



Revision March 12, 2023

The terms and conditions (“Agreement”) set forth herein constitute the full and complete agreement between you and RECUR360 SOFTWARE, LLC (“RECUR360”). By using RECUR360’s R360 Cloud Hosting hosted remote desktop servers (“Services”), you agree (i) you have read and understand this Agreement; (ii) you are bound by this Agreement; (iii) this Agreement is valid and enforceable against you; and (iv) to the extent you are using the Services on behalf of a business entity, you have the power and authority to bind that business entity to this Agreement. We use the term “you” to refer to you as an individual and to any business entity for which you are acting as an agent or representative. The terms contained herein supersede and replace any other agreement or negotiation between you and RECUR360, whether oral, written or otherwise, including any statements made to you by any representative of RECUR360 at any time with the sole exception of agreements signed by an authorized officer of RECUR360 and delivered by hand, mail, email, or FAX.

1. DEFINITIONS

- (a) “Account” means, with respect to a Customer, the details of the Services currently purchased by such Customer.
- (b) “Account Owner” means the Person deemed to have complete control over the Account.
- (c) “Affiliate” means, as applied to any Person, any other Person Controlled by, Controlling, or under common Control with that Person.
- (d) “Available” means, as to a Service ordered by a Customer, that such Service is accessible and available for use by or on behalf of such Customer, notwithstanding any inaccessibility or unavailability caused by (i) Suspension, (ii) nonpayment, (iii) scheduled downtime, (iv) de minimis service interruptions, (v) interruptions outside of RECUR360’s reasonable control, or (vi) a Customer’s or Subscriber’s own issues.
- (e) “Billing Period” means, with respect to an Account, a one-month period beginning on the date on which RECUR360 first makes Services Available and recurring monthly.
- (f) “Control” means either the direct or indirect (i) control of more than 50% of the shares or other equity interests of the subject entity, or (ii) power to manage, direct or cause the direction of the management of such entity.
- (g) “Customer Cancellation” means, with respect to an Account, the cancellation by a Customer of all of its and its Subscribers’ use of the Services with 30 days prior written notice.
- (h) “Customer” means the Person obligated to make payments to RECUR360 or its Affiliate with respect to Services purchased.
- (i) “Discounts” means a discount to the Service Fees.
- (j) “Hosted Data” means the data Customer or its Subscribers store on the RECUR360 servers.
- (k) “Person” includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality).
- (l) “Processor” means an entity that processes personal data for a customer or business without having ownership of the data.
- (m) “QuickBooks® Products” means Intuit’s QuickBooks® Enterprise Solutions desktop software product and all other QuickBooks® Desktop products for Windows sold by Intuit in connection with the Services, any replacement product provided by Intuit, and all add-on products, services and features provided by Intuit, including updates, upgrades, enhancements, plug-ins, and other related components, as Intuit may release from time to time.
- (n) “Quotation” means, with respect to a Customer, a writing executed by such Customer and an authorized representative of RECUR360 setting forth the description of the Services purchased, the Service Fees, and any additional terms and conditions.
- (o) “Service Fees” means the fees corresponding to a particular Service set forth in a Quotation or on the Web Portal..
- (p) “Sub-processor” means any subcontracted third-party provider engaged by the Processor or service provider who processes customer personal data on behalf of the Processor or service provider.
- (q) “Subscriber” means the Person designated by a Customer to use one or more Services.
- (r) “Suspension” or “Suspend” means the denial of access to Services, which shall include the disabling



of Customer's and its Subscribers' access to Services or any access to information or data stored on the servers.

- (s) "Third-Party Leased Software" means any and all third-party software that you license through RECUR360 pursuant to a Quotation or the Web Portal, such as FinJinni, WebGility, Fishbowl and other software, Microsoft Office and Windows Desktop.
- (t) "Web Portal" means the RECUR360 website LiveChat located at <https://www.recur360.com/support> through which Customers can request support.

