



SOFTWARE-AS-A-SERVICE AGREEMENT

This Software-as-a-Service Agreement ("Agreement") is incorporated into and made a part of each Purchase Order executed by Augmenticon AG, a Swiss limited liability company with its registered office in Europa-Strasse 19, 8152 Glattbrugg ("Augmenticon") and the entity identified as the subscriber of the Purchase Order ("Customer") (each referred to as a "Party" and collectively, as the "Parties"). This Agreement governs Customer's acquisition and use of Augmenticon's proprietary products and online service(s) known as SHARE & ASSYST. The services may not be accessed by direct competitor, except with Augmenticon's prior written consent. This Agreement was last updated January 2022 and is effective as of the date of the purchase order. In the event of a conflict between the terms of a purchase order and this Agreement, the terms of this Agreement shall prevail.

References in these general terms to "the Agreement" mean collectively all Purchase Order(s) executed by the Parties and describing the products and services ordered by Customer from Augmenticon as well as these General Terms.

1. DEFINITIONS.

1.1 "Affiliate" means, with respect to either Party, any legal entity that directly or indirectly controls, is controlled by or is under common control with such Party, where "control" means (a) ownership of more than 50% of the equity of such Party or entity or (b) the power to direct or cause the direction of the management and policies of such Party or entity.

1.2 "Confidential Information" means any and all information disclosed or made accessible by or on behalf of one Party or its Affiliates to the other Party or its Affiliates (or any representative of any of them), whether orally, in writing or in any other form, which is either (a) marked or identified as "confidential" at the time of disclosure or (b) of a nature that a reasonable business person would understand, under the circumstances, to be confidential or proprietary, including all technical, business, marketing, sales, financial and pricing information, know-how, inventions, discoveries and trade secrets, including information of or about, including the identity of, employees, affiliates, customers, licensors, suppliers, subcontractors and representatives. The following information is Augmenticon's Confidential Information whether or not marked or identified as such: (i) all Augmenticon Property (defined in Section 7 (Intellectual Property)); (ii) the terms of this Agreement including all Purchase Orders and pricing; and (iii) Augmenticon's roadmaps, product plans, product designs, architecture, technology and technical information, and audit reviews, however disclosed. Customer Data is Customer's Confidential Information, whether or not marked or identified as such.

1.3 "Consulting Services" means the technical account management, configuration, training and/ or other professional services provided by Augmenticon pursuant to a Purchase Order. Consulting Services do not include Support Services.

1.4 "Customer Data" means any data, information or materials uploaded by Customer to or retrieved by Customer from SHARE & ASSYST.

1.5 "Documentation" means the published Augmenticon user manuals, guides, policies, and instructions regarding SHARE & ASSYST that are made available by Augmenticon to its customers as formal documentation of the use and operation of SHARE & ASSYST and are posted by Augmenticon on its customer portal¹ as such materials are updated by Augmenticon from time to time.

1.6 "Fees" means the fees specified in the Purchase Order and/or invoice for SHARE & ASSYST, related Support Services, and/ or Consulting Services.

1.7 "Intellectual Property" means all: (a) trademarks, service marks, brand names, certification marks, collective marks, d/b/a's, Internet domain names, logos, symbols, trade dress, assumed names, fictitious names, trade names, and other indicia of origin, all applications and registrations for the foregoing, including all renewals of the same, and all goodwill associated therewith and symbolized thereby; (b) inventions and discoveries, whether patentable or not, invention disclosures and all patents, registrations, and like rights of exclusion and applications

¹ Currently located at <https://augmenticon.atlassian.net/servicedesk/customer/portal/1>

therefor, including divisions, continuations, continuations- in-part and renewal applications, and including renewals, extensions and reissues; (c) trade secrets and know-how, including those included in Confidential Information; (d) published and unpublished works of authorship, whether copyrightable or not (including databases and other compilations of information), copyrights and database rights therein and thereto, and registrations and applications therefor, and all renewals, extensions, restorations and reversions thereof; and (e) moral rights, design rights, mask works, rights of privacy and publicity; and (f) all other intellectual property and proprietary rights including rights under unfair competition and market practice laws; in each case throughout the world and whether registered or not.

1.8 "Purchase Order" means a Customer subscribed quotation provided by Augmenticon that describes the SHARE & ASSYST modules and processes, related Support Services, and/or Consulting Services purchased by Customer. All orders for SHARE & ASSYST subscriptions, related Support Services, and Consulting Services must be made pursuant to a Purchase Order. The Parties may enter into multiple Purchase Orders. Each Purchase Order is hereby incorporated into and made a part of this Agreement.

1.9 "Privacy Policy" means the practices set forth regarding Augmenticon's collection, use, storage and disclosure of personal data as the same may be modified by Augmenticon from time to time to reflect the latest protocols on the data collected, used, stored and disclosed by Augmenticon².

1.10 "SHARE & ASSYST" means Augmenticon's software-as-a-service modules and processes (including Releases thereto, as defined in the Support Policy) to which Customer actually purchases a subscription under one or more Purchase Orders.

1.11 "Support Services" means the technical support services for SHARE & ASSYST set forth in the Augmenticon Support Policy, as updated by Augmenticon from time to time³ (the **"Support Policy"**).

1.12 "Term" means the period beginning on the first day of the Initial Term (defined in Section 6.1 (Term)) and ending on the date that this Agreement terminates in accordance with the terms herein.

