

SCHEDULE "A"

1. Definitions and Interpretations

1.1 **Definitions.** Unless the context otherwise specifies or requires, for the purposes of this Agreement all capitalized terms set out herein will have the meanings set forth below:

- (a) "**Agreement**", "**hereto**", "**hereof**", "**herein**", "**hereby**", "**hereunder**" and similar expressions mean this Services Agreement;
- (b) "**Business Information**" means all financial, and business information and data relating to Customer and its business;
- (c) "**Confidential Information**" has the meaning ascribed thereto in Section 5;
- (d) "**CRITIZAL DPM**" means the CRITIZAL data protection manager;
- (e) "**CRITIZAL-Software**" means, collectively, all proprietary software developed, or licensed, by ONLINE for use with the ONLINE DSR Services;
- (f) "**CRITIZAL-Software System**" means the application software developed by ONLINE, utilizing and including, without limitation, the CRITIZAL-Software and CRITIZAL DPM, which runs as a service on a licensee's system that enables such licensee to encrypt its information by using an Encryption-Key designated to such licensee and use the ONLINE DSR Services as contemplated herein;
- (g) "**Customer**" means party entering into this Agreement with ONLINE and that will utilize the ONLINE DSR Services for its own benefit;
- (h) "**Derivative Work**" means any work that is based upon one or more pre-existing works, such as a revision, modification, translation, abridgement, condensation, expansion, or any other form in which such pre-existing works may be recast, transformed, or adapted, and that if prepared without the authorization of the owner of the copyright in such pre-existing work, would constitute a copyright infringement, including any compilation that incorporates such pre-existing work, and includes, without limitation, any work that contains any element contained in the CRITIZAL-Software;
- (i) "**DSR**" means data storage and retrieval;
- (j) "**Encryption-Key**" means the alphanumeric code issued by ONLINE, if the Customer is using ONLINE's managed password option, to Customer which enables the Customer to encrypt and decrypt the Business information being stored or retrieved by the Customer;
- (k) "**Effective Date**" means the date this Agreement takes legal effect, being the date written on the first page of this Agreement;
- (l) "**Fee**" means the monthly fees payable by Customer to ONLINE for the ONLINE DSR Services as set out in the main body of the Agreement;
- (m) "**Laws**" means all statutes, codes, ordinances, decrees, rules, regulations, municipal-by-laws, orders, decisions, rulings or awards, policies, voluntary restraints, guidelines, or any provisions of the foregoing, including general principles of common and civil law and equity, binding on or affecting the party referred to in the context of which such word is used and "**Law**" means any one of the foregoing;
- (n) "**Maintenance and Support Services**" means those bug fixes, patches, updates and Upgrades to the latest version of CRITIZAL-Software System (including Upgrades) made available by ONLINE, or through its authorized resellers, to any Customer of ONLINE that use the ONLINE managed password option services;
- (o) "**ONLINE DSR Services**" means ONLINE's backup/restore data storage management solution, including the CRITIZAL-Software System, as amended from time to time, and which comprises of a dual redundant storage arrays located at the primary data centre, redundant off-site storage array located at the secondary data centre and an off-site tape backup storage for data retention for the Business Information based on a managed or unmanaged system as selected by the Customer and set out in Schedule "A" hereto;

(p) **"ONLINE Intellectual Property"** means:

(i) any trade secrets, inventions, works including the CRITIZAL-Software System, logos, designs, distinctive names, commercial symbols, Tools, domain names, materials (including but not limited to User Documentation, books, pamphlets, manuals, questionnaires, checklists, bulletins, technical bulletins, memoranda, administration bulletins, business processes and best practices, presentation templates, training materials, memoranda, videos, tapes, charts, letters, notices or other publications or documents prepared by ONLINE as may be modified from time to time) and insignia developed, owned, or provided by ONLINE in connection with the ONLINE DSR Services; and

(ii) any right that is or may be granted or recognized under any Canadian or foreign legislation regarding patents, copyrights, neighbouring rights, moral rights, trade-marks, trade names, service marks, confidential information, industrial designs, mask work, integrated circuit topography, privacy, publicity, celebrity and personality rights and any other statutory provision or common or civil law principle regarding intellectual and industrial property, whether registered or unregistered, and including rights in any application for any of the foregoing;