2. ACCOUNT OWNER OBLIGATIONS AND RESPONSIBILITIES. If you are an Account Owner, you have the following obligations and responsibilities and you acknowledge and agree that:

- (a) Only the Account Owner has the power to cancel the Account, change the name of the business, and move sub-accounts
- (b) There can only be one Account Owner. Account Owners may be transitioned by contacting RECUR360 and completing the RECUR360 Account Owner Change Request Form.
- (c) To the extent you are using the Services on behalf of a business entity and that entity is the Customer, you have the power and authority to bind the Customer to this Agreement.
- (d) It is your obligation to update the person named in the Account Owner role. You agree to keep the person named in the Account Owner role up to date in the MyAccount portal.

3. Data Backup

- Customers are responsible for creating their own QuickBooks Backup Files *.qbb and cutting and pasting them to their local machine(s) to have their own personal backup/archive of the data. QBB files should be created weekly or monthly or before making major changes to your QBW Company Data File or prior to any major data imports that may affect your data. Copying them to a local pc ensures having a replica in the case of a server outage or inaccessibility.

4. FEES AND BILLING.

- (a) Service Fees. In exchange for RECUR360 making Services Available, Service Fees applicable to those Services shall accrue during the Billing Period. You agree that the Service Fees are in exchange for making the Services Available and you shall pay the Service Fees even if the Services were not used during the Billing Period.
- (b) Service Adjustments. Service Fees will be prorated ("Prorated Fees") for new Services purchased and made Available during a Billing Period. No amounts will be refunded with respect to cancellations or reductions of Services during a Billing Period.
- (c) Billing. RECUR360 will charge you on the first day of each Billing Period for (i) Prorated Fees for Services added during the prior Billing Period, and (ii) Service Fees for Services purchased and active on your Accounts as of the first day of the Billing Period. You agree to pay such amounts on the first day of each billing period. Unpaid amounts shall accrue interest at the lesser rate of 2% per month or the highest rate permitted by applicable law. Payment of Service Fees must be made by credit card (American Express, Visa, MasterCard, and Discover) or bank transfer (additional fees may apply) or other method made available at RECUR360's sole discretion. In the event you choose to pay by credit card or bank transfer, prior to activation of your Account and at any applicable time thereafter you authorize RECUR360 to charge the credit card provided by you or transfer funds from the bank account provided by you for the amount of the Prorated Fees and Service Fees. All payments shall be made in United States Dollars. If the amounts payable for any Account you own or manage are past due in any Billing Period, you grant RECUR360 the right to contact all Subscribers associated with your Accounts for direct billing.
- (d) Discounts. RECUR360 may offer Discounts to Customers. These Discounts are conditioned upon Customer's and its Subscribers' compliance with the terms of this Agreement. Upon a Customer's or a Subscriber's breach of any of the terms herein, RECUR360 may, in its sole discretion and without notice, revoke any Discounts offered to such Customer.
- (e) Taxes. You shall be solely responsible for and agree to pay, indemnify, and hold RECUR360 harmless from any and all sales, use, communications, excise, or similar tax or duty, and any other tax not based on RECUR360's net income, including penalties and



interest and any associated professional fees, and all other imposts levied upon or chargeable with respect to the use, license, sale, or delivery of the services or other deliverables in respect of this Agreement, and any costs associated with the collection or withholding of any of the foregoing items.

