

SCHEDULE D

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

Capitalized terms not otherwise defined in these General Terms and Conditions will have the meaning specified on the Cover Page to which these General Terms and Conditions are attached.

2. CONFIDENTIAL INFORMATION

2.1 **Confidentiality.** Each party will keep strictly confidential and will not disclose or use for any purpose other than for performing its obligations under this Agreement any Confidential Information (as hereafter defined) of the other party. Except as expressly provided in this Agreement, neither party will obtain any interest in the other party's Confidential Information by reason of this Agreement or by reason of the disclosure of such Confidential Information pursuant to this Agreement. Each party will take the steps reasonably necessary to protect the confidentiality of the other party's Confidential Information. Each party will provide the other party's Confidential Information at least the same level of protection that it provides for its own Confidential Information (except that such level of protection will not be less than a reasonable level). Each party may disclose the other party's Confidential Information only to its directors, officers, agents, employees, contractors and professional advisors who have a need to know such Confidential Information for the performance of this Agreement, provided that such directors, officers, agents, employees, contractors and professional advisors are bound by obligations of nondisclosure and non-use substantially the same in scope as those contained in Section 2 of these General Terms and Conditions. In the event an agent or professional advisor is a competitor or engaged by a competitor of the party disclosing its Confidential Information, the party receiving the Confidential Information shall not disclose such information to the competitor or such person or entity without obtaining the disclosing party's prior written consent to do so. Nothing in Section 2 of these General Terms and Conditions will restrict a party's use or disclosure of its own Confidential Information.

2.2 **Definition of "Confidential Information".** "Confidential Information" will mean any information, technical data or know-how of a party including, but not limited to, that which comprises or relates to the party's confidential and proprietary trade secrets, hardware, software (source code and object code), screens, specifications, designs, plans, drawings, data, prototypes, discoveries, research, developments, processes, procedures, intellectual property, market research, marketing techniques and plans, business plans and strategies, customer names and other information related to customers, price lists, pricing policies and financial information or other business and/or technical information and materials, in oral, demonstrative, written, electronic, graphic or machine-readable form and any analyses, compilations, studies or documents. Confidential Information also includes the terms of this Agreement.

2.3 **Exceptions.** The foregoing restrictions of confidentiality and non-use will not apply to information that: (a) is or becomes publicly available without breach of this Agreement; (b) is disclosed to a party by a third party, provided such information was not obtained by said third party, directly or indirectly, from the other party on a confidential basis; (c) is already known to a party; or (d) is independently developed

or discovered by a party without access to Confidential Information of the other party.

2.4 **Permitted Disclosures.** Notwithstanding any provisions of this Article, either party may disclose the Confidential Information of the other party to applicable regulatory authorities or if required by judicial or administrative process or timely disclosure requirements imposed by law or by stock exchange policies, provided that such party first provides to the other party prompt notice of such required disclosure, maintains confidentiality to the greatest extent permissible and takes such steps as may be reasonable in the circumstances to allow the other party to seek a protective order with respect to the confidentiality of the information required to be disclosed.

2.5 **Injunction.** The parties acknowledge and agree that the breach by either party of any of the provisions of Section 2 of these General Terms and Conditions would cause serious and irreparable harm to the other party that could not adequately be compensated for in damages and, in the event of a breach by either party of any of such provisions, the breaching party hereby consents to an injunction being issued against it restraining it from any further breach of such provision, but such action will not be construed so as to be in derogation of any other remedy that the other party may have in the event of such a breach.

2.6 **Survival of Confidentiality Obligations.** The obligations of confidentiality provided for in Section 2 of these General Terms and Conditions will extend for five years after the date of termination or expiry of this Agreement, except with respect to trade secrets, for which such obligations will continue in perpetuity.

3. PAYMENT AND TAXES

3.1 **Invoicing and Payment.** Unless otherwise stated in this Agreement, all invoices issued by Colligo to Client pursuant to the terms of this Agreement will be payable by Client to Colligo within thirty (30) days after receipt. If any amount payable pursuant to this Agreement is not paid when due, Client will pay to Colligo interest on such amount from the date payment was due until the date that payment is received in full at the rate 2% per month (24% per annum), which interest shall be paid monthly.