(q) **"ONLINE DSR Services"** means ONLINE's backup/restore data storage management solution, including the CRITIZAL-Software System, as amended from time to time, and which comprises of a dual redundant storage arrays located at the primary data centre, redundant off-site storage array located at the secondary data centre and an off-site tape backup storage for data retention for the Business Information based on a managed or unmanaged system as selected by the Customer and set out in Schedule "A" hereto;

(r) **"person"** means any individual, corporation, partnership, association, joint-stock company, trust, unincorporated organization or government or political subdivision thereof;

(s) **"Term"** has the meaning ascribed thereto in Section 7.1;

(t) **"Termination Date"** has the meaning ascribed thereto in Section 8.1;

(u) **"Tools"** means the application software developed by ONLINE and optionally licensed by the Customer as at the Effective Date which runs within the Customer's operating system which is enabled;

(v) **"Third Party Software"** means software owned by a legal or natural person not a party to this Agreement which software is required for the operation of the CRITIZAL-Software System and includes software that is provided by way of sublicense by ONLINE;

(w) **"Trade-marks"** means the unregistered or registered trade-marks of ONLINE, including without limitation ONLINE and CRITIZAL;

(x) **"User Documentation"** means the electronic or hardcopy materials provided to the Customer by ONLINE which describes the features and operating characteristics of the CRITIZAL-Software System or any part thereof, together with any copies, revisions, modifications or enhancements or other documentation as may be provided from time to time by ONLINE; and

(y) **"Upgrades"** means those upgrades of the CRITIZAL-Software System that will be made available to the Customer by ONLINE directly.

2. Grant of Rights

2.1 ONLINE hereby grants to the Customer and the Customer hereby accepts, a non-exclusive, fee based, limited license to use the ONLINE Intellectual Property in order to allow ONLINE to provide the ONLINE DSR Services to the Customer during the Term.

2.2 The Customer shall be entitled to install and use the CRITIZAL-DPM to obtain the ONLINE DSR Services provided by Customer.

2.3 ONLINE retains all rights in the ONLINE Intellectual Property not specifically granted herein to the Customer.

2.4 The Customer may not offer the ONLINE DSR Services to any third parties other than as described in this Agreement. For greater clarity, the Customer is not authorized by this Agreement to act as an external service provider nor shall it make available the ONLINE DSR Services for commercial profit.

2.5 ONLINE is the authorized sublicensor of any Third Party Software that it sublicenses to the Customer with the CRITIZAL-Software System. ONLINE hereby grants to the Customer a non-exclusive, non-transferable, limited sublicense to use the Third Party Software solely in connection with the ONLINE DSR Services and for the sole purpose of providing or obtaining access to the ONLINE DSR Services during the Term of this Agreement. The sublicense granted to the Customer to use the Third Party Software in connection with the ONLINE DSR Services terminates when this Agreement terminates, in accordance with Section 7.

2.6 The rights and licenses granted to the Customer in this Agreement are personal to the Customer and are not transferable or assignable without prior written consent of ONLINE. Any attempt to assign this Agreement without the express prior written consent of ONLINE will be void.

2.7 If the Customer is using an unmanaged (or self-managed) CRITIZAL-Software System, then the Customer shall be solely responsible for the Encryption-Key being lost or misplaced in any manner whatsoever and the inability to retrieve any of the Business Information that has been stored through the ONLINE DSR Services as ONLINE will not have access to nor the ability to retrieve such Encryption-Key.

3. Fees

3.1 The Customer shall pay ONLINE the Fees for ONLINE DSR Services set forth in the main body of the Agreement hereto applicable to the ONLINE DSR Services performed, plus all applicable taxes or similar payments and charges thereto.

4. Proprietary Rights of ONLINE/ Restrictions on Use

4.1 Other than the Third Party Software, ONLINE owns and exclusively retains all rights and title in, including without limitation, all ONLINE Intellectual Property, the ONLINE DSR Services and CRITIZAL-Software System, all future functionality and product developments if any, which are related to the ONLINE DSR Services. The Customer does not obtain any right to use, modify, duplicate or reverse-engineer any aspect of the ONLINE Intellectual Property, the CRITIZAL-Software System or the ONLINE DSR Services.

