Master Subscription Agreement for Data.com Services

THIS MASTER SUBSCRIPTION AGREEMENT ("AGREEMENT") GOVERNS YOUR ACQUISITION AND USE OF DATA.COM SERVICES.

IF YOU REGISTER FOR A FREE TRIAL OF DATA.COM SERVICES, THIS AGREEMENT WILL ALSO GOVERN YOUR FREE TRIAL.

BY ACCEPTING THIS AGREEMENT, EITHER THROUGH EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR CLICKING A BOX INDICATING YOUR ACCEPTANCE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT EXECUTE AN ORDER FORM OR OTHERWISE ACCEPT THIS AGREEMENT AND MAY NOT USE THE DATA.COM SERVICES.

If you have entered into or enter into a master subscription agreement with salesforce.com for non-Data.com services, that master subscription agreement shall not apply to Data.com Services, and Data.com Services shall not be considered a service or product or part of any service or product under such master subscription agreement, unless otherwise expressly agreed in writing by salesforce.com.

You may not access the Data.com Services if You are Our direct competitor, except with Our prior written consent. In addition, You may not access the Data.com Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement was last updated on March 1, 2013. It is effective between You and Us as of the date of You executed the applicable Order Form.

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1. DEFINITIONS

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“Data.com Data” means any Records residing in or exported from a Data.com database, including any Jigsaw Data Fields and Licensed Data Fields.
"Data.com Services" means the Data.com Data, and related applications and services provided under the Data.com or any successor brand, that are ordered by You under an Order Form.

"Jigsaw Data Fields" means such Contact Record fields sourced from the Data.com community database, known as Jigsaw, and listed in the Data.com Product Field List at http://www.salesforce.com/assets/pdf/misc/salesforce_DB_Field_List.pdf.

"Licensed Data Fields" means any Record fields licensed by Us from a licensor for resale by Us and use by You with the Data.com Services provided hereunder.

"Malicious Code" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"Non-Salesforce.com Applications" means online applications and offline software products which are provided by entities or individuals other than Us and are clearly identified as such, and that interoperate with the Data.com Services.

"Order Form" means the ordering documents for purchases hereunder, including addenda thereto, that are entered into between You and Us from time to time. Order Forms shall be deemed incorporated herein by reference.

"Our salesforce.com CRM" means Our product and service offerings which are currently referred to commercially as "Force.com," "Sales Cloud" or "Service Cloud" and any successor or additional offerings as so identified in writing by Us as bearing the same or similar rights and responsibilities as the foregoing with respect to the Data.com Services.

"Records" means business records pertaining to a company, which include at a minimum (unless otherwise stated in an Order Form), company name, address, website and telephone number ("Company Records"); and business records pertaining to an individual, which include at a minimum (unless otherwise stated in an Order Form), first name, last name, title, business address, business email address, and business telephone number ("Contact Records").

"Users" means individuals who are authorized by You to use the Data.com Services, and, if a Data.com Service is provided on a per-User basis, for whom subscriptions to the Data.com Service have been purchased. Users may include but are not limited to Your employees and third parties (such as consultants, contractors and agents) using the Data.com Services exclusively for Your benefit.

"We," "Us" or "Our" means the salesforce.com company described in Section 13 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction).

"You" or "Your" means the company or other legal entity for which you are entering into an Order Form, and Affiliates of that company or entity which have entered into Order Forms.

2. FREE TRIAL

We may make one or more Data.com Services available to You on a trial basis free of charge until the earlier of (a) the end of the free trial period for which you registered or are registering to use the applicable Data.com Service or (b) the start date of any Data.com Services purchased by You pursuant to an Order Form. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

