## Binary Stream Cloud Services Agreement

This Cloud Services Agreement ("Agreement") is between Binary Stream Software Inc. (BSSI) having an office at 7300 Edmonds St., Suite 800, Burnaby, BC V3N 0G8, Canada ("BSSI") and you, the user of certain BSSI Subscription Services provided by BSSI ("Customer"). Under the terms of this Agreement, BSSI is providing the BSSI Subscription Services to Customer.

*BY ACCESSING THE SERVICES, YOU ARE CONSENTING TO BE BOUND BY AND ARE BECOMING A PARTY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE DO NOT ACCEPT BUTTON AND YOU WILL NOT HAVE ACCESS TO THE BSSI SERVICES.*

**SCOPE**

A. The BSSI Subscription Services are accessed by way of the Microsoft Dynamics 365 Business Central (D365BC) platform ("MS Platform" or "D365BC").

B. The BSSI Subscription Services consists of BSSI services provided by BSSI for Customer's use, including technical documentation/user guides, updates, upgrades, patches or fixes ("BSSI Subscription Services"). BSSI Subscription Services does not include the D365BC platform or any other BSSI Subscription Services not paid for, or services supplied by a third party (including Microsoft Corporation) to Customer.

**1. TERMS:**

1.1 BSSI will provide the BSSI Subscription Services to Customer under the terms of this Agreement and in accordance with BSSI-supplied documentation. Customer may use the BSSI Subscription Services for the number and types of users ("Users") specified in any order, price quote or other communication between Customer and BSSI with respect to price and payment for the BSSI Subscription Services ("Order") and, if applicable, for the length of time specified in that Order ("Term"). The following additional terms apply:

(a) Customer may use the BSSI Subscription Services only for Customer's internal business purposes; to process Customer's data or data of its Affiliates. An "Affiliate" is an entity which operates under the same D365BC site license.

(b) Customer must pay the agreed subscription fees for use of the BSSI Subscription Services. Non-payment may result in the suspension or termination of this Agreement and this license.

(c) Customer may not transfer, assign, relocate, rent or sub-license the BSSI Subscription Services without prior written consent of BSSI. Customer may not reverse

engineer, decompile, disassemble or use other technology or method to gain access to source code and trade secrets of the BSSI Subscription Services. Customer may not modify or alter the BSSI Subscription Services.

(d) The BSSI Subscription Services may have authentication and security keys ("Security Features"). Customer may not remove, disable, or otherwise create or implement any workaround to, any security features.

(e) Customer may not use BSSI Subscription Services in violation of any applicable law or regulation or for the purpose of developing a product or service competitive to the BSSI Subscription Services or any other purpose in a manner that is to BSSI's commercial disadvantage.

(f) BSSI will implement reasonable measures to help you secure any Customer Content (as further described in section 1.2) against accidental or unlawful loss, access or disclosure.

(g) As the BSSI Subscription Services is hosted and deployed as a cloud instance on Customer's MS Platform the following applies to the security, service levels and privacy of information processed using the BSSI Subscription Services:

(i) The BSSI Technology will be provided at service levels set out in Customer's contract with Microsoft for the MS Platform;

(ii) To the limited extent that any personally-identifiable information (collectively "PII") is provided by you as Content to be used with the BSSI Subscription Services, such PII will be treated as Customer's Confidential Information and used by BSSI only to process Customer's data and subject to the privacy policy applicable to MS Platform; and

(iii) Security levels applicable to the BSSI Subscription Services are as described in Customer's contract with Microsoft for MS Platform hosting.

1.2 Customer is responsible for the following,

(a) The existence of a valid license from Microsoft to Customer for Customer's use of D365BC is a pre-requisite for the Customer having this right to obtain the BSSI Subscription Services. Customer is responsible for obtaining and administering a D365BC license with Microsoft.

(b) Customer is responsible for the accuracy, quality, integrity rights to use and legality of data processed using the BSSI Subscription Services. Customer is responsible for ensuring it has the right to use any data, text, business data, financial data, information concerning your employees, contractors, customers, personnel or other similar content ("Customer Content" or "Content") Customer inputs into the BSSI Subscription Services.