5. ACCEPTABLE USE

- (a) RECUR360 strictly enforces compliance with its acceptable use terms under this Agreement. Failure to so comply shall be deemed a material breach of this Agreement.
- (b) you will not and will cause your Subscribers not to violate the laws, regulations, ordinances or other such requirements of any applicable Federal, State or local government;
- (c) you will not and will cause your Subscribers not to take any action which encourages or consists of any threat of harm of any kind to any person or property;
- (d) you will not and will cause your Subscribers not to gain or attempt to gain any unauthorized access to any Services, accounts or Hosted Data of any Customer, Subscriber or other Person or disclose or use any such information without authorization;
- (e) you will not and will cause your Subscribers not to install, nor run, nor attempt to install or run any executable software not authorized in writing by RECUR360 on any RECUR360 hosting system or application servers;
- (f) you will not and will cause your Subscribers not to make any inappropriate, illegal or otherwise prohibited communication to any newsgroup, mailing list, chat facility, or other internet forum;
- (g) you will not and will cause your Subscribers not to transmit any unsolicited commercial or bulk email, will not engage in any activity known or considered to be "spamming," "phishing," "mail bombing" or similar activities and you will not carry out any "denial of service" attacks on any other website or internet service;
- (h) you will not and will cause your Subscribers not to engage in any activity of any kind that causes harm to minors or to perform any activity which is likely to cause such harm;
- (i) you will not and will cause your Subscribers not to infringe any copyright, trademark, patent, trade secret, or other proprietary rights of any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software;
- (j) you will not and will cause your Subscribers not to remove or alter any copyright, trademark or other intellectual property notices with respect to the Services (including for the purpose of disguising or changing any indications of the ownership or source of the Services);
- (k) your sole remedy for any problems or dissatisfaction with the RECUR360 Services or services offered by RECUR360 Affiliates is to uninstall and to stop using the Services. You agree that RECUR360 has no obligation or liability arising from third party applications or any content that you access via the Services, and that any relationship with such third-party applications are governed agreements with those third parties. You agree to comply with any applicable third-party terms and obligations when utilizing the Services, regardless of whether payment for these services is made directly to RECUR360 or to an affiliate third-party provider;
- (l) you will not and will cause your Subscribers not to collect, attempt to collect, publicize, or otherwise disclose personally identifiable information of any Person without their express written consent (which may be through the Person's registration and/or subscription to your services, in which case you must provide a privacy policy which discloses any and all uses of information that you collect) or as otherwise required by law, and you shall maintain records of any such consent throughout the Term of this Agreement and for three years thereafter;
- (m) you will not and will cause your Subscribers not to use the Service to import or copy any local files that you do not have the legal right to import or copy in this way;
- (n) you will not and will cause your Subscribers not to reverse-engineer, decompile, disassemble, modify or create derivative works of the Services or any part thereof except to the extent permitted by applicable law;
- (o) you will not and will cause your Subscribers not to circumvent any technology used by RECUR360 or its licensors to protect the Services or Third-Party Software;
- (p) you will not and will cause your Subscribers not to sell, rent, sublicense or lease any part of the Services;



- (q) you will not and will cause your Subscribers not to circumvent any territorial restrictions applied by RECUR360 or its licensors;
 - (r) you will not and will cause your Subscribers not to attempt to harvest, collect or use addresses, phone numbers, email addresses or other contact information, except as you are expressly authorized to use by your clients;
 - (s) you will not and will cause your Subscribers not to solicit private information (including social security numbers, credit card numbers and passwords);
 - (t) you will not and will cause your Subscribers not to use any crawling, robot, spider, scraper, or automated means while utilizing the Services;
 - (u) you will not and will cause your Subscribers not to do anything that is illegal, infringing, fraudulent, malicious or could expose RECUR360, its Affiliates or its other Customers to harm or liability;
 - (v) you will not and will cause your Subscribers not to post or copy malicious content such as malware, Trojan horses, or viruses, or otherwise interfere with any of RECUR360's Customers' or Subscribers' access to the Services;
 - (w) you will not and will cause your Subscribers not to undertake any action which is harmful or potentially harmful to RECUR360 or its infrastructure;
 - (x) In the event that you choose to use the email feature, you represent and warrant that you have a current relationship with each person to whom an email or text message is to be sent. You are solely responsible for ensuring that the email feature(s) are utilized in a manner that complies with local, state, and federal laws, rules and regulations. This includes, but is not limited to, compliance with applicable email and telemarketing laws such as the CAN-SPAM Act and Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, the EU ePrivacy Regulation, and comparable state laws. Moreover, you represent and warrant that each person to whom an email and/or text message is to be sent has specifically granted you permission to do so by whatever technology you choose; and opt-outs are provided pursuant to applicable law, rule or regulation. You are responsible for the content and will be identified as the sender of each email and/or text message sent on your behalf. You acknowledge that you are responsible for obtaining any and all permissions required to use the Hosted Services' email features.
 - (y) You agree to abide by these Terms and all applicable laws and regulations, including but not limited to Title III of the Americans with Disabilities Act ("ADA") and New York's state and city level Human Rights Act, and California's Unruh Civil Rights Act and Consumer Privacy Act.
6. THIRD PARTY SOFTWARE LICENSE AGREEMENTS
- (a) Compliance. You agree to comply with all software and end user license agreements for Third-Party Leased Software.
 - (b) Information Provided to RECUR360. You represent and warrant that you are the legal owner of all license information and personally identifiable information that you have provided or will provide to RECUR360. You grant RECUR360 the right to share with the licensors of Third-Party Leased Software your license information, including without limitation all license-related keys and numbers for all Third-Party Leased Software and all related services provided by the software licensor.
7. FLOW-THROUGH TERMS
- (a) Intuit Inc. Flow-Through Terms. QuickBooks®, Lacerte® and ProSeries® software is owned by Intuit Inc. ("Intuit"). Such software is hosted by RECUR360 under license from Intuit. RECUR360 is solely responsible for the provision of all Services on the RECUR360 website. You authorize RECUR360 to install such software updates at its discretion and understand that the installation of such software updates may result in your need to perform a data file update of your company file(s). RECUR360 has the ability to rollback updates to the extent required. In addition to all other terms and conditions herein:
 - A. you affirmatively accept, including on behalf of your Subscribers, Intuit's end user license agreement ("EULA") applicable to the Services you are accessing and using, and agree to do so only through Intuit's standard in-product EULA process, and agree that you and your Subscribers are bound and governed by such EULAs with respect to your use of the Intuit products;