1.13 "User" means any individual natural human being who is an active employee, consultant, contractor or agent of Customer (a) who is authorized by Customer to use SHARE & ASSYST solely on behalf of Customer for Customer's internal business purposes, (b) whom Customer has designated as a User of SHARE & ASSYST in accordance with Section 2.5 (Users) and (c) to whom Customer has supplied a log-in account, user ID and password for SHARE & ASSYST.

Also, as used herein, the term "including" means "including but not limited to", the term "shall" mean "is required to" and the term "hereunder" means under this Agreement.

2. TERMS OF ACCESS.

2.1 Grant of Right to Access and Use. Subject to Customer's payment in full of the applicable Fees and to the terms and conditions of this Agreement and the applicable Purchase Orders, Augmenticon hereby grants Customer the limited, non-exclusive, non-transferable, non-assignable right to access and use, and to permit Users to access and use, SHARE & ASSYST for the term identified in the applicable Purchase Order and solely for the purpose of creating, updating, transmitting, storing and retrieving Customer Data, by up to the number and type of Users specified in the Purchase Order(s), for Customer's internal business purposes only, and in accordance with this Agreement and the Documentation. Customer shall use and permit use of SHARE & ASSYST only for the modules and processes purchased by Customer as reflected in the corresponding Purchase Order(s).

2.2 Access and Use Restrictions. Customer shall not, and shall not attempt to (and shall not assist, enable, or permit Users or others to, or to attempt to), directly or indirectly:

- a) reverse engineer, decompile, disassemble or otherwise attempt to discover or derive the source code or underlying ideas or algorithms of SHARE & ASSYST (unless and then only

² Currently located at <https://www.augmenticon.ch/privacy-policy>

³ Currently located at <https://usercontent.one/wp/www.augmenticon.ch/wp-content/uploads/2022/05/POL-5-v1.0-Support-Policy.pdf>

to the extent required to be permitted by applicable law); (ii) modify, copy, duplicate, translate, adapt or create derivative works of or based on SHARE & ASSYST or any portion thereof; (iii) rent, lease, license, sublicense, distribute, sell, resell, assign or otherwise transfer any rights to SHARE & ASSYST or any portion thereof; (iv) use or permit access to SHARE & ASSYST by/to any third party (other than Users as expressly permitted by this Agreement) or use SHARE & ASSYST for timesharing or service bureau purposes or otherwise for the benefit of a third party; (v) misappropriate SHARE & ASSYST or any portion thereof; (vi) access or use SHARE & ASSYST or information provided pursuant to any Consulting Service to create a competing product or service; (vii) perform or disclose any benchmark tests relating to SHARE & ASSYST; or (viii) remove, relocate, alter or obscure any trademark, copyright or other proprietary or restrictive marking or legend on SHARE & ASSYST or other materials delivered or made available by Augmenticon to Customer;

- b) violate the security of SHARE & ASSYST , including attempting to probe, scan or test the security or vulnerability thereof, or breach any security or authentication measures, or otherwise avoid, bypass, remove, deactivate, impair, descramble or otherwise circumvent any technological measure; (ii) bypass or disable any protections that may be put in place against unlicensed and not-permitted uses of SHARE & ASSYST , or otherwise gain access to or use any unauthorized portion of SHARE & ASSYST or gain unauthorized access to any related system, software, service or network or the data contained therein, or actually or effectively circumvent any contractual usage or other limit whether via automated means or otherwise; or (iii) use or access SHARE & ASSYST in any way that might interfere with, disrupt the integrity of or adversely affect the security, stability, performance or functions of SHARE & ASSYST;
- c) send automated queries of any kind to SHARE & ASSYST without the express, advance, written permission of Augmenticon, including using any software that sends queries to SHARE & ASSYST to determine how a website or web page “ranks” for various queries, “meta-searching” and performing “offline” searches on SHARE & ASSYST , or use manual or automated software, devices, scripts, robots, backdoors or other means or processes to access, “scrape,” “crawl” or “spider” any web pages or other services offered at SHARE & ASSYST;
- d) upload to or use SHARE & ASSYST to store or transmit infringing, obscene, threatening, libelous or otherwise unlawful or tortious material, including material that is harmful to children or that violates third-party rights, or use SHARE & ASSYST for or in connection with any unlawful, harmful or fraudulent activities;
- e) upload to or use SHARE & ASSYST to store or transmit viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, agents or programs, or use SHARE & ASSYST in any way that disrupts or risks disrupting the overall performance and up-time of SHARE & ASSYST due to Customer’s use of excessive storage capacity or bandwidth outside of the ordinary course of business, or otherwise use SHARE & ASSYST in any other manner that may cause Augmenticon to have legal liability or disrupt others’ use of SHARE & ASSYST.

As used in this Section 2.2, references to “SHARE & ASSYST” include any related system, software, service or network and data contained therein as well as the Documentation.

2.3 Customer Responsibilities. Customer is responsible for making all arrangements necessary for access to and use of SHARE & ASSYST via the internet (including obtaining and maintaining the necessary computer hardware, software and telecommunications equipment needed to access and use SHARE & ASSYST via the internet) and any associated charges. SHARE & ASSYST is dependent on Customer’s proper implementation, configuration, and use of SHARE & ASSYST, the availability and performance of technology from third-party software and hardware vendors (including Microsoft, Google, and the providers of various internet browsers) and other factors outside of Augmenticon’s control. Augmenticon has no control over and is not liable for performance issues or downtime of SHARE & ASSYST to the extent caused by any of the foregoing factors. Furthermore, if and to the extent Customer cannot for any reason access its Account, Augmenticon will be excused from any resulting non-performance of SHARE & ASSYST.



