Software reasonably determined by us not to have been caused by a Fault, but rather by a Customer Cause or a cause outside our control (including any investigational work resulting in such a determination);
- (b) any Higher-level Support provided in the circumstances specified in paragraph 3.3;
- (c) support for other hardware or software; or
- (d) cloud infrastructure management and support which is handled directly by our third-party partner.

Service Levels: the service level responses and response times referred to in the Service Level Table.

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Service Level Table: the table set out in paragraph 5.1.

Solution: either of the following outcomes:

- (a) correction of a Fault; or
- (b) a workaround in relation to a Fault (including a reversal of any changes to the Software if deemed appropriate by us) that is reasonably acceptable to you.

Support Hours: for customers are between 9.00 am to 5.00 pm Ontario, Canada time, each Business Day.

Support Period: the Initial Subscription Term, the Renewal Period and, if requested by you, any period during which you transfer the Services to an alternate service provider.

Support Request: request made by you in accordance with this Schedule for Support Services in relation to the Software, including correction of a Fault.

Support Services: maintenance of the then-current version or release of the Software, including Help Desk Support and Higher-level Support, but excluding any Out-of-scope Services.

2. SUPPORT SERVICES

2.1 During the Support Period, we shall perform the Support Services during the Support Hours in accordance with the Service Levels.

2.2 As part of the Support Services, we shall:

2.2.1 provide Help Desk Support by means of the following telephone number +1 855 927 2448 and e-mail address support@sharearchiver.com;

2.2.2 commit appropriate resources to the provision of Higher-Level Support;

2.2.3 where Help Desk Support is not provided within the relevant Service Level response time set out in paragraph 5.1.2 and you escalate a Support Request to request Higher-Level Support;

2.2.4 use Commercially Reasonable Efforts to correct all Faults notified under paragraph 4.3.1; and

2.2.5 provide technical support for the Software in accordance with the Service Levels.

2.3 Any Higher-level Support requested by you and provided by an individual whose qualification or experience is greater than that reasonably necessary to resolve the relevant Support Request shall be deemed an Out-of-scope Service, provided that an appropriately qualified or experienced individual was available at the time when the Higher-level Support was sought.

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- 2.4 We may reasonably determine that any services are Out-of-scope Services. If we make any such determination, we shall promptly notify you of that determination.
- 2.5 You acknowledge that we are not obliged to provide Out-of-scope Services.
- 2.6 Where there is a Fault which requires the involvement of our third-party cloud infrastructure provider, we will liaise with them and keep you informed as to progress in accordance with the Service Level Table.
3. FEES
- 3.1 The provision of Support Services on a remote, off-site basis (such as over the telephone or by e-mail) is included in the Subscription Fee.
- 3.2 The provision of Support Services outside the Support Period or at your Site or the provision of Out-of-scope Services shall be charged for at the applicable time and materials rates set out in our price list.
4. SUBMITTING SUPPORT REQUESTS AND ACCESS
- 4.1 You may request Support Services by way of a Support Request.
- 4.2 Each Support Request shall include a description of the problem and the start time of the incident.
- 4.3 You shall provide us with:
- 4.3.1 prompt notice of any Faults; and
- 4.3.2 such output and other data, documentation, information, assistance and (subject to compliance with all customer's security and encryption requirements notified to us in writing) remote access to your System, as are reasonably necessary to assist us to reproduce operating conditions similar to those present when you detected the relevant Fault and to respond to the relevant Support Request. For the purposes of this Schedule, System means the environment where the Software or other tools supplied by us are running and operating.
- 4.4 All Support Services shall be provided remotely from our office.
- 4.5 You acknowledge that, to properly assess and resolve Support Requests, it may be necessary to permit us direct access at your Site, to your System and your files, equipment and personnel.
- 4.6 You shall provide such access promptly, provided that we comply with all your security requirements and other policies and procedures relating to contractors entering and working on your Site notified to us.
5. SERVICE LEVELS

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5.1 We shall:

- 5.1.1 prioritise all Support Requests based on a reasonable assessment of the severity level of the problem reported; and
- 5.1.2 use all reasonable endeavours to respond to all Support Requests in accordance with the responses and response times specified in the table set out below:

Severity level of Fault	Definition	Target Response Time	Target Resolution Time
1	Complete failure of the Software.	Less than 2 hours within the Support Hours	Less than 1 Business Day
2	Failure of one or more components of the Software.	Less than 8 hours within the Support Hours	Less than 3 Business Days
3	Failure of a non-critical function, which has no significant effect on the operation of the Software.	Less than 1 Business Day	Less than 5 Business Days
4	Any failure that has minimal effect on the Software, requests for information, or requests for enhancements to the Software.	Less than 2 Business Days	As Appropriate

5.2 We shall contact you to confirm when the Support Request has been allocated to an engineer and use reasonable endeavours to meet the target resolution times stated in paragraph 5.1.

5.3 Each of us may, on a case-by-case basis, agree in writing to a reasonable extension of the Service Level response times.

5.4 We shall give you regular updates of the nature and status of its efforts to correct any Fault.

6. OTHER REMEDIES

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If a Solution is not provided within the relevant Service Level response time, the Support Request may be escalated to each of our respective relationship managers identified on the Order Form and then to their respective senior management.

7. SUB-CONTRACTING

We shall be entitled to sub-contract the Support Services to a third party at any time during the Subscription Term and the sub-contractor shall provide the Support Services and perform the obligations in this Cloud Services Agreement as if those Support Services were provided by us.

8. TERMINATION

The Support Services are co-terminus with the Cloud Services Agreement and on termination of this Cloud Services Agreement in accordance with its terms, the Support Services shall automatically and simultaneously cease.