- B. you agree to register all licenses for each and every individual instance of an Intuit product used or accessed by you or your Subscribers within the applicable registration period;
- C. you agree to supply all license information (including version and year of the applicable Intuit product) to RECUR360 for each instance you or a Subscriber wish to use;
- D. you agree to obtain any end user license agreements necessary for other software, whether associated with an Intuit product or not;
- E. you understand and agree that upon receipt of notice from RECUR360 or Intuit that an Intuit product is being discontinued, you shall be required to upgrade to the latest version of such product or discontinue your use of the Services for that particular version and year-edition;
- F. you understand that you take full responsibility for retrieving your data from RECUR360 in the case of termination of the Services and that you must effect such retrieval prior to termination during the period provided by RECUR360 for retrieval, as further set forth herein;
- G. you understand that upon your discontinuation of the Services, you must obtain solely and directly from Intuit any physical media containing copies of the Intuit products to which you may be entitled;
- H. you understand and agree that despite RECUR360's best efforts, in the case of data loss, loss of use or theft occurs, Intuit will have no liability for any damages associated therewith;
- I. you agree that you are solely responsible for the actions and behavior of your Subscribers;
- J. you understand and agree that Intuit provides no warranties for the Services and no warranties with respect to the performance of the Intuit products within the Services;
- K. you understand and agree that with respect to the QuickBooks Products®, Intuit is responsible only for support in accordance with the EULA and only to the extent the QuickBooks® Products would normally operate on each Subscriber's own desktop computer, and not for support of, or relating to, the secure, remote hosting of, and access to, the QuickBooks® Products, their interoperation with the Services, or for support of any other products or services offered by RECUR360 or third parties;
- L. you understand that you cannot technically or otherwise allow two or more Subscribers to share a single account and set of log-in credentials, and that you are prohibited from doing so;
- M. you grant RECUR360 the right to share your QuickBooks® license information, including all license-related keys and numbers, payroll keys, and numbers, and number of users for which you provide such licenses, with Intuit for verification and tracking purposes. This information is governed by the terms of Intuit's Privacy Statement;
- N. you understand and agree that Intuit is not a party to this Agreement between you and RECUR360, is not responsible in any way whatsoever for the Services and has no liability therewith;
- O. you understand and agree that except for those licenses that you bring to RECUR360 as a new RECUR360 customer that you must either subscribe to QuickBooks® licenses through RECUR360, purchase QuickBooks® licenses through RECUR360, or purchase new QuickBooks® licenses directly from Intuit or from Intuit's National Accounts organization or Intuit's dedicated accountant sales partner program;
- P. you understand and agree that all QuickBooks® licenses that you subscribe to through RECUR360 are valid only while you are a RECUR360 customer and that each such license may be disabled at any time after the user account to which they were assigned is no longer paid for through RECUR360; and
- Q. you understand and agree that if you subscribe to QuickBooks® Enterprise Solutions, upon availability of a new version, your access to the QuickBooks® Enterprise Solutions software through your subscription may be upgraded accordingly without prior notice



or approval from you.