3.2 **Taxes.** The amounts provided for in this Agreement are exclusive of all sales, use, goods and services, value added and other similar taxes, tariffs or duties, all of which will be paid by Client, excluding tax payable on income or capital of Colligo. Concurrently with payments to Colligo hereunder, Client will remit to Colligo all taxes due in respect of the amounts payable by Client hereunder. If any taxes are required to be withheld, then Client will pay Colligo an amount such that the net amount received by Colligo after withholding of such taxes will equal the amount that would have been otherwise payable under this Agreement.

3.3 **Currency.** In this Agreement, all references to money or payments will mean the lawful currency set forth on the Cover Page and, unless otherwise expressly agreed to in writing, all payments made under this Agreement will be made in that currency.

4. LIMITATION OF LIABILITY

4.1 Damages Exclusions. EXCEPT WITH RESPECT TO ANY BREACH OF CLIENT'S CONFIDENTIALITY OBLIGATIONS AND/OR COLLIGO'S INTELLECTUAL PROPERTY RIGHTS UNDER THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY OR ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS, BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR FOR ANY LOSS OF REVENUE, SAVINGS, INCOME, BUSINESS, OPPORTUNITY, PROFIT, REPUTATION, GOODWILL, CUSTOMERS, DATA OR PROCUREMENT COSTS WHATSOEVER, RELATING TO THE TERMS AND CONDITIONS OF THIS AGREEMENT OR THE DELIVERABLES SET OUT THEREIN, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4.2 Application of Limitations and Exclusions. Except as otherwise explicitly specified, the limitations in the foregoing Section 4.1 of these General Terms and Conditions will apply to all causes of action and regardless of the form of action including, but not limited to, breach of contract, strict liability, tort including, but not limited to, negligence and any other legal or equitable theory.

5. MISCELLANEOUS

5.1 Authorization. Each party represents and warrants to the other that it has full authorization to enter into and fully perform the terms of this Agreement, that the terms of this Agreement are valid and binding against it, and that entering into and performing this Agreement will not constitute a violation of any law, regulation, contract, or understanding applicable to such party.

5.2 Advertising. Colligo may refer to You as a Colligo customer of the ordered Services in sales presentations, marketing materials and activities.

5.3 Non-Solicitation. During the term of this Agreement and for a period of six months after termination or expiry of this Agreement, neither party will, without the prior written approval of the other party, directly or indirectly solicit the employment, services or assistance of any person employed or engaged by the other party. For clarity, the term of this Agreement shall expire and terminate when each and every one of the License Agreement, Support and Maintenance Agreement and Professional Services Agreement have each either expired or terminated.

5.4 Compliance with Policies. Each party agrees to comply at all times with the other party's reasonable rules and regulations regarding safety, security and conduct, of which such party has received prior written notice.

5.5 Counterparts. This Agreement may be executed in one or more counterparts (including, but not limited to, by fax or other means of electronic communication producing a printed copy), each of which will be deemed an original, but all of which together will constitute the same instrument.

5.6 Further Assurances. Each of the parties will promptly execute and deliver to the other at the cost of the other party such further documents and assurances and take such further actions as the other may from time to time request in order to more effectively carry out the intent and purpose of this Agreement and to establish and

protect the rights, interests and remedies intended to be created in favour of the other under this Agreement.

5.7 Remedies Not Exclusive. Except for those remedies expressly described as sole, the remedies provided to the parties under this Agreement are cumulative and not exclusive to each other, and any such remedy will not be deemed or construed to affect any right which any of the parties is entitled to seek at law, in equity or by statute

5.8 Freedom of Action. This Agreement will not be construed in any way to limit Colligo's right to grant any right or license to use, distribute or sublicense any of Colligo's products or related services and any associated documentation. Except as expressly provided in this Agreement, this Agreement does not convey to Client any rights or interests with respect to any current or future product or service.