2.4 Customer Administration Account. Augmenticon will provide Customer with one or several administration accounts for managing Users and configuring SHARE & ASSYST (the "Admin Account"). Customer shall use the Admin Account only to configure and administer SHARE & ASSYST in support of Customer's permitted use of SHARE & ASSYST and in accordance with this Agreement and the Documentation.

2.5 Users. Customer shall designate the Users who will have access to SHARE & ASSYST through its Admin Account and is responsible for activating and de-activating Users via its Admin Account. The number and type of Users shall not exceed the number and type of Users specified in the Purchase Order(s). Each User must be identified by a unique email address and username. Customer shall be solely responsible for the actions of its User(s) relating to access and use of SHARE & ASSYST, for any non-compliance by its User with the terms of this Agreement (which shall constitute a breach of this Agreement by Customer), and for all activities that occur under its Account, without limitation. A User log-in account may not be shared or used by more than one User. User log-in accounts may only be reassigned to new Users who are replacing former Users who have terminated employment with Customer or otherwise permanently changed job status or function and no longer require an access and use of SHARE & ASSYST. If a User is no longer authorized by Customer to access and use SHARE & ASSYST, Customer shall immediately disable such access.

2.6 Passwords. Customer and its Users are responsible for maintaining the confidentiality of all passwords and any other access controls within SHARE & ASSYST that are managed by Customer, and for ensuring that each password is used only by the assigned User. Augmenticon will have no liability for any loss or damage arising from Customer's or Users' failure to comply with the terms of this Agreement.

2.7 Changes. Augmenticon may change, update, alter and/or supplement all or any portion of SHARE & ASSYST and all or any portion of the information provided in connection therewith at its sole discretion and will provide commercially reasonable notice to Customer of any such material change. This Section 2.7 shall not be construed to limit Augmenticon's warranties under Section 9.2(a) below.

3. SUPPORT.

Subject to payment of the Fees set forth in the Purchase Order, Augmenticon will provide Support Services for SHARE & ASSYST as set forth in the Support Policy. The Parties may choose to define a technical support service, which goes beyond the Support Policy within a Purchase Order or a separate technical agreement (the "**Technical Agreement**").

4. CONSULTING SERVICES.

4.1 General. Augmenticon will provide Customer with the requisite hours of Consulting Services identified within a Purchase Order. The Parties may choose to define a set of deliverables within a Purchase Order, provided that Augmenticon will not be obligated to provide Consulting Services beyond the total number of hours set forth in the Purchase Order.

4.2 Fees and Expenses; Delays. Augmenticon will invoice Customer on a monthly basis for all Consulting Services rendered and expenses incurred except as otherwise specified in the applicable Purchase Order. Customer shall reimburse Augmenticon for actual and verifiable out-of-pocket expenses (including travel and related expenses) reasonably incurred by Augmenticon in connection with any Purchase Order. Augmenticon may charge for travel time at 50% of the applicable rate when travel time exceeds four hours. Augmenticon will not be responsible for any delay caused by Customer or any third party under contract with Customer. Customer may delay Consulting Services by written notice to Augmenticon specifying the requested length of the delay (it is understood that the Parties will need to reschedule the Consulting Services at a mutually satisfactory time), provided that if Customer delays upon less than two weeks prior written notice and Augmenticon is unable to reallocate the applicable Augmenticon personnel on a billable basis to another customer project (which Augmenticon will use reasonable efforts to do), then Augmenticon will invoice Customer for any Consulting Services that are delayed by Customer without such two week notice, at the applicable daily rate for such Consulting Services.

4.3 License. Subject to Customer's payment in full of all Fees due under a Purchase Order and satisfaction of all claims, Augmenticon hereby grants to Customer a non-exclusive, non-



transferable license to use the deliverables from the Consulting Services (if any) during the Term solely in connection with the applicable SHARE & ASSYST subscriptions and for Customer's internal business purposes.

5. PAYMENTS.

5.1 Payment. In consideration of the rights and services granted and provided hereunder, Customer shall pay Augmenticon the Fees set forth in the Purchase Order(s). All Fees will be invoiced and paid in Swiss Francs except as otherwise mutually agreed in a Purchase Order. Fees will be invoiced annually in advance except as otherwise provided in the applicable Purchase Order or, with respect to Consulting Services, in Section 4.2. Customer shall remit payment to Augmenticon within 30 days of receipt of invoice, excluding amounts that are the subject of a good faith dispute by Customer provided that Customer promptly notifies Augmenticon in writing of the amount disputed and the reasons for such dispute and reasonably cooperates with Augmenticon to resolve such dispute as promptly as practicable. If Customer fails to pay any amounts at the due date (other than amounts disputed as aforesaid), then, in addition to any other available rights and remedies, Augmenticon shall have the right to (a) assess a late payment charge on such overdue amounts equal to the lesser of (i) two percent per month or (ii) the highest rate allowed by applicable law and (b) upon five days prior written notice to Customer, suspend providing Support Services and Consulting Services to Customer, without liability, in each case until such overdue amounts are paid in full. Additional payment terms may be set forth in the Purchase Order. All payments are non-refundable, and all subscriptions and services are non-cancelable except as otherwise expressly provided herein. If Augmenticon seeks legal recourse for the collection of any unpaid Fees from Customer (other than amounts disputed as aforesaid), Augmenticon will be entitled to an award of reasonable attorneys' fees and other costs incurred by Augmenticon in such matter.