4.2 The Customer shall not at any time, directly or indirectly (including without limitation through supporting such an action brought by an affiliate of the Customer or any other person), (a) contest ONLINE's ownership of the ONLINE Intellectual Property, (b) challenge the validity of any proprietary rights of ONLINE in the ONLINE Intellectual Property, (c) claim non-infringement against any of the rights of ONLINE in respect of the ONLINE Intellectual Property, or (d) commit any act which interferes with ONLINE's registration of same with any local, provincial, state or federal agency.

4.3 The Customer will not modify, translate, decompile, nor create or attempt to create, by reverse engineering or otherwise, the source code from the object code of any CRITIZAL-Software supplied hereunder, or adapt the CRITIZAL-Software in any way to create a Derivative Work. The Customer will not, and will not authorize any third party to reproduce, sublicense, distribute or dispose of the CRITIZAL-Software in whole or in part.

4.4 The Customer will use best efforts to avoid unauthorized access to the CRITIZAL-Software System and will protect the copyright and/or any proprietary rights of ONLINE, including but not limited to any contractual, statutory and common law rights during and after the Term of this Agreement. The Customer will comply with all reasonable requests made by ONLINE in relation to the protection of its intellectual property rights hereunder.

4.5 If the Customer undertakes any unauthorized decompilation, copies, translations, adaptations, modifications of the CRITIZAL-Software System or any component thereof, or the other ONLINE Intellectual Property, all profits and proceeds from such unauthorized activity, if any, will accrue to ONLINE and/or the owners of the Third Party Software and ONLINE and/or the owners of the Third Party Software will be the owner of same whether or not made in compliance with this Agreement.

4.6 If the Customer becomes aware of any unauthorized decompilation or infringement of the CRITIZAL-Software System or the ONLINE DSR Services or any component thereof by any third party, it will promptly alert ONLINE of such activity and provide the identity of such third party to ONLINE. The Customer will provide ONLINE with all reasonable assistance required by ONLINE to assert its rights against such third party and to the proceeds of such unauthorized activity.

4.7 Other than the owners of the Third Party Software, ONLINE is the sole proprietor of the ONLINE Intellectual Property and any goodwill which may become associated with the ONLINE Intellectual Property will automatically vest in ONLINE. The Customer will not acquire any right to any goodwill which may be or may become associated with the ONLINE Intellectual Property.

5. Confidentiality and Data Protection

5.1 The parties agree that all information furnished pursuant to this Agreement, including without limitation the provisions and scope of this Agreement in any manner or form, by each party (the "**Disclosing Party**") to any other Party (the "**Receiving Party**") shall be proprietary, confidential or a trade secret of the Disclosing Party, including without limitation any and all technical and non-technical information, including trade secrets, know-how and proprietary information, firmware, designs, schematics, techniques, plans or any other information relating to any research project, work in process, future development, scientific, engineering, manufacturing, marketing or business plans or financial or personnel matters relating to the Disclosing Party, including, without limitation, that information communicated by the Disclosing Party to the Receiving Party which: (i) is disclosed in a written or other tangible form pursuant to the parties performing their obligations under the Agreement and is clearly marked with a "confidential" legend or other comparable legend; (ii) is disclosed orally or visually and shall be identified as confidential at the time of disclosure;

or (iii) a reasonable person would deem confidential under the context of disclosure or due to the nature of the information (the "**Confidential Information**").

5.2 The Receiving Party shall NOT use any Confidential Information provided by the Disclosing Party for any purposes other than as permitted or required under this Agreement. The Receiving Party agrees not to disclose or provide any Confidential Information to any third party (with the exception of any employees or authorized third parties who have a need to know in the course of performing activities pursuant to this Agreement and who are bound by confidentiality agreements to maintain the information confidential) without the express written consent of the Disclosing Party. The Receiving Party shall take all commercially reasonable measures, including measures taken by such party to safeguard its own confidential information, to prevent disclosure of the Confidential Information by its employees, representatives and agents.

5.3 The obligations of confidentiality set out above do not apply to information that: (a) is published or has otherwise becomes publicly available without a breach of this Agreement; (b) is obtained by the Receiving Party from a third party who has no obligation of confidentiality to the Disclosing Party; or (c) is independently developed or obtained by the Receiving Party without breach of this Agreement.