(b) Drake Flow-Through Terms. Drake® software offered to you hereunder is owned by Drake Enterprises, Ltd. ("Drake®"). Such software is hosted by RECUR360 under license from Drake. RECUR360 is solely responsible for the provision of all Services on the RECUR360 website. You authorize RECUR360 to install such software updates at its discretion and understand that the installation of such software updates may result in your need to perform a data file update of your company file(s). RECUR360 has the ability to rollback updates to the extent required. In addition to all other terms and conditions herein:

- A. you agree to affirmatively accept, on behalf of yourself and your Subscribers, the end user license agreements for each Drake product accessed and used by you and your Subscribers, and to do so only via Drake's standard in-product end user license agreement process;
- B. you agree to register all licenses for each Drake product used by you or your Subscribers; and
- C. you agree to obtain any end user license agreements necessary for other software, whether associated with a Drake product or not.

8. OWNERSHIP AND LICENSE OF INTELLECTUAL PROPERTY

(a) Ownership. The Services make use of intellectual property of RECUR360 including, but not limited to, RECUR360 tools and technologies for infrastructure configuration, system virtualization, and customer service. You understand and agree that all right, title and interest RECUR360 has in the Services, and all intellectual property rights therein, shall remain the sole property of RECUR360 and that, other than as set forth below you have no right, title or interest therein. You agree to receive written authorization from RECUR360 before performing any security analysis of the Services or any component thereof. You agree that you do not have the right to create any derivative works of the Services hereunder, and hereby assign any such derivative works you create to RECUR360.

(b) License Grant. Subject to your compliance with the terms of this Agreement, RECUR360 hereby grants you a limited, non-exclusive, non-sublicensable, non-transferable, revocable license to use those Services, which are active on your Account, during the Billing Period solely for your internal business purposes.

9. PRIVACY AND CONFIDENTIALITY

(a) RECUR360 makes reasonable effort to maintain customer privacy and confidentiality in compliance with state, federal, and industry compliance standards with respect to Hosted Data, Customer contact information and Customer support information. These efforts include, but are not limited to, RDP encryption, username-based authentication, access control lists, user rights restriction, and other technical and administrative controls. RECUR360 offers Multifactor Authentication ("MFA") for use by all Customers of its Services. You may at your discretion encrypt or password-protect your Hosted Data. RECUR360 will provide access to your Hosted Data only to those clients you authorize (by first name, last name, and email address) and to RECUR360's and its Affiliates' personnel who need to have access to the Hosted Data to provide the Services. You are the exclusive owner of your Hosted Data and no rights to said Hosted Data are transferred to RECUR360. You are solely responsible for verifying the integrity of Account and your Hosted Data, including verifying that any Hosted Data that is the subject of a verified client request for correction or deletion is timely corrected or deleted. If you purchase any third-party service offerings through RECUR360 Affiliates, or third-party service providers, you authorize RECUR360 to share your first name, last name and email address with such parties to the extent necessary for them to provide their offerings to you. Please also review our Privacy Policy posted on www.recur360.com. You are solely responsible for ensuring that your login information is utilized only by you. Your responsibility includes ensuring the secrecy and strength of your passwords. RECUR360 is not responsible for detecting lost, stolen, or unauthorized access to your Hosted Data. If your login information is lost, stolen, or



used by unauthorized parties or if you believe that your Hosted Data has been accessed by unauthorized parties, it is your responsibility to immediately notify RECUR360 to request that the account login information be reset. After RECUR360 receives and validates your request to reset account login information, RECUR360 will use its reasonable efforts to take the requested action.