5.2 Taxes. All Fees are exclusive of all taxes and duties. If Augmenticon is required to pay or account for any sales, use, value added, withholding or other taxes, public fees, duties, deductions, or other withholdings (collectively "Taxes"), then such Taxes shall be borne by Customer. If Customer is required to withhold or deduct any Tax from any payment due hereunder, Customer will increase the sum payable to Augmenticon such that Augmenticon receives an amount equal to the sum it would have received had Customer made no withholding or deduction. Taxes shall not include taxes based upon Augmenticon's income.

6. TERM AND TERMINATION.

6.1 Term. The initial term of this Agreement, and the initial term of the subscriptions initially purchased by Customer hereunder, will commence on the "Order Start Date" and end on the applicable "Order End Date" specified in the initial Purchase Order ("**Initial Term**"), and thereafter will automatically renew as provided in Section 6.2 below, in each case unless this Agreement is terminated earlier as provided herein. The term of each subsequent subscription purchased by Customer hereunder will begin on the applicable "Order Start Date" and end on the applicable "Order End Date" specified in the applicable Purchase Order, and thereafter will automatically renew as provided in Section 6.2, in each case unless this Agreement is terminated earlier as provided herein.

6.2 Renewal. Augmenticon shall provide notice via electronic mail of the upcoming renewal of this Agreement and of the subscriptions purchased by Customer hereunder approximately 90 days prior to the end of the Initial Term and each subsequent renewal term. Unless either Party gives notice of its intent not to renew this Agreement and such subscriptions at least 45 days prior to the end of the then-current term, this Agreement and such subscriptions shall automatically renew for a subsequent 12-month period unless a different renewal period is specified in the Purchase Order, in which case each renewal term shall be for the renewal period specified in the Purchase Order.

6.3 Termination for Cause. Either Party may terminate this Agreement upon written notice to the other Party if the other Party materially breaches this Agreement and fails to cure such breach within 30 days of receipt of the written notice thereof. Notwithstanding the foregoing, Augmenticon may terminate this Agreement upon written notice to Customer if Customer fails to cure any payment default (other than a payment disputed in accordance with Section 5.1 above) within 10 days of delivery of written notice thereof. Either Party may terminate any Purchase Order (but not this



Agreement) upon written notice to the other Party if the other Party materially breaches such Purchase Order and fails to cure such breach within 30 days of delivery of written notice thereof.

6.4 Effect of Termination. Termination of this Agreement shall automatically terminate all Purchase Orders (including all subscriptions). Upon termination of this Agreement, (a) all rights and licenses granted by Augmenticon hereunder and under all Purchase Orders (including Customer's right to access and use SHARE & ASSYST, subject to the data retrieval provisions in Section 12.2 (Data Management and Retrieval)), shall automatically terminate, (b) Customer shall immediately cease all use of SHARE & ASSYST and (c) subject to the data retrieval provisions of Section 12.2, each Party shall promptly return, delete or destroy all Confidential Information of the other Party in its possession. All payment obligations of Customer incurred, accrued, or arising prior to the effective date of termination shall survive and be payable in accordance with the applicable payment terms herein.

6.5 Survival. The following provisions shall survive any termination of this Agreement: Sections 1 (Definitions), 2.2 (Access and Use Restrictions), 5 (Payments), 6.4 (Effect of Termination), 6.5 (Survival), 7 (Intellectual Property), 8 (Confidentiality), 9.4 (Disclaimer), 10 (Limitation of Liability), 11 (Indemnification), 12.1 (Ownership of Customer Data), 12.2 (Data Management and Retrieval) and 13 (Miscellaneous).

7. INTELLECTUAL PROPERTY.

Notwithstanding anything to the contrary, as between the Parties, Augmenticon retains and shall be the sole owner of all right, title and interest, including all Intellectual Property rights, in, to and under the following (the following being collectively referred to as "**Augmenticon Property**"): (a) SHARE & ASSYST, the Documentation, the Support Services, the Consulting Services and deliverables (if any), data regarding Customer's use of SHARE & ASSYST, and all other software, technology, content, deliverables and materials provided or prepared by or on behalf of Augmenticon or used by Augmenticon in providing SHARE & ASSYST, and all other Augmenticon Confidential Information; (b) any and all suggestions, ideas, enhancement requests, feedback, recommendations and other information provided by Customer or any employee, agent or contractor of Customer (all rights in which are hereby assigned to Augmenticon) or any other person or entity relating to any of the foregoing; (c) all derivative works, customizations, enhancements, modifications, extensions and improvements in or related to any of the foregoing; and (d) all Intellectual Property related to, developed with or from, or provided in connection with or as part of, any of the foregoing; but in each case excluding Customer Confidential Information. Except for the rights expressly granted herein, Augmenticon does not grant, license, or transfer to Customer or any User or other third party any rights to any Augmenticon Property. This Agreement is not a sale and Augmenticon does not convey any rights of ownership in or related to any of the foregoing. No implied licenses are granted herein, and all rights not expressly granted to Customer herein are reserved by Augmenticon.

8. CONFIDENTIALITY.

8.1 Confidential Information. Each Party shall: (a) treat as confidential, and shall not disclose, any Confidential Information of the other Party other than to its employees, affiliates, contractors, consultants or advisors (each, a "**Representative**") who have a bona fide need-to-know such Confidential Information, provided that (i) such Representatives are bound by legally enforceable obligations consistent with and at least as restrictive as the provisions of this Section 8 and (ii) the receiving Party shall be responsible for any breach by its Representatives; (b) use the same degree of care to protect the other Party's Confidential Information as it uses to protect its own Confidential Information of a similar nature, but in no case less than reasonable care or, if more restrictive, the degree of care required by applicable law or regulation; and (c) use the other Party's Confidential Information only for the purposes described in this Agreement.