IF YOU ELECT TO USE THE DATA.COM SERVICES FOR THE TRIAL PERIOD AND DO NOT PURCHASE A SUBSCRIPTION BEFORE THE END OF THE TRIAL PERIOD, YOUR SUBSCRIPTION FOR THE DATA.COM SERVICES WILL EXPIRE AT THE END OF THE TRIAL PERIOD AND SHALL NOT AUTO-RENEW. UPON TERMINATION OR EXPIRATION OF THE TRIAL PERIOD, YOU SHALL DELETE OR DESTROY ALL COPIES OF DATA.COM DATA IN YOUR SYSTEMS, OR OTHERWISE IN YOUR POSSESSION OR CONTROL, THAT YOU ACQUIRED IN CONNECTION WITH SUCH TRIAL SUBSCRIPTION, UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME DATA.COM SERVICES AS THOSE PROVIDED UNDER THE TRIAL PERIOD OR UPGRADED DATA.COM SERVICES, IN WHICH CASE ANY DATA.COM DATA IN YOUR SYSTEMS OR OTHERWISE IN YOUR POSSESSION OR CONTROL SHALL BE USED BY YOU IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. UPON OUR WRITTEN REQUEST, YOU SHALL PROVIDE US WITH A SIGNED CERTIFICATE
EVIDENCING ANY DELETION REQUIRED UNDER THIS PARAGRAPH. ANY CUSTOMIZATIONS MADE TO AN ONLINE DATA.COM APPLICATION DURING YOUR FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME DATA.COM ONLINE APPLICATION AS THAT COVERED BY THE TRIAL, OR PURCHASE AN UPGRADED DATA.COM ONLINE APPLICATION, BEFORE THE END OF THE TRIAL PERIOD.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, DURING THE FREE TRIAL THE DATA.COM SERVICES ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY OR SUPPORT WHATSOEVER.

3. DATA.COM SERVICES

3.1. Provision of Data.com Services. We shall make the Data.com Services available to You pursuant to this Agreement and the relevant Order Forms during a subscription term. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features or the delivery of any of Our other services, nor are they dependent on any oral or written public comments made by Us regarding future functionality or features.

3.2. User Subscriptions. Where an Order Form specifies a number of Users, then unless otherwise stated therein, (i) the Data.com Services may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Data.com Services.

3.3. Records. Where an Order Form specifies that You are acquiring a number of Records, then unless otherwise stated in the Order Form, You may access no more than that number of Records. Unless otherwise stated in the Order Form, You may purchase additional Records during the applicable subscription term at the same pricing set forth in the applicable Order Form.

3.4. Credits. Where an Order Form specifies that You are acquiring a number of Credits, then unless otherwise stated in the Order Form, You may access one Record for each Credit. Unless otherwise stated in an Order Form, Credits shall expire at the end of each calendar month, are aggregated across Your account, have no currency or exchange value and are non-transferable and non-refundable. Credits may be referred to as “Record Credits” or “Export Credits” in an Order Form.

3.5. Points. You may earn points through use of certain Data.com services or the Data.com website. You may also purchase points. How You may redeem points, and the services for which You may redeem points, are as specified by Us in writing at the time You earn or purchase the applicable points. All points shall expire on the monthly periods which begin on the subscription start date and each monthly anniversary thereof, unless otherwise specified in the Order Form. Points have no currency or exchange value and are non-transferable and non-refundable. We may cancel, suspend or otherwise limit Your access to Your points balance if we reasonably suspect fraudulent, abusive or unlawful activity in connection with Your account.

4. NON-SALESFORCE.COM PROVIDERS

4.1. Acquisition of Non-Salesforce.com Products and Services. We or third parties may from time to time make available to You third-party products or services, including but not limited to Non-Salesforce.com Applications and implementation, customization and other consulting services. Any acquisition by You of such non-salesforce.com products or services, and any exchange of data between You and any non-salesforce.com provider, is solely between You and the applicable non-salesforce.com provider. We do not warrant or support non-salesforce.com products or services, whether or not they are designated by Us as “certified” or otherwise, except as specified in an Order Form. No purchase of non-salesforce.com products or services is required to use the Services except a supported computing device, operating system, web browser and Internet connection.

4.2. Non-Salesforce.com Applications and Your Data. If You install or enable Non-Salesforce.com Applications for use with Data.com Services, You acknowledge that We may allow providers of those Non-Salesforce.com Applications to access Your Data as required for the interoperation of such Non-
Salesforce.com Applications with the Data.com Services. We shall not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Non-Salesforce.com Application providers.