10. TERM AND TERMINATION

- (a) Term. The term of this Agreement shall run coterminous with the Billing Period (the "Term").
- (b) RECUR360 Termination Rights. RECUR360 may terminate this Agreement or any Service (i) on thirty (30) days' written notice to you with or without cause, (ii) on written notice to you in the event that RECUR360 elects, in its sole discretion, to cease doing business in your jurisdiction, (iii) on written notice to you in the event that RECUR360 loses access to any license necessary to provide a Service, or (iv) with or without notice for cause, if (a) any payment for the Services is more than fifteen (15) days overdue, or (b) you or your Subscribers commit any material breach of any term of this Agreement, including without limitation any failure to timely pay fees.
- (c) Customer Termination Right. The Account Owner may terminate its applicable Account by emailing RECUR360 at support@recur360.com.
- (d) Suspension.
 - A. Suspension on Breach. In addition to any of its other rights and remedies, in the event of you or your Subscribers' breach of any term of this Agreement, , any failure to timely pay fees, RECUR360 may with or without notice Suspend your Account in its sole and absolute discretion.
 - B. Continued Payments. Service Fees will continue to accrue on suspended Accounts and you continue to remain responsible for the payment of any such charges during the period of Suspension.
 - C. Account Reactivation. Suspended Accounts may be reactivated subject to a \$50.00 reactivation fee in addition to payment of all outstanding balances which shall be paid by Customer prior to reactivation of the Account. In addition, Account reactivation can require several business days. All past due and unpaid balances are subject to collection through third-party collection agencies. In the event of such collection action, Customer shall be liable for costs of collection.
- (e) Termination.
 - A. Data Retention. RECUR360 will retain Hosted Data for at least fourteen (14) days following the effective date of termination. RECUR360 has no obligation to retain Hosted Data after such period and shall retain such Hosted Data only in its sole discretion or as required by applicable laws or regulations. Restoration of terminated Hosted Data may be provided subject to a terminated data restore fee of not less than \$150.00.
 - B. License Termination. Upon termination of this Agreement, all licenses and rights granted to you hereunder immediately terminate and you shall and shall cause your Subscribers to cease all use of the Services, except that you may continue to access your Account to view your account details and purchased Services.

11. WARRANTIES; LIMITATION OF LIABILITY

- (a) RECUR360 DOES NOT IN ANY WAY WARRANT OR OTHERWISE GUARANTEE THE AVAILABILITY OF THE RECUR360 SYSTEM, SERVERS OR SERVICES AND IS NOT RESPONSIBLE FOR ANY DELAY OR LOSS OF DATA, LACK OF CONNECTION, SLOW CONNECTION, OR ANY OTHER SUCH ISSUES WHETHER OR NOT DUE TO THE NEGLIGENCE OF RECUR360. RECUR360 MAY, AT ITS SOLE DISCRETION, LIMIT OR DENY ACCESS TO ITS CLOUD INFRASTRUCTURE. ALL SERVICES ARE PROVIDED TO YOU ON AN "AS IS" BASIS, AND WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, ANY IMPLIED



WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR TITLE OR NON-INFRINGEMENT. Information obtained by you from the internet may be inaccurate, offensive or in some cases illegal. With the exception of the content found on RECUR360 websites, RECUR360 has no control over information contained on the internet. RECUR360 accepts no responsibility or liability for any information which you may receive from the internet. You accept full responsibility to verify the truth, accuracy, legality and ownership of the information that you obtain from the internet as well as the reputation of the individuals with whom you may deal. RECUR360 SOFTWARE PROVIDES NO WARRANTY FOR ANY GOODS OR SERVICES WHICH YOU OBTAIN OVER THE INTERNET, NOR THE COMPATIBILITY OF ANY SUCH SERVICES WITH THE RECUR360 SYSTEM. YOU SPECIFICALLY HEREBY WAIVE ANY CLAIM FOR DAMAGES OF ANY KIND THAT YOU MAY HAVE AGAINST RECUR360 OR ITS AFFILIATES IN CONNECTION WITH YOUR USE OF THE SERVICES, WHETHER SUCH DAMAGES ARE DIRECT, INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL, INCLUDING LOSS OF PROFITS OR LOSS OF BUSINESS. NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, THE TOTAL SOLE AND EXCLUSIVE REMEDY AVAILABLE TO YOU SHALL BE THE AMOUNT OF THE FEES PAID BY YOU TO RECUR360.