1.3 BSSI may, in BSSI's sole discretion, audit Customer's use of BSSI Subscription Services under this Agreement at any time during the Term and for one (1) year following the expiration of the Term in order to ensure that Customer's use of the BSSI Subscription Services is in accordance with and aligned with the number of Customer Users for which Customer has paid subscription payments. BSSI shall conduct such audits no more frequently than once annually and in a manner so as to not disrupt Customer's normal business operations. Customer shall fully cooperate with such audit and provide access to all records and information relevant to use of the BSSI Subscription Services. There will be no charge to Customer for the audit. If the audit determines that Customer's usage of the BSSI Subscription Services violates the terms of this Agreement, BSSI shall have the right to, at its option, (i) immediately terminate this Agreement; and/or (ii) demand and receive subscription payments for the additional amounts due to BSSI if Customer had not violated the terms of this Agreement.

1.4 BSSI processes (personal) data inputted by Customer into the BSSI Subscription Services as Customer Content. Customer acknowledges this and grants BSSI the right to process this data.

1.5 Any technical support or service levels for the BSSI Subscription Services will be provided by BSSI to Customer under BSSI's standard terms.

## 2. INTELLECTUAL PROPERTY RIGHTS.

2.1 All proprietary and intellectual property rights including copyright, patent, trademark and trade secrets in the BSSI Subscription Services are and remain solely and exclusively with BSSI. As between BSSI and Customer, Customer exclusively owns all rights, title and interest in and to all of Customer's Content.

## 3. NO WARRANTY; LIMITATION OF LIABILITY.

3.1 There is no warranty for the D365BC platform, or for any third party product or service including any Microsoft product or service. ADDITIONALLY THE BSSI SERVICES ARE PROVIDED "AS IS WHERE IS" AND WITHOUT ANY WARRANTIES, REPRESENTATIONS OR CONDITIONS OF ANY KIND INCLUDING THOSE REGARDING NONINFRINGEMENT OF THIRD PARTY RIGHTS, DURABILITY, MERCHANTABILITY, OR FITNESS FOR ANY PARTICULAR PURPOSE .

3.2 IF FOR ANY REASON EITHER PARTY BECOMES LIABLE TO THE OTHER FOR DIRECT (or any other) DAMAGES FOR ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION (in contract, tort or otherwise) INCURRED IN CONNECTION WITH THIS AGREEMENT, OR BSSI SERVICES, THEN THE AGGREGATE LIABILITY OF A PARTY FOR ALL DAMAGES, INJURY AND LIABILITY INCURRED BY THE OTHER PARTY IN CONNECTION WITH THE BSSI SERVICES OR THIS AGREEMENT (AND ANY AND ALL RECOVERABLE LEGAL COSTS) SHALL

BE LIMITED TO THE FEES PAID IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO DAMAGES.

3.3 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS OR LOST SAVINGS

**4. TERM, TERMINATION.**

4.1 The Term of this Agreement commences when accepted by Customer. Subject to Customer's strict compliance with the terms of this Agreement it shall remain in effect for an initial period of 1 year ("Initial Term") (unless otherwise agreed in the Order). After the Initial Term, this Agreement will automatically renew for successive one year periods (each a "Renewal Term"), unless one party gives the other notice to not renew 90 days before expiration of the then current term..

4.2. This Agreement may be terminated on written notice:

(a) at the option of either party if the other party materially defaults in the performance or observance of any of its obligations hereunder and fails to remedy the default within 30 days after receiving written demand; or

(b) at the option of either party if the other party becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the other party, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the other party and is not dismissed within 30 days following commencement thereof; or

(c) if Customer has not paid BSSI sums owed for the BSSI Subscription Services, or for other services rendered.

4.3 On the termination of this Agreement, for any reason, Customer shall immediately discontinue use of the BSSI Subscription Services.

**5. GENERAL**

5.1 Except as described below, this Agreement is the only agreement between Customer and BSSI pertaining to the BSSI Subscription Services and BSSI IS NOT BOUND BY ANY PROVISION OF ANY PURCHASE ORDER, RFP, RFQ, CORRESPONDENCE, OR OTHERWISE UNLESS SPECIFICALLY AGREED TO IN WRITING.

5.2 This Agreement is governed by the laws of the Province of British Columbia, Canada. All disputes arising out of or in connection with this Agreement, shall be

referred to and finally resolved by arbitration or mediation under the rules of the British Columbia International Arbitration Centre. The place of arbitration of mediation shall be Vancouver, British Columbia, Canada.

5.3 Dates or times by which either party is required to perform under this Agreement, excepting the payment of any fees or charges due hereunder, may be postponed to the extent that any party is prevented from meeting them by causes beyond its reasonable control.

5.4 This Agreement is not assignable by the Customer, and any attempted or alleged assignment by Customer is void.