5.4 It is not a breach of this Section 4 to disclose Confidential Information required to be disclosed by law, judicial or arbitration process or by governmental authorities, provided that a party first gives the other party reasonable notice of such law, order or process and takes all reasonable steps to restrict such disclosure and protect the confidentiality to the extent possible.

5.5 Neither ONLINE nor the Customer will copy or reproduce the Confidential Information of the other party except as may be required for the performance of its obligations hereunder. All copies will, on reproduction, contain the same proprietary and confidential notices and legends which appear on the original documents and information.

5.6 Each party, upon the request of the other party, will return all of the Confidential Information and copies in its possession to the other party or destroy such Confidential Information and copies as directed by the other party and provide to such party a certificate of an officer of the party certifying such destruction. ONLINE acknowledges and agrees that Customer may retain one (1) copy of the User Documentation for archival purposes.

5.7 Each party acknowledges and agrees that: (a) the restrictions set forth in this Section 5 are reasonable in the circumstances; (b) a violation of any of the provisions of this Section 5 will result in immediate and irreparable harm and damage to the other party which shall not be susceptible to relief by way of monetary damages alone; and (c) in the event of any violation of any provision of this Section 5, each party will be entitled to equitable relief by way of temporary or permanent injunction and to such other relief as any court of competent jurisdiction may deem just and proper.

6. Representations and Warranties

6.1 ONLINE hereby covenants, represents and warrants that:

(a) to the knowledge, information and belief of ONLINE, after having taken normal course precautions, the CRITIZAL-Software System does not contain any software code that will disable the CRITIZAL-Software, such as computer viruses, back doors, Trojan horses and the like, and ONLINE will not insert such disabling code in the CRITIZAL-Software at any time;

(b) ONLINE has all rights to grant the rights and licenses hereunder;

(c) the execution and delivery of this Agreement has been duly authorized by all necessary corporate action on its part;

(d) this Agreement has been duly executed and delivered by it and constitutes a valid and binding obligation upon this party, enforceable against it in accordance with the terms hereof, subject however, to applicable bankruptcy, insolvency and other laws of general application limiting the enforcement of creditor's rights generally and to the fact that equitable remedies, including specific performance are discretionary and may not be ordered in respect of certain defaults; and

(e) it is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement option, instrument, charter or by-law provision, judgment, decree, order, regulation or rule of any governmental authorities, domestic or foreign, which would be violated, contravened or breached by the performance of its obligations herein or the consummation of the transaction contemplated herein.

6.2 The Customer hereby covenants, represents and warrants to ONLINE that:

(a) the natural person who enters into this Agreement has the corporate authority and legal right to bind Customer as described hereunder;

(b) the execution and delivery of this Agreement has been duly authorized by all necessary corporate action on its part;

(c) this Agreement has been duly executed and delivered by it and constitutes a valid and binding obligation upon this party, enforceable against it in accordance with the terms hereof, subject however, to applicable bankruptcy, insolvency and other laws of general application limiting the enforcement of creditor's rights generally and to the fact that equitable remedies, including specific performance are discretionary and may not be ordered in respect of certain defaults; and

(d) it is not a party to, bound or affected by or subject to any indenture, mortgage, lease, agreement option, instrument, charter or by-law provision, judgment, decree, order, regulation or rule of any governmental authorities, domestic or foreign, which would be violated, contravened or breached by the performance of its obligations herein or the consummation of the transaction contemplated herein.