5. USE OF THE DATA.COM SERVICES

5.1. Our Responsibilities. We shall: (i) make the Data.com Data available to You in accordance with the applicable Order Form, and (ii) use commercially reasonable efforts to make the ongoing Data.com Services available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which We shall give at least 8 hours notice via the Data.com Services and which We shall schedule to the extent practicable during the weekend hours from 5:00 p.m. Pacific time Friday to 3:00 a.m. Pacific time Monday), or (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), or Internet service provider failures or delays, or denial of service attacks.

5.2. Your Responsibilities. You shall (i) be responsible for compliance with this Agreement by Your personnel and Users, (ii) use commercially reasonable efforts to prevent unauthorized access to or use of the Data.com Services, and notify Us promptly of any such unauthorized access or use, (iii) use the Data.com Services only in accordance with applicable laws and government regulations (including without limitation those pertaining to unsolicited email), (iv) only submit Records for inclusion in the Data.com community database that are accurate and up-to-date, and to which You have the necessary rights, licenses and/or permissions to submit; and (v) only submit business Contact Records or Company Records for inclusion in the Data.com community database, or such other business data collected by SFDC. You shall not (a) sell, resell, rent or lease the Data.com Services, (b) use the Data.com Services to upload, store or transmit infringing, libelous, threatening, or otherwise unlawful or tortious material, or store or transmit material in violation of third-party privacy or publicity rights, (c) use the Data.com Services in whole or in part for the purpose of serving as a factor in establishing an individual’s eligibility for credit, employment or insurance or for any other consumer initiated transaction as defined in the Fair Credit Reporting Act or any similar law, (d) use the Data.com Services to store or transmit Malicious Code, or (e) interfere with or disrupt the integrity or performance of the online Data.com Services.

5.3. Interoperation with Our salesforce.com CRM. Data.com Services that interoperate with Our salesforce.com CRM may copy Your data from Our salesforce.com CRM as necessary for such interoperation. The Data.com Services may store and process Your data in facilities and environments separate from those in which salesforce.com stores and processes Your data for its other online services.

6. FEES AND PAYMENT

6.1. Fees. You shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions or Records purchased cannot be decreased during the relevant subscription term stated on the Order Form. Subscription fees are based on monthly periods that begin on the subscription start date and each monthly anniversary thereof; therefore, fees for subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

6.2. Invoicing and Payment. For credit card purchases, You will provide Us with valid and updated credit card information; otherwise, You will provide Us with a valid purchase order or alternative document reasonably acceptable to Us. If You provide credit card information to Us, You authorize Us to charge such credit for all Data.com Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in Section 12.2 (Term of Purchased User Subscriptions). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us, and notifying Us of any changes to such information.

6.3. Overdue Charges. If any charges are not received from You by the due date, then at Our discretion, (a) such charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the
maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and/or (b) We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in Section 6.2 (Invoicing and Payment).

6.4. Suspension of Data.com Services and Acceleration. If any amount owing by You under this or any other agreement for Our services is 30 or more days overdue (or 10 or more days overdue in the case of amounts You have authorized Us to charge to Your credit card), We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least 7 days’ prior notice that Your account is overdue, in accordance with Section 13.2 (Manner of Giving Notice), before suspending services to You.

6.5. Payment Disputes. We shall not exercise Our rights under Section 6.3 (Overdue Charges) or 6.4 (Suspension of Data.com Services and Acceleration) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

6.6. Taxes. Unless otherwise stated, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

7. PROPRIETARY RIGHTS

7.1. License for Data.com Data. We grant You a worldwide license to use, copy, modify and transmit the Data.com Data acquired by You hereunder for the period specified in the applicable Order Form, solely for Your internal business purposes and not for resale or distribution, subject to the terms of this Agreement and the applicable Order Form. Your rights to use the Data.com Data post-termination are set forth in Section 12 (Term and Termination).