8.2 Exceptions. Confidential Information shall not include: (a) any information that is or becomes generally available to the public (provided that such information did not become public as a result of the receiving Party's or its Representative's disclosure thereof in breach of this Agreement); (b) any information received by the receiving Party (without restriction on use or disclosure) from sources other than the disclosing Party or its Representatives (provided that such source is not subject to a confidentiality obligation with regard to such information); or (c) any information that is independently developed by the receiving Party without use of or reference to Confidential



Information of the other Party. Notwithstanding the foregoing, either Party may disclose Confidential Information of the other Party to any regulatory agency or court of competent jurisdiction if such information to be disclosed is (i) approved in writing by the other Party for disclosure or (ii) to the extent required by law, regulatory agency or court order to be disclosed by such Party, provided that, to the extent legally permitted, prompt prior written notice of such required disclosure is given to the other Party and provided further that such Party shall reasonably cooperate with the other Party (at such other Party's cost and expense) to limit the extent of such disclosure.

9. REPRESENTATIONS AND WARRANTIES.

9.1 Due Organization, Conflicting Agreements. Each Party represents that: (a) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (b) it has full corporate power and authority to execute and deliver this Agreement and comply with its obligations herein; and (c) it has no outstanding agreement that would conflict in any material way with the provisions of this Agreement or preclude it from complying with the provisions hereof.

9.2 Augmenticon Warranties.

- a) SHARE & ASSYST. Augmenticon warrants to Customer that during the Term: (i) SHARE & ASSYST will perform substantially in accordance with the Documentation; and (ii) Augmenticon will not materially decrease the overall functionality of SHARE & ASSYST. In the event of a breach of the foregoing warranty, and as Customer's sole and exclusive remedy and Augmenticon's sole and exclusive obligation and liability, Augmenticon shall either, at its option: (A) correct the non-conforming component of SHARE & ASSYST; or (B) terminate this Agreement and refund to Customer any prepaid unused subscription Fees covering the remainder of the then-current Term.
- b) Services. Augmenticon warrants to Customer that, during the period of performance and for 30 days thereafter, Augmenticon's services hereunder will be performed in a competent, professional, and workmanlike manner by personnel of adequate training and experience. Customer's sole and exclusive remedy and Augmenticon's sole and exclusive obligation and liability for any failure of services to conform to this warranty shall be for Augmenticon to re-perform the non-conforming services.
- c) Insurance Coverage: Augmenticon warrants that is has/ will procure(d) appropriate insurance coverage as defined in section 13.9 hereunder.

9.3 Customer Warranties.

- (a) Customer represents and warrants that Customer, its Affiliates and/ or its licensors own all right, title and interest in and to all Customer Data.
- (b) In particular, Customer represents and warrants that Customer and/ or its Affiliates will solely use SHARE & ASSYST and Augmenticon Consulting Services according to the rights and licenses provided by Augmenticon under this Agreement.
- (c) Customer warrants that is has/ will procure(d) appropriate insurance coverage as defined in section 13.9 hereunder.

Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, SHARE & ASSYST AND ALL DOCUMENTATION, SUPPORT SERVICES AND CONSULTING SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND AUGMENTICON MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY, AS TO ANY MATTER WHATSOEVER. AUGMENTICON (FOR ITSELF AND ITS AFFILIATES, LICENSORS AND OTHER PROVIDERS) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS, INCLUDING ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, OWNERSHIP, QUIET ENJOYMENT, SECURITY OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, ALL OF WHICH ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AUGMENTICON DOES NOT WARRANT THAT SHARE & ASSYST OR THE SUPPORT SERVICES WILL PERFORM CONTINUOUSLY OR WITHOUT INTERRUPTION, BE ERROR FREE, MEET CUSTOMER'S REQUIREMENTS, OR BE TIMELY OR SECURE, OR THAT DATA PROVIDED THROUGH SHARE & ASSYST WILL BE ACCURATE, UP-TO-DATE, COMPLETE



OR FREE OF HARMFUL COMPONENTS OR NOT LOST OR DAMAGED. CUSTOMER MAY NOT MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF AUGMENTICON TO ANY THIRD PARTY.

10. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR CUSTOMER'S (A) NON-COMPLIANCE WITH THE PAYMENT OBLIGATIONS OR THE ACCESS OR USE LIMITATIONS OF THIS AGREEMENT, (B) BREACHES OF SECTION 8 (CONFIDENTIALITY) OR (C) VIOLATION, MISAPPROPRIATION OR MISUSE OF AUGMENTICON'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT SHALL AUGMENTICON (OR ITS AFFILIATES, LICENSORS OR OTHER PROVIDERS) OR CUSTOMER BE LIABLE TO THE OTHER PARTY FOR: (I) ANY DAMAGES FALLING WITHIN ANY OF THE FOLLOWING CATEGORIES: (a) LOST PROFITS; (b) LOST BUSINESS, REVENUES OR SAVINGS; (c) BUSINESS INTERRUPTION; (d) LOSS OF GOODWILL; (e) LOSS OF ANTICIPATED SAVINGS; OR (f) LOSS, CORRUPTION OR MODIFICATION OF DATA OR OTHER INFORMATION; OR (II) ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER; IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY PURCHASE ORDER), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AUGMENTICON AND ITS AFFILIATES' AGGREGATE AND CUMULATIVE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ALL PURCHASE ORDERS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT OF THE FEES PAID BY CUSTOMER FOR SHARE & ASSYST HEREUNDER DURING THE SIX MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AUGMENTICON AND ITS AFFILIATES SHALL NOT BE LIABLE FOR, AND AUGMENTICON (FOR ITSELF AND ITS AFFILIATES) HEREBY DISCLAIMS, ANY DAMAGES OR LOSSES CAUSED BY OR RESULTING FROM THE CONDUCT, SOFTWARE, CONTENT, PRODUCTS, SERVICES OR INFORMATION OF ANY THIRD PARTY.