6.3 THE REPRESENTATIONS AND WARRANTIES IN SECTION 6.1 OF THIS AGREEMENT ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, ARISING OUT OF A COURSE OF DEALING OR USAGE OF TRADE OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY QUALITY, FITNESS OR ADEQUACY FOR A PARTICULAR PURPOSE OR USE, QUALITY, PRODUCTIVENESS OR CAPACITY, OR THAT THE OPERATION OF THE CRITIZAL-SOFTWARE, THE CRITIZAL-SOFTWARE SYSTEM, THE THIRD PARTY SOFTWARE OR THE SOFTWARE PROVIDED BY ONLINE THROUGH THE MAINTENANCE AND SUPPORT SERVICES WILL BE ERROR-FREE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY ONLINE, ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS, AGENTS OR ANYONE ELSE WHO HAS BEEN INVOLVED IN THE CREATION, PRODUCTION, SUPPLY, OR DELIVERY OF THE CRITIZAL-SOFTWARE, CRITIZAL-SOFTWARE SYSTEM, THE THIRD PARTY SOFTWARE AND ONLINE DSR SERVICES OR THE MAINTENANCE AND SUPPORT SERVICES WILL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF THE REPRESENTATIONS AND WARRANTIES SET OUT IN SECTION 6.1 AND THE CUSTOMER MAY NOT RELY ON SUCH INFORMATION OR ADVICE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES AND CONDITIONS SO THE ABOVE EXCLUSION MAY NOT APPLY TO CUSTOMER.

6.4 NEITHER ONLINE NOR ANY OF ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS OR AGENTS TAKES ANY RESPONSIBILITY OR ASSUMES ANY LIABILITY WITH RESPECT TO THE CHOICE OF THIRD PARTY HARDWARE, COMPUTER EQUIPMENT AND OTHER SOFTWARE SELECTED BY THE CUSTOMER FOR ITS OPERATION OF THE ONLINE DSR SERVICES. EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, NEITHER ONLINE, NOR ANY OF ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS OR AGENTS NOR THE OWNERS OF ANY THIRD PARTY SOFTWARE MAKES ANY WARRANTY OR CONDITION, EXPRESS OR IMPLIED, AS TO RESULTS TO BE OBTAINED BY CUSTOMER OR FROM USE OF THE CRITIZAL-SOFTWARE, CRITIZAL-SOFTWARE SYSTEM, THE THIRD PARTY SOFTWARE AND THE ONLINE DSR SERVICES GENERALLY ON SUCH THIRD PARTY HARDWARE, COMPUTER EQUIPMENT AND OTHER SOFTWARE AND NEITHER ONLINE NOR ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS OR AGENTS WARRANTS PROPER OPERATION OF THE HARDWARE AND COMMUNICATIONS SOFTWARE AND HARDWARE UTILIZED BY THE CUSTOMER. EACH OF ONLINE AND ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS OR AGENTS EXPLICITLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY, ARISING OUT OF A COURSE OF DEALING OTHERWISE (INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE) IN RESPECT OF SUCH THIRD PARTY HARDWARE, COMPUTER EQUIPMENT AND OTHER SOFTWARE.

6.5 THIS ABOVE DISCLAIMER ALSO APPLIES TO DAMAGES OR INJURY CAUSED BY ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, MISDELIVERY OR NON-DELIVERY OR DESTRUCTION THAT THE CUSTOMER MAY EXPERIENCE AS A RESULT OF ITS ACCESS OF THE CRITIZAL-SOFTWARE, CRITIZAL-SOFTWARE SYSTEM, THE THIRD PARTY SOFTWARE AND ANY SOFTWARE PROVIDED THROUGH THE MAINTENANCE AND SUPPORT SERVICES.

6.6 IN NO EVENT WILL ONLINE, ANY OF ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, RESELLERS OR AGENTS OR THE OWNERS OF ANY THIRD PARTY SOFTWARE BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES OR PAYMENT OBLIGATIONS OF ANY TYPE (INCLUDING BUT NOT LIMITED TO ANY DAMAGES FOR LOST PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, LOST BUSINESS OR LOST SAVINGS) ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE FURNISHING, PERFORMANCE OR USE BY THE CUSTOMER OF THE CRITIZAL-SOFTWARE, CRITIZAL-SOFTWARE SYSTEM, THE THIRD PARTY SOFTWARE OR THE MAINTENANCE AND SUPPORT SERVICES, WHETHER SUCH DAMAGES OR PAYMENT OBLIGATIONS ARISE OUT OF BREACH OF CONTRACT (INCLUDING FUNDAMENTAL BREACH), OR TORT OR ON ANY OTHER STATUTORY OR COMMON LAW BASIS, EVEN IF ONLINE OR ANY OF ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, OR AGENTS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR PAYMENT OBLIGATIONS.