7.2. Reservation of Rights. Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Data.com Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

7.3. Restrictions. You shall not (i) permit any third party to access the Data.com Services, except as expressly permitted herein or in an Order Form, (ii) create derivative works based on the software, program code or user interfaces comprising the Data.com Services (You may create derivative works of the Data.com Data for Your internal use, subject to the terms of this Agreement), (iii) copy, frame or mirror the online Data.com Services, other than copying or framing on Your own intranets or otherwise for your own internal business purposes, (iv) reverse engineer the Data.com Services, (v) systematically access the Data.com Services using "bots" or "spiders", or any automated system that calls to the Data.com Services more frequently than may reasonably be performed by a human user using a standard web browser, or attempt to gain unauthorized access to the Data.com Services or their related systems or networks, or (vi) access the Data.com Services in order to (a) build a competitive data-related commercial product or service, or (b) copy any features, functions or graphics of the Data.com Services. SFDC may, without limiting its other rights and remedies, immediately suspend the Data.com Services if You are in violation of Section 7.3(v) above.

7.4. Corrections to Records. You acknowledge and agree that the Data.com Services are based on a crowd-sourced data model, whereby members and customers submit Records for inclusion in the Data.com community database. To the extent You provide Us with corrections to Data.com Data, We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Data.com Services and Data.com community database, any such corrections.

7.5. Suggestions. We shall have a royalty-free, worldwide, irrevocable, perpetual license to use or incorporate into the Data.com Services any suggestions, enhancement requests, recommendations or other feedback provided by You, including Users, relating to the operation of the Data.com Services.
7.6. No Pre-Screening or Monitoring. We have no obligation to pre-screen, verify, or monitor the Data.com Data. We shall not be responsible for any failure to remove, or delay in removing, harmful, inaccurate, unlawful or otherwise objectionable content originating with or otherwise provided by third parties.

7.7. Federal Government End Use Provisions. We provide the Data.com Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Data.com Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

8. CONFIDENTIALITY

8.1. Definition of Confidential Information. As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Our Confidential Information shall include the Data.com Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

8.2. Protection of Confidential Information. The Receiving Party shall (i) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care), (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (iii) except as otherwise authorized by the Disclosing Party in writing, shall limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.

8.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

9. WARRANTIES AND DISCLAIMERS

9.1. Our Warranties. We warrant that the functionality of the Data.com Services (excluding the Data.com Data) will not be materially decreased during a subscription term. For any breach of such warranty, Your exclusive remedy shall be as provided in Section 12.3 (Termination for Cause) and Section 12.4 (Refund or Payment upon Termination) below.

9.2. Disclaimer. DATA.COM SERVICES ARE PROVIDED WITHOUT SUPPORT UNLESS OTHERWISE EXPRESSLY AGREED BY US IN WRITING. EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE DATA.COM SERVICES ARE PROVIDED “AS-IS,” WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS,
IMPLIED, STATUTORY OR OTHERWISE, AND WE AND OUR LICENSORS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. NEITHER WE NOR OUR LICENSORS WARRANT THE COMPREHENSIVENESS, CORRECTNESS, OR ACCURACY OF DATA.COM DATA OR THAT THE DATA.COM SERVICES WILL BE UNINTERRUPTED, CURRENT OR ERROR FREE. WE AND OUR LICENSORS MAKE NO WARRANTY WHATSOEVER, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

9.3. Non-Data.com Services. We do not provide any warranty or support under this Agreement for any non-Data.com Services products or services, including but not limited to salesforce.com’s non-Data.com applications and platform.

9.4. Non-GA Data.com Services. From time to time We may give You the opportunity to use, at no charge, Data.com products or services that are not generally available to Our customers (“Non-GA Data.com Services”). You may elect to use Non-GA Data.com Services in Your sole discretion. Any Non-GA Data.com Services will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a description of similar import. NON-GA DATA.COM SERVICES ARE PROVIDED “AS IS,” EXCLUSIVE OF ANY WARRANTY OR SUPPORT, AND MAY CONTAIN BUGS OR ERRORS. Non-GA Data.com Services are provided for evaluation and testing purposes and are not intended for production use, may never be made generally available, and may be discontinued at any time.