11. INDEMNIFICATION.

11.1 Augmenticon Intellectual Property Infringement. Notwithstanding anything to the contrary in this Agreement, and subject to Section 11.3, Augmenticon at its discretion agrees to defend or settle any third-party claim, suit or proceeding against Customer to the extent based on a claim that SHARE & ASSYST infringes any third-party copyright, patent, trademark or trade secret that relates to Customer's use of SHARE & ASSYST (a "**Third-Party IP Claim**"). If SHARE & ASSYST becomes, or in Augmenticon's opinion is likely to become, the subject of a claim of infringement or injunction, Augmenticon shall have the right, at its option and expense, to: (a) procure the necessary rights to enable Customer's continued use of SHARE & ASSYST as set forth in this Agreement; (b) replace or modify SHARE & ASSYST so that it is no longer claimed to infringe; or (c) terminate this Agreement and the Purchase Order(s) as they relate to, and Customer's right to use, the affected portion of SHARE & ASSYST and refund to Customer any prepaid unused portion of the subscription Fees paid by Customer for such affected portion for the remainder of the then-current Term. Augmenticon shall have no liability under this Section 11 or otherwise to the extent that a Third-Party IP Claim arises out of or relates to: (i) use of SHARE & ASSYST in a manner that does not comply with this Agreement; (ii) use of SHARE & ASSYST in combination with software, hardware, applications, content or data not provided by Augmenticon; (iii) modifications to SHARE & ASSYST not made by Augmenticon; or (iv) use of any version other than a current release of SHARE & ASSYST, if infringement would have been avoided by use of the current release.

11.2 Customer Indemnification. Notwithstanding anything to the contrary in this Agreement, and subject to Section 11.3, Customer shall defend, or, at its option, settle, any third-party claim, suit or proceeding against Augmenticon to the extent arising out of or related to: Customer Data; any of Customer's products or services; or negligent, reckless, illegal or improper conduct of Customer's Users. Customer shall pay the damages and reasonable and verifiable costs and expenses which are finally awarded against Augmenticon by final judgment of a court of competent jurisdiction (or pursuant to settlements agreed to in writing by Customer) directly attributable to such claim.

11.3 Conditions. Each Party's indemnification obligations under this Section 11 are subject to the conditions that: (a) the indemnified Party provides the indemnifying Party with prompt written notice of the indemnifiable claim unless the delay in notification has no prejudicial effect on the

indemnifying Party's ability to defend or settle such claim; (b) the indemnifying Party retains sole control of the defense and/or settlement of the indemnifiable claim; (c) the indemnified Party does not prejudice the defense of the indemnifiable claim; and (d) the indemnified Party provides the indemnifying Party with such cooperation, assistance, documents, authority and information as the indemnifying Party may reasonably require in relation to any indemnifiable claim and the defense and/or settlement thereof. The indemnified Party shall have the right, at its own expense, to participate in such litigation or defense and to retain its own separate counsel and advise the indemnifying Party on any proposed settlements, but only to the extent that such participation and advice do not unreasonably interfere with the indemnifying Party's ability to perform its obligations under this Section 11. The indemnifying Party shall not, without the indemnified Party's prior written consent (not to be unreasonably withheld), settle, compromise or consent to the entry of any judgment in any indemnifiable claim unless such settlement, compromise or consent is solely monetary in nature and does not include a statement as to, or an admission of fault by or on behalf of, the indemnified Party.

11.4 Sole Remedy. SECTION 11.1 STATES AUGMENTICON'S AND ITS AFFILIATES' SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, REGARDING INFRINGEMENT OR MISAPPROPRIATION BY ANY PART OF SHARE & ASSYST OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS. SECTION 11.2 STATES CUSTOMER'S SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, AND AUGMENTICON'S AND ITS AFFILIATES' SOLE AND EXCLUSIVE REMEDY, REGARDING INFRINGEMENT OR MISAPPROPRIATION OF THIRD- PARTY INTELLECTUAL PROPERTY RIGHTS BY ANY CUSTOMER DATA OR ANY OTHER CUSTOMER PRODUCT OR SERVICE.

12. DATA AND DATA SECURITY.

12.1 Ownership of Customer Data. As between the Parties, Customer retains sole ownership of all Customer Data. Customer, not Augmenticon, has sole responsibility for the content, accuracy, quality, integrity, legality, reliability, appropriateness, and Intellectual Property ownership or right to use of all Customer Data, and Augmenticon is not responsible or liable for Customer's actions related to the deletion, correction, destruction, damage, loss or failure to store any Customer Data.

12.2 Data Management and Retrieval. All access and interaction between SHARE & ASSYST and Customer's Account are managed by Customer through its Admin Account and security settings. Certain SHARE & ASSYST modules and/or processes may be hosted on Amazon Web Services (AWS), Microsoft Azure or other Augmenticon third-party hosting providers. Data management and retrieval upon termination may differ for data hosted on such providers. For SHARE & ASSYST modules and processes hosted on AWS, Customer will have 30 days from the date of termination of this Agreement to request that Augmenticon provides a copy of its documents and renditions that are resident on AWS, and Augmenticon will promptly provide such files to Customer via a secured FTP site or similar commercially reasonable vehicle; following confirmation by Customer that Customer has downloaded such files, such files will be removed from such FTP site or other vehicle as well as from AWS.