6.7 EXCEPT FOR LIABILITY FOR DEATH AND PERSONAL INJURY, IN NO EVENT WILL THE AGGREGATE LIABILITY THAT ONLINE, ANY OF ITS DIRECTORS, OFFICERS, CONTRACTORS, EMPLOYEES, OR AGENTS, ITS THIRD PARTY LICENSORS, AFFILIATES AND RELATED PERSONS MAY INCUR IN ANY ACTION OR PROCEEDING PURSUANT TO THIS AGREEMENT OR UNDER ANY SECTION OF THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT OF LICENSE FEES PAID BY CUSTOMER DURING THE THREE (3) MONTH PERIOD PRIOR TO THE TIME THAT THE CAUSE OF ACTION AROSE. THIS SECTION WILL NOT APPLY ONLY WHEN AND TO THE EXTENT THAT APPLICABLE LAW SPECIFICALLY REQUIRES LIABILITY, DESPITE THE FOREGOING EXCLUSION AND LIMITATION.

7. Term and Termination

7.1 This Agreement will take effect on the Effective Date and will continue for the period, month-to-month or such other longer term as set out in the main body of the Agreement, unless terminated as described below (the "Term").

7.2 ONLINE will have the right to terminate this Agreement in the event of an occurrence of a breach of a material provision hereof that is not remedied within fourteen (14) days of receipt of written notice thereof or such other time period as agreed by ONLINE. A breach of a material provision of this Agreement will include, but be not limited to the following:

- (a) Customer fails to make payments when due;
- (b) Customer breaches any of its obligations described in Sections 2, 4 or 5 or causes same to be done by a third party or develops software which is directly competitive with the CRITIZAL-Software; and
- (c) Customer discloses any Confidential Information contrary to Section 5 herein.

7.3 If the Customer elects a Term other than on a month-to-month basis and decides to terminate the Agreement prior to the completion of the Term, then the Customer shall pay ONLINE the additional monthly Fee it would have paid based on a month-to-month Term multiplied by the number of months it has used the ONLINE DSR Services (with each partial month being deemed to be a full month of use of the ONLINE DSR Services).

8. Duties Upon Termination

8.1 Upon the day this Agreement terminates (the "**Termination Date**"), for any reason whatsoever, all of Customer's rights hereunder will terminate immediately, except as otherwise provided herein. Subsequent to the Termination Date, Customer shall be entitled to: (i) use the ONLINE Intellectual Property solely to support its Customer End-Users; and (ii) provide the ONLINE DSR Services to its Customer End-Users.

8.2 Customer further agrees to expunge all Confidential Information from its own computer system or storage media in its control or possession, except as required to fulfill the surviving obligations of this Agreement and for archival purposes. For greater clarity, each of the parties will be entitled to retain an original copy of this Agreement.

8.3 Notwithstanding any termination of this Agreement, the parties agree that the terms and conditions of this Agreement will continue to govern the conduct of the parties so long as Customer continues to provide ONLINE DSR Services pursuant to this Section.

8.4 Customer's failure to comply with the terms of this Section will result in irreparable harm to ONLINE and, accordingly, in addition to any legal remedies available to ONLINE as a result of such failure to comply, ONLINE will have the right to seek specific performance of this Section 8.4 or other equitable relief (or the equivalent of any such relief known or designated by some other name or term) from a court of competent jurisdiction in accordance with the provisions of this Agreement. Customer will submit to the personal jurisdiction of any such court in an action seeking such relief.

9. Indemnity

9.1 Indemnity by ONLINE

(a) ONLINE will defend, at its expense, any and all actions and suits brought by third parties against Customer resulting from a breach of any of ONLINE's representations and warranties described in Section 6.1 or nonperformance on the part of ONLINE where the ONLINE DSR Services are for managed services by ONLINE and will pay all direct damages, awards and expenses that are finally awarded by a court or arbitral body to such third party (or any settlement amount agreed to in writing by ONLINE and such third party), subject to the limitations and disclaimers set forth in this Section 9.1(a), provided that (i) Customer promptly notifies ONLINE of any such action or suit following a responsible officer or director of Customer becoming aware of such action or suit; (ii) Customer gives ONLINE sole control over the defense, settlement or compromise of any such action or suit; and (iii) Customer co-operates fully in ONLINE's defense or settlement of such claim. ONLINE shall use commercially reasonable efforts to notify Customer in writing of any settlement not less than thirty (30) days prior to such settlement becoming effective.