10. MUTUAL INDEMNIFICATION

10.1. Indemnification by Us. We shall defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of Data.com Services, excluding Data.com Data, as permitted hereunder infringes or misappropriates third party intellectual property rights, (a “Claim Against You”), and shall indemnify You for any damages, attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a court-approved settlement of, a Claim Against You; provided that You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (provided that We may not settle or defend any Claim Against You unless We unconditionally release You of all liability), and (c) provide Us all reasonable assistance, at Our expense. In the event of a Claim Against You, or if We reasonably believe the Data.com Services may infringe or misappropriate, We may in our discretion and at no cost to You (i) modify the Data.com Services so that they no longer infringe or misappropriate, without breaching Our warranties under “Our Warranties” above, (ii) obtain a license for Your continued use of the Data.com Services in accordance with this Agreement, or (iii) terminate Your right to use such Data.com Services upon 30 days’ written notice and refund You any prepaid fees covering the remainder of the applicable Data.com Service term after the effective date of termination. If a court orders You to cease using part or all of the Data.com Services in connection with a Claim Against You, We shall take the actions described in subpart (i) or (ii) of the preceding sentence, or if We cannot accomplish (i) or (ii) in a commercially reasonable manner, We shall take the actions described in subpart (iii) of the preceding sentence, all at no cost to You.

10.2. Indemnification by You. You shall defend Us and Our licensors against any claim, demand, suit or proceeding made or brought against Us by a third party arising from or based on Your breach of Section 5.2 (Your Responsibilities) of this Agreement (a “Claim Against Us”), and shall indemnify Us and Our Licensors for any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a court-approved settlement of, a Claim Against Us; provided that We (a) promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (provided that You may not settle or defend any Claim Against Us unless You unconditionally release Us of all liability), and (c) provide to You all reasonable assistance, at Your expense.

10.3. Exclusive Remedy. This “Mutual Indemnification” section states the indemnifying party’s sole liability to, and the indemnified party’s exclusive remedy against, the other party for any type of claim described in this section.

11. LIMITATION OF LIABILITY
11.1. **Limitation of Liability.** NEITHER PARTY’S NOR THEIR LICENSORS’ LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE LESSER OF $500,000 OR THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT SHALL EITHER PARTY’S OR ITS LICENSORS’ AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 6 (FEES AND PAYMENT).

11.2. **Exclusion of Consequential and Related Damages.** IN NO EVENT SHALL EITHER PARTY OR ITS LICENSORS HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY OR LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

12. **TERM AND TERMINATION**

12.1. **Term of Agreement.** This Agreement commences on the date You execute an Order Form and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated. If You elect to use the Data.com Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

12.2. **Term of User Subscriptions.** User subscriptions purchased by You commence on the start date specified in the applicable Order Form and continue for the subscription term specified therein. Except as otherwise specified in the applicable Order Form, all User subscriptions shall automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. Any such pricing increase shall not exceed 7% of the pricing for the relevant Data.com Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.

12.3. **Termination for Cause.** A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.4. **Refund or Payment upon Termination.** Upon any termination for cause by You, We shall refund You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Upon any termination for cause by Us, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination. In no event shall any termination relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination.

12.5. **Deletion of Data.com Data Upon Termination.**

   a. **Offline Data.com Services.** Except as otherwise expressly permitted in an Order Form, upon termination or expiration of any offline Data.com Service subscription hereunder, You shall delete or destroy all copies of Data.com Data in Your systems, or otherwise in Your possession or control, that You acquired pursuant to such terminated or expired subscription. Upon Our written request, You shall provide written documentation to Us evidencing any deletion required under this paragraph.

