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- iii. **Development Server Licenses.** If Licensee purchases Development Server License(s), each Development Server license authorizes Licensee to install and use the Software on a Development Server for development and testing of knowledge bases and software deployments to be installed on production Servers, but Licensee shall not use such Software for production use for normal commercial operations, including but not limited to actual customer support, sales and marketing, or data analysis.
- iv. **Node Licenses.** To the extent Licensee has purchased an Application License for Software with a limit on the number of Nodes on which Licensee may use such Software, subject to the

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12. **TERMINATION.** Either party may terminate this Agreement and the rights and licenses granted hereby if the other has breached any of its obligations hereunder and has failed to remedy such breach within thirty (30) days after written notice of the same. Notwithstanding the foregoing, ABC may immediately terminate this Agreement if it is determined that Licensee has failed to materially comply with the terms and conditions Sections 10 (d) of this Agreement. Within thirty (30) days after the date of termination, Licensee will return to ABC or destroy the original and all copies, in whole or in part, in any form, of the Software, Licensed Materials and Documentation and an officer of Licensee shall certify in writing to ABC that the Licensee has done so. In addition to any amounts due and payable as of the date of termination, and such other provisions that, by their terms, survive this Agreement, the provisions of Sections 4, 9, 8, 12, and 13 shall survive termination of this Agreement.

13. **GENERAL.** This Agreement shall be interpreted in the English language and governed by the laws of the Netherlands, without regard to its conflicts of law provisions. Venue shall be in Amsterdam, The Netherlands. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Neither party shall be required to keep the existence and general nature of this contract confidential. This Agreement contains the entire understanding of the parties with respect to the matters contained herein, may not be modified except by written instrument, executed by authorized representatives of ABC and Licensee. The invalidity or unenforceability of any provision of this Agreement shall not affect any other provision of this Agreement, and the remaining provisions shall continue with the same effect as if such unenforceable or invalid provision had not been included in this Agreement. The failure to enforce any term of this Agreement on one occasion shall not prevent

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15. **FEEDBACK.** Either party may from time to time provide suggestions, comments or other feedback ("Feedback") to the other party with respect to information provided originally by such other party. Both parties agree that all Feedback is and shall be given entirely voluntarily. Feedback, even if designated as confidential by the party offering the Feedback, shall not, absent a separate written agreement, create any confidentiality obligation for the receiver of the Feedback. Furthermore, except as otherwise provided herein or in a separate subsequent written agreement between the parties, the receiver of the Feedback shall be free to use, disclose, reproduce, license or otherwise distribute, and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.

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The warranties are subject to the following conditions: (i) the Software has properly been installed and used at all times in accordance with the Documentation and supported platforms; (ii) Licensee has given prompt

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Default. A party who fails to perform any obligation under this Agreement by the date provided in or under the Agreement, shall only be in default if the other party has given it written notice of default by registered letter and no performance has taken place within the reasonable period specified in the notice.

Confidential Information. Confidential Information of the other party will be used solely for the purpose of this Agreement and will not be directly or indirectly disclosed, by action or omission to any third party without the other party's prior written consent. Each party agrees to exercise due care in protecting the Confidential Information from unauthorized use and disclosure. Nothing herein prevents Licensee from participating in routine discussions in a "Licensor Software user group" context or the parties from divulging Licensee's intended use of the Software. Either party may refer to the other as either supplier or customer, as appropriate.

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Payments. In consideration of the rights granted herein, Licensee agrees to pay Licensor the amounts ("the Fees") specified in the applicable Product Order Form(s). Licensor's pricing reflects the allocation of risks and limitation of liability. Except as otherwise provided in the warranties section, the Fees are non cancellable and non-refundable and due and payable in full within thirty (30) days as of the Effective Date. All charges and fees provided for in this Agreement are exclusive of and do not include any VAT, similar governmental charges and Licensee agrees to reimburse Licensor for the aforementioned taxes and charges (if any). Any amounts due not paid within thirty (30) days will be subject to interest of one (1) per cent per month, of which the interest will be immediately due and payable. Licensee may not set off an obligation to pay any charges or fees provided for in this Agreement against any claim on Licensor or suspend payment on any ground.

Non-assignment. Neither this Agreement nor any rights under this Agreement may be assigned or otherwise transferred by Licensee, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of Licensor, which will not be unreasonably withheld or delayed. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

Term and Termination. The license commences on the Effective Date stated in the Product Order Form and will remain in force until it is terminated in accordance with this section. Licensee has the right to terminate this License, with or without cause, upon thirty (30) days prior written notice to Licensor. Licensor may forthwith terminate this

Agreement only if: (i) Licensee breaches this Agreement and such breach is not cured within thirty (30) days after Licensee has been given written notice of such breach; or (ii) if Licensee terminates its business activities or becomes insolvent, is unable to pay its debts as they mature, makes an assignment for the benefit of creditors or becomes subject to direct control of a trustee, receiver or similar authority. No termination on the basis of this provision will entitle Licensee to a refund of any portion of the fees paid to Licensor.

Termination will not affect either party's obligations regarding Confidential Information, payments, limitations of liability, non-solicitation and/or applicable law, which provisions will survive termination of this license. Upon termination of this license, Licensee agrees to forthwith discontinue any use of the Software, related Documentation, Confidential Information and derivative works or copies thereof. Licensee agrees to then supply Licensor with a certificate signed by an executive officer of Licensee verifying that this provision has been complied with, and immediately return the Software and Documentation and copies thereof to Licensor.

Waiver. Any waiver of the provisions of this Agreement, or rights of either party must be in writing to be effective. Failure or delay to enforce any such rights will not be construed as a waiver and will not affect the validity (in whole or in part) of this Agreement or prejudice such party's right to take subsequent action.

Severability. If any provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will in good faith agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid provision will be severed from the remaining provisions, which will continue to be valid and enforceable to the fullest extent permitted by applicable Law.

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parties under, or otherwise modify, this Agreement, regardless of any failure of Licensor to object to such terms, provisions or conditions.

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Applicable Law. This Agreement will be interpreted and construed in accordance with the laws of the Netherlands. The Vienna Convention on the International Sale of Goods of 11 April 1980 will not be applicable. Any dispute arising out of, or in connection with, this Agreement that is not amicably resolved between the parties will be submitted to the District Court of Amsterdam.

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