12.3 Security. Augmenticon will implement, as part of SHARE & ASSYST, appropriate technical and organizational measures designed for the protection of the security and confidentiality of Customer Data resident in SHARE & ASSYST against accidental or unlawful loss, access, or disclosure. Augmenticon's service providers will implement appropriate technical and organizational measures for the protection of the security and confidentiality of Customer Data resident on such service providers' systems against accidental or unlawful loss, access, or disclosure. Augmenticon or its hosting service providers will maintain, at a minimum an ISO 27001 certification, or its equivalent, during the Term and will provide a copy of the certificate to Customer once per year during the Term following written request. Customer shall use commercially reasonable efforts to prevent unauthorized access to and use of the Account and SHARE & ASSYST and shall immediately notify Augmenticon of any such unauthorized access or use or any other breach of security known to Customer. Augmenticon reserves the right to suspend access to SHARE & ASSYST in the event of a security breach or threat.

12.4 Data Processing and Transfer. To the extent that Augmenticon processes any personal data originating from the European Economic Area and Switzerland ("**Restricted Personal Data**") in the course of providing SHARE & ASSYST, Support Services and/or Consulting Services to Customer, any such processing shall be governed by Augmenticon's then current Data Processing Agreement (or such other agreement as Augmenticon may agree) ("**DPA**"). Any and all transfers of



Restricted Personal Data that are made to Augmenticon in the US shall be governed by one or more of the following data transfer mechanisms (at Augmenticon's option): (a) binding contractual or other provisions, such as the controller-to-processor standard contractual clauses approved by the European Commission from time to time; or (b) Augmenticon's certification to any program approved by a competent authority and permitting the transfer of Restricted Personal Data, such as binding corporate rules, or any successor to the US- EU/US-Swiss Privacy Shield Framework; or (iii) any other data transfer mechanism that is valid in the jurisdiction from which the Restricted Personal Data originates. For personal data originating from any other jurisdiction, the Privacy Policy shall apply.

13. MISCELLANEOUS.

13.1 Notices. Notwithstanding anything to the contrary, notices and other communications may be given or made pursuant to this Agreement electronically including via Augmenticon's customer portal. Notwithstanding the foregoing, any notice concerning a material breach or termination of this Agreement (including the Purchase Orders) must be in writing and delivered in person or sent by certified or registered mail or internationally recognized express courier or overnight delivery service, and shall be deemed given upon personal, confirmed, or documented delivery. All notices concerning a material breach of this Agreement (including the Purchase Orders) shall specify the nature of the breach in reasonable detail. All written notices or other written communications to Augmenticon shall be provided to the address first listed above and addressed to: **ATTENTION: CEO.** All written notices to Customer shall be addressed to the individual signing this Agreement. With respect to notices and other communications by Augmenticon regarding Augmenticon's Privacy Policy, the Support Policy or any other information provided via the Account, such notices shall be deemed given when posted on Augmenticon's customer portal or e-mailed to the Customer's Account administrator(s).

13.2 Entire Agreement; Modification; Waiver; Severability; Order of Precedence. (a) This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the Parties relating to such subject matter. Each Party acknowledges that it in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance, or warranty (including negligently or innocently made statements) by or on behalf of any person or entity (whether or not a Party) that is not expressly set out herein. (b) This Agreement and the Purchase Orders may not be amended or modified, nor any of its provisions waived, except by mutually signed written agreement. Any failure or delay to enforce or exercise any right or remedy shall not be deemed a waiver of such or any other right or remedy. Any waiver of any breach shall not be deemed to be a waiver of any other or subsequent breach. (c) If any court of competent jurisdiction holds any provision of this Agreement or any Purchase Order as null, void or otherwise ineffective or invalid, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remaining provisions shall remain in full force and effect and shall not be affected thereby. (d) Section headings in this Agreement are used solely for convenient reference and shall not be deemed to define or limit the provisions of this Agreement. The Parties drafted this Agreement without any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. (e) Any terms appearing on any purchase order, acknowledgment or confirmation that are different from or in addition to the terms of this Agreement or any Purchase Order shall not be binding on the Parties, even if signed and returned. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) this Agreement; (ii) the applicable Purchase Order except to the extent the Purchase Order expressly supersedes a specified provision of this Agreement, (iii) a Technical Agreement, (iv) a Data Processing Agreement, and (v) the Support Policy.

13.3 Independent Contractors. The Parties are independent contractors. This Agreement (including the Purchase Orders) does not create any partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. Augmenticon shall be solely responsible for the conduct and supervision of its personnel in the performance of its obligations hereunder. Neither Party shall have any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of the other Party or to bind the other Party in any way whatsoever.

13.4 Assignment and Change of Control. Neither this Agreement nor any Purchase Order nor any right or obligation hereunder or thereunder may be assigned, transferred, delegated, or

subcontracted, by operation of law or otherwise, in whole or in part, by Customer without Augmenticon's prior written consent. Due to the importance of Customer's ownership and management, a Change of Control of Customer shall be deemed an assignment of this Agreement. "Change of Control" of Customer means a transaction or series of transactions (a) pursuant to which direct or indirect control of Customer is acquired by persons or entities other than those who, directly or indirectly, control Customer as of the Effective Date (with "control" having the meaning specified in definition of Affiliate in Section 1 above, or (b) resulting in the sale of all or substantially all of Customer's business or assets utilizing any part of SHARE & ASSYST . Subject to the foregoing, this Agreement (including the Purchase Orders) shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

13.5 Trademarks. Augmenticon and its licensors reserve all rights in and to their trademarks, trade names, service marks and logos (collectively "Marks") and no right to use, modify or reproduce such Marks are granted. Customer agrees not to take or permit any action that may jeopardize the owner's rights in and to the Marks. Any and all uses of the Marks, or applications for or registrations of such Marks, shall inure to the benefit of Augmenticon or such licensors.