   b. **Online Data.com Services.** Except as otherwise expressly permitted in an Order Form, upon termination or expiration of any online Data.com Service subscription hereunder, You may (i) retain in Your data systems the Jigsaw Data Fields provided or obtained in connection with such online Data.com Service that are integrated or commingled with Your non-Data.com Data, and (ii) use, copy, modify and transmit such Jigsaw Data Fields in accordance with the terms of
this Agreement, provided that You are in full compliance with this Agreement and for as long as You remain so. Any such retention of Jigsaw Data Fields by You does not entitle You to any updates, refreshes, or other ongoing Data.com Services, or entitle You to distribute or resell such Jigsaw Data Fields. Notwithstanding any termination or expiration of this Agreement, Your obligations under this Agreement shall continue to apply to any such retention by You of Jigsaw Data Fields as if this Agreement had not been terminated. We may revoke the above permission to retain Jigsaw Data Fields, upon notice to You, if You are in breach of its obligations under this Agreement. Notwithstanding the foregoing and except as otherwise expressly permitted in an Order Form, You shall delete or destroy all Data.com Data fields which do not constitute Jigsaw Data Fields, all electronic and physical stand-alone copies of Jigsaw Data in Your possession or control, and all Jigsaw Data not integrated or commingled in the manner specified above. Upon Your written request, You shall provide Us with written documentation evidencing any deletion or destruction required under this Section.

11.6. Surviving Provisions. Sections 5.2 (Your Responsibilities), 6 (Fees and Payment), 7 (Proprietary Rights), 8 (Confidentiality), 9.2 (Disclaimer), 10 (Mutual Indemnification), 11 (Limitation of Liability), 12.4 (Refund or Payment upon Termination), 12.5 (Deletion of Data.com Data Upon Termination), 13 (Who You Are Contracting With, Notices, Governing Law and Jurisdiction) and 14 (General Provisions) shall survive any termination or expiration of this Agreement.
### 13. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION

<table>
<thead>
<tr>
<th>If You are domiciled in:</th>
<th>You are contracting with:</th>
<th>Notices should be addressed to:</th>
<th>The governing law is:</th>
<th>The courts having exclusive jurisdiction are:</th>
</tr>
</thead>
<tbody>
<tr>
<td>The United States of America, Mexico or a Country in Central or South America or the Caribbean</td>
<td>salesforce.com, inc., a Delaware corporation</td>
<td>The Landmark @ One Market, Suite 300, San Francisco, California, 94105, U.S.A., attn: VP, Worldwide Sales Operations Fax: +1-415-901-7040</td>
<td>California and controlling United States federal law</td>
<td>San Francisco, California, U.S.A.</td>
</tr>
<tr>
<td>Canada</td>
<td>salesforce.com Canada Corporation, a Nova Scotia corporation</td>
<td>The Landmark @ One Market, Suite 300, San Francisco, California, 94105, U.S.A., attn: VP, Worldwide Sales Operations Fax: +1-415-901-7040</td>
<td>Ontario and controlling Canadian federal law</td>
<td>Toronto, Ontario, Canada</td>
</tr>
<tr>
<td>A Country in Europe, the Middle East or Africa</td>
<td>salesforce.com Sàrl, a Switzerland private limited liability company</td>
<td>Route de la Longeraie 9, Morges, 1110, Switzerland, attn: Director, EMEA Sales Operations Fax: +41-21-6953701</td>
<td>England and Wales</td>
<td>London, England</td>
</tr>
<tr>
<td>Japan</td>
<td>Kabushiki Kaisha Salesforce.com, a Japan corporation</td>
<td>Roppongi Hills Mori Tower 39F, 6-10-1 Roppongi, Minato-ku, Tokyo 106-6139, Japan, attn: Director, Japan Sales Operations Fax: +81-3-5793-8302</td>
<td>Japan</td>
<td>Tokyo, Japan</td>
</tr>
<tr>
<td>A Country in Asia or the Pacific region, other than Japan</td>
<td>Salesforce.com Singapore Pte Ltd, a Singapore private limited company</td>
<td>9 Temasek Boulevard #40-01, Suntec Tower 2, Singapore, 038989, attn: Director, APAC Sales Operations Fax: +65 6302 5777</td>
<td>Singapore</td>
<td>Singapore</td>
</tr>
</tbody>
</table>

**13.1. General.** Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any lawsuit arising out of or in connection with this Agreement, and which courts can adjudicate any such lawsuit, depend on where You are domiciled.
13.2. Manner of Giving Notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv) the first business day after sending by email (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant Data.com Services system administrator or other contact designated by You.

13.3. Agreement to Governing Law and Jurisdiction. Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

13.4. Waiver of Jury Trial. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

14. GENERAL PROVISIONS