(b) ONLINE will have no indemnity obligation to Customer if the actions or suits described in Section 9.1(a) above resulted from (i) a modification of the CRITIZAL-Software System or the ONLINE DSR Services by Customer (including other services provided by Customer) or any support services (including reseller support) provided to Customer by persons other than by ONLINE or its authorized agents or resellers; (ii) the failure by Customer to promptly install an Upgrade or any enhancement that would have eliminated the actual or alleged infringement after ONLINE or its authorized agents or resellers have given notice to Customer that such Upgrade or enhancement is available; (iii) the failure by Customer to use the latest version of the CRITIZAL-Software System or any component of the latest version of the CRITIZAL-Software System after ONLINE or its authorized agents or resellers have notified Customer that such latest version of the CRITIZAL-Software Systems is available; or (iv) the combination by a Customer of the CRITIZAL-Software System with other items and hardware not provided by ONLINE, but only if the claim would not have arisen from use of the CRITIZAL-Software System alone.

(c) If any part of the CRITIZAL-Software System or the ONLINE Intellectual Property or the ONLINE DSR Services is, in ONLINE's opinion, likely to become the subject of a suit, action or claim, ONLINE, at its option and at no expense to Customer: (i) obtain for

Customer from all persons who claim an interest in the CRITIZAL-Software System, the ONLINE Intellectual Property, the ONLINE DSR Services, Upgrades or Maintenance and Support Services, the right allowing Customer to use the same as contemplated by this Agreement; or (ii) substitute non-infringing equivalent CRITIZAL-Software System, ONLINE Intellectual Property, the ONLINE DSR Services, Upgrades or Maintenance and Support Services, subject to the limitations contained in Section 9.1(a) above.

(d) THE PROVISIONS OF THIS SECTION 9.1 STATE THE EXCLUSIVE LIABILITY OF ONLINE AND THE EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY CLAIM OF PATENT, COPYRIGHT, TRADE-MARK, INDUSTRIAL DESIGN OR TRADE SECRET INFRINGEMENT AND WILL SURVIVE TERMINATION OF THIS AGREEMENT.

9.2 Indemnity by Customer

(a) The Customer, as applicable, will defend, at its expense, any and all actions and suits brought by third parties against ONLINE resulting from: (i) a breach of any of the Customer's representations and warranties described in Section 6.2; or (ii) any claim that any material developed by the Customer and used by the Customer infringes any patent, trade-mark, industrial design, trade-secret or copyright; and will pay all direct damages, awards and expenses that are finally awarded by a court or arbitral body to such third party (or any settlement amount agreed to in writing by Customer and such third party), subject to the limitations and disclaimers set forth in this Section 8.2(a), provided that (x) ONLINE promptly notifies Customer of any such action or suit following a responsible officer or director of ONLINE becoming aware of such action or suit; (y) ONLINE gives Customer sole control over the defense, settlement or compromise of any such action or suit; and (z) ONLINE co-operates fully in Customer's or Customer End-User's defense or settlement of such claim.

(b) THE PROVISIONS OF THIS SECTION 9.2 STATE THE EXCLUSIVE LIABILITY OF CUSTOMER AND THE EXCLUSIVE REMEDY OF ONLINE WITH RESPECT TO ANY CLAIM OF PATENT, COPYRIGHT, TRADE-MARK, INDUSTRIAL DESIGN OR TRADE SECRET INFRINGEMENT AND WILL SURVIVE TERMINATION OF THIS AGREEMENT.

(c) No action arising hereunder whether in contract or in tort may be brought more than two (2) years after the cause of action is discovered or should reasonably have been discovered.

10. Notices

10.1 All written communications and notices with respect to this Agreement will be sent via facsimile or first class mail, return receipt requested, to (i) ONLINE at the following address: ONLINE Inc., 960 Cumberland Ave, Burlington, Ontario, Canada, L7N 3J6, or such other address as such ONLINE may from time to time notify in writing; and (ii) to Customer at the address specified in the Critical Services Agreement or such other address as Customer may from time to time notify in writing. If mailed, notices will be deemed effective three (3) business days after mailing.

11. Dispute Resolution and Remedies

11.1 Subject to Section 12.2, any dispute, controversy or claim arising out of or relating to this Agreement, or breach, termination or invalidity thereof between the parties relating to this Agreement shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules as presently in force before one arbitrator. In the event of any conflict between the UNCITRAL rules and the terms of this Agreement, the terms of this Agreement will govern.

11.2 Arbitration shall be initiated by written notice. If the parties fail to agree on the selection of a sole arbitrator within thirty (30) days from the date on which the claimant's request for arbitration has been communicated to the other party, either party may apply to the Ontario Superior Court for an order appointing an arbitrator. The arbitrator appointed by the Courts of Ontario will have significant experience in business and technology and will be a member of the Law Society of Upper Canada in good standing, being either a retired judge, or a practicing lawyer.

11.3 Either party may apply to the arbitrator seeking injunctive relief until the arbitration award is rendered or the controversy is otherwise resolved. Either party also may, without waiving any remedy under this Agreement, seek from any court having jurisdiction any interim or provisional relief that is necessary to protect the rights or property of that party, pending the establishment of the arbitral tribunal (or pending the arbitral tribunal's determination of the merits of the controversy).

11.4 The arbitration shall be in English, and shall take place in Toronto, Ontario, Canada. The parties agree that all matters relating to the arbitration shall remain confidential.

11.5 The parties to the arbitration shall jointly pay and be responsible for the costs of the arbitration. However, the arbitrator may make an award of costs upon the conclusion of the arbitration making one party to the arbitration liable to pay the costs of the other party.

11.6 Any award rendered by the arbitration tribunal including allocation of costs, shall be final and binding on both parties. Such judgment upon the award rendered may be entered in any court having competent jurisdiction thereof, or having competent

jurisdiction over either of the parties hereto or their assets, or the application may be made to such court for a juridical acceptance of the award and an order of enforcement, as the case may be.

11.7 The award will (i) be granted and paid in Canadian dollars exclusive of any tax, deduction, or offset and (ii) include simple interest from the date the award is rendered until it is fully paid, computed at the rate of 12% per annum. Furthermore, the parties agree that any additional costs, fees, or expenses incurred in enforcing the arbitral award will be charged against the party that resists its enforcement.

12. Miscellaneous

12.1 If any clause, sentence, paragraph or part of this Agreement will be held by any court of competent jurisdiction to be invalid, illegal or unenforceable, such judgment will not affect or nullify the remaining provisions of this Agreement.

12.2 This Agreement will be governed by and interpreted in accordance with the laws of the province of Ontario, Canada and the federal laws of Canada applicable therein, excluding any conflicts of laws rules. The United Nations Convention for the International Sale of Goods will not apply to this Agreement. The parties irrevocably attorn to the non-exclusive jurisdiction of the courts of Toronto, Ontario in respect of any disputes arising under this Agreement, except if the provisions set out in Section 11 are used.

12.3 This Agreement is binding upon and enures to the benefit of the parties and their respective successors and permitted assigns. No failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver, nor will any single or partial exercise preclude further exercise thereof.

12.4 The parties agree that those sections which by their nature should survive the expiration or termination of this Agreement will survive such termination, such sections to include, but be not limited to, Sections 1, 4, 5, 6.3, 6.4, 6.5, 6.6, 8, 9, 11 and 12.

12.5 No party hereto shall be held liable to the other to perform its services or obligations for the other party where such performance is prevented, delayed or interfered with by riots; war or hostilities between any nation; acts of terrorism; acts of God; fire; storm; flood; earthquake; strikes; labour disputes; shortage or delay of carriers; labour; power or other utility services; any governmental restrictions; and/or other contingencies beyond the reasonable control of the affected party. In case of the occurrence of an event of force majeure, the affected party shall immediately notify the other party, and the parties shall discuss appropriate measure to take, including the possibility of termination of this Agreement. Any cessation of obligations under this Agreement shall last only so long as the event of force majeure persists.

12.6 Time is of the essence of this Agreement.

12.7 Except as expressly set out herein, nothing contained in this Agreement will create or imply any agency relationship between the parties, nor will this Agreement be deemed to constitute a joint venture or partnership between the parties.