13.6 Publicity. Neither Party may issue or make any press release, announcement or publication containing or otherwise use any of the other Party's Marks without the other Party's prior written approval; provided that, during the Term, Augmenticon may list Customer as a Customer of SHARE & ASSYST on Augmenticon's website and in its related SHARE & ASSYST marketing materials.

13.7 Non-solicitation. During the Term and for a period of two years thereafter, Customer shall not employ or solicit the employment or services of any employee of Augmenticon or any of its Affiliates without the prior written consent of Augmenticon.

13.8 Force Majeure. Except for payment obligations, neither Party will be liable for, or be considered to be in breach of this Agreement (including the Purchase Orders) on account of, any delay or failure to perform as a result of any cause or condition beyond such Party's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, epidemic, pandemic, Internet failure or delay, or denial of service attack. The affected Party shall use commercially reasonable efforts to avoid or remove such cause of non-performance or delay. If such cause or condition continues for a period of more than 60 days, then the other Party may terminate this Agreement for convenience upon ten (10) days' written notice to the affected Party.

13.9 Insurance. Throughout the Term, each Party shall procure and keep in force appropriate insurance coverage in accordance with respective domestic industry practice applicable to its business including a professional indemnity insurance, public liability insurance including cover for bodily injury and property damage arising in connection with this Agreement, and employer's liability insurance as required by respective domestic laws.

13.10 Compliance with Laws. Customer shall not, and shall not permit Users to, access, use, export, or re-export SHARE & ASSYST, or use SHARE & ASSYST to access, use, export, or re-export Customer Data, in or to a Switzerland-embargoed country or in violation of any applicable export law, regulation, order or sanction. Augmenticon represents that neither it nor any of its Affiliates is named on any Swiss government denied-party list. Customer represents that neither it nor any of its Affiliates nor any User is named on any Swiss government denied-party list. Customer shall at all times comply and cause its Users to comply with all applicable laws and regulations in its use of SHARE & ASSYST.

13.11 No Legal Advice. Customer acknowledges and agrees that Augmenticon does not and shall not provide Customer with any legal advice regarding compliance with laws, rules, or regulations in the jurisdictions in which Customer uses SHARE & ASSYST, including those related to data privacy or medical, pharmaceutical or health related data. Customer acknowledges that SHARE & ASSYST may be used in ways that do or do not comply with such laws, rules, or regulations. It is Customer's sole responsibility to monitor its (including Users') compliance with all such relevant laws, rules or regulations. Customer is solely responsible for such Customer-specific use decisions and Augmenticon and its Affiliates disclaim all liability for such decisions.

13.12 Third Party Beneficiaries. Except as otherwise provided in any transfer mechanism under Section 12.4 (Data Processing and Transfer), nothing in this Agreement shall be construed as

giving any right, remedy or claim hereunder to any person or entity that is not a Party hereto, and any person or entity that is not a Party shall have no right to enforce any part of it.

13.13 Governing Law and Dispute Resolution. (a) This Agreement (including the Purchase Orders and this Section 13.13) shall be governed by the substantive laws of the Kanton of Zurich applicable to agreements made and wholly performed in Zurich, without regard to the application of any conflicts of laws principles. Application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act is expressly excluded. (b) Any and all disputes, controversies or differences which may arise between the Parties out of or in connection with this Agreement, or the breach hereof, which cannot be amicably settled by negotiation between the Parties within 30 days from delivery of written notice of that dispute by one Party to the other Party, shall be finally determined by arbitration administered by the International Centre for Dispute Resolution (ICDR) in accordance with its International Arbitration Rules. The place of arbitration shall be Zurich, Switzerland. All documents to be filed in the course of an arbitration shall be filed in the English language and all oral proceedings shall be conducted in the English language. Each Party shall bear its own costs of translation, without prejudice to a final determination on the allocation of costs. Except to the extent required by applicable law, neither Party may disclose the existence, content, or results of any arbitration hereunder (other than to its accountants and attorneys) without prior written consent of the other Party. Each Party shall cause its representatives, witnesses, and any arbitrators to assume confidentiality obligations no less stringent than those provided in this Agreement, during and after the Term, with respect to the existence, content, or results of any arbitration hereunder. Each Party shall be fully responsible for the observance of such confidentiality obligations by its representatives and witnesses during and after the Term. Each Party retains the right to apply to any court of competent jurisdiction at any time for provisional and/or conservatory relief, including pre-arbitral attachments or injunctions, to enforce the provisions of this Agreement protecting, and to otherwise protect, its Confidential Information and Intellectual Property rights, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

13.14 Remedies Cumulative. Except as otherwise expressly provided in this Agreement, all remedies shall be cumulative and shall be in addition to every other remedy given in this Agreement or existing at law or in equity, by statute or otherwise.

13.15 Counterparts. Each Purchase Order may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute only one agreement. The execution and delivery of counterparts by electronic mail, electronic form (including execution by way of an electronic or other signature stamp ("E-signature")), website submission, facsimile or original manual signature, regardless of the means or any variation in pagination or appearance, shall be binding upon the Parties.

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