5.9 Amendments. No change or modification of this Agreement will be valid unless it is in writing and signed by each party to this Agreement.

5.10 Relationship. The parties to this Agreement are acting as independent contractors to each other, and nothing in this Agreement will accord any status to a party of being the employee, partner, joint venturer, franchisee or agent of the other, with respect to this Agreement. Nothing in this Agreement will make or be construed to make Colligo and Client partners or agents of each other or to create any other relationship by which the acts of any party may bind the others or result in any liability to the other.

5.11 Assignment. Unless otherwise explicitly set out herein, neither party may assign any rights or obligations arising under this Agreement, whether by operation or law or otherwise, without the prior written consent of the other; except that Colligo may assign this Agreement without consent of Client in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets or shares. This Agreement shall inure to the benefit of and shall be binding on the successors and permitted assignees of the parties.

5.12 Export Controls. Client will comply with all export laws, restrictions and regulations having application to it, whether of Canada, the United States or any foreign agency or authority, and has not and will not export, re-export or otherwise transmit, download or use, directly or indirectly, any software, information, data, or other materials received under this Agreement in violation of any such applicable restrictions, laws or regulations.

5.13 Force majeure. Neither party will be liable for any delay or failure to perform any provision of this Agreement if such delay or failure to perform is caused by: (a) any factor beyond the reasonable control of the party, provided that in no event shall lack of financing or credit be considered to be beyond the reasonable control of a party; or (b) the failure of the other party to comply with its obligations and responsibilities under this Agreement. Section 5.13 of these General Terms and Conditions will not excuse any failure to make any payment when due.

5.14 Wording. Wherever the singular or masculine form is used in this Agreement, it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa, as the context or the parties require.

5.15 Headings. The headings in this Agreement are solely for convenience of reference and will not be used for purposes of interpreting or construing the provisions hereof.

5.16 Notices. Any notice or other communication required or permitted under this Agreement and intended to have legal effect must be given in writing to the other party at the address set forth on the Cover Page (each party may change its address from time to time upon written notice to the other party of the new address). Notices will be deemed to have been given upon receipt (or when delivery is refused) and may be: (a) delivered personally; (b) sent via certified mail (return receipt requested); (c) sent via fax or email (with confirmation of receipt); or (d) sent by recognized air courier service.

5.17 Entire Agreement. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof, and supersedes all written or oral prior agreements or understandings with respect thereto. There is no representation, warranty, collateral term or condition or collateral agreement affecting this Agreement, other than as expressed in writing in this Agreement. Any purchase order or other instrument of Client accompanying any documents delivered in connection with this Agreement or a Client payment is for Client's internal use only and its terms will not alter or amend the terms of this Agreement.

5.18 Applicable Law. This Agreement will be construed, interpreted and governed by the laws of the Province of British Columbia, Canada and the federal laws of Canada applicable therein excluding conflicts of law principles that would apply a different body of law. Each party agrees to attorn to the exclusive jurisdiction of the courts in the Province of British Columbia with respect to disputes

arising under or in connection with this Agreement, except for applications for injunctive relief by Colligo.

5.19 No Waiver. No failure to exercise and no delay in exercising, on the part of either party, any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise of any right, power or privilege under this Agreement preclude further exercise of the same right or the exercise of any other right under this Agreement, by statute, at law or in equity.

5.20 Severability. If any provision of this Agreement is held invalid or otherwise unenforceable, the enforceability of the remaining provisions will not be impaired thereby and, in such an event, such provisions will be interpreted so as to best accomplish the intent of the parties within the limits of applicable law; provided, however, that in the event such invalidity, illegality or unenforceability materially and adversely alters the rights of a party under this Agreement, the parties will promptly negotiate in good faith an acceptable replacement provision.

5.21 Contra Proferentem. Both Parties agree that they have carefully reviewed this Agreement and consulted legal counsel where necessary, and that the common law doctrine of contra proferentem shall not apply to the interpretation or construction of this Agreement.

6. SURVIVAL

6.1 Survival. These General Terms and Conditions shall survive any termination or expiry of this Agreement.

End of General Terms and Conditions