12. INDEMNITY

(a) You agree to fully defend (with counsel acceptable to RECUR360), indemnify and hold harmless RECUR360, its Affiliates, and their officers, directors, agents, resellers, and employees, in their official and personal capacities, of and from any and all third-party claims, causes of action, demands, costs, damages including both direct and consequential damages, specifically including reasonable attorneys' fees and costs, expert fees and costs incurred (whether paid or not) as the result of, in connection with or relating to any actual or alleged (i) breach of this Agreement by you or your Subscribers, (ii) your or your Subscriber's negligence, willful misconduct or illegal acts, (iii) any violation or misappropriation of any Person's intellectual property or other proprietary rights based on your use of the Services, other than in strict accordance with this Agreement, (iv) your failure to maintain the confidentiality of your Hosted Data or Account information, and (v) introduction of malicious content such as malware, Trojan horses, or viruses in the RECUR360 Services. You agree that you will keep confidential all Account information provided to you by or on behalf of RECUR360, including usernames and passwords, and you assume all responsibility for any loss, theft or other destruction of any such data caused by or attributable to your actions or inactions.

13. FORCE MAJEURE

(a) Except for payment obligations hereunder, either party to this Agreement shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God, earthquake, labor disputes and strikes, riots, war, outbreaks, epidemics and pandemics, and governmental shut-downs or other restrictions or requirements. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.

14. ASSIGNMENT

(a) This Agreement and the rights hereunder are not assignable or transferable without the prior written consent of the other party, except that RECUR360 may freely assign any or all of its rights hereunder to any Affiliate or successor-in-interest of RECUR360. Any other attempted transfer or assignment of rights hereunder shall be null and void.



15. SEVERABILITY
 - (a) If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from the Agreement.

16. CHOICE OF LAW AND WAIVER OF JURY TRIAL
 - (a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to applicable principles of conflicts of law to the extent that the application of the laws of another jurisdiction would be required thereby. In case of any dispute related to this Agreement, the parties agree to submit to personal jurisdiction in the State of Delaware. Furthermore, the parties hereby irrevocably and unconditionally submit to the exclusive jurisdiction of any court of the State of Delaware or any federal court sitting in the State of Delaware for purposes of any suit, action or other proceeding arising out of this Agreement. THE PARTIES HEREBY IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, SUIT OR OTHER PROCEEDING ARISING OUT OF OR RELATING TO THE TERMS, OBLIGATIONS AND/OR PERFORMANCE OF THIS AGREEMENT.

17. TRADEMARKS AND COPYRIGHT
 - (a) "RECUR360 SOFTWARE", "RECUR360", "IMPLEMENT INVENTORY". You may not copy or use in any way any content without RECUR360 written permission except as permitted under applicable law.

18. ACKNOWLEDGEMENTS
 - (a) If you provide any third parties with information, including but not limited to web content, printed advertising, and electronic advertising, that directly links or refers to RECUR360 Services, said information must identify those services as "Powered by RECUR360 SOFTWARE" and, if on a web page, such identification must also link to www.recur360.com.
 - (b) All users of the Services are a party to this Agreement RECUR360 retains the right to terminate any rights to use "Powered by RECUR360 SOFTWARE" at any time.

19. NO AGENCY
 - (a) Nothing contained herein shall be interpreted as creating an agency, partnership or joint venture between RECUR360 SOFTWARE and you.

20. AMENDMENT
 - (a) RECUR360 may without advance notice amend this Agreement from time to time and will do so by posting the new Agreement on the RECUR360 website. Each such amendment shall become effective immediately for users of RECUR360 Services including all pre-existing accounts. It is your responsibility to check the RECUR360 website for updates of this Agreement.

21. MISCELLANEOUS
 - (a) Our failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right. All provisions of this Agreement that by their nature are intended to survive any termination or expiration of this Agreement shall so survive. If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect. Any rights not otherwise expressly granted by this Agreement are reserved by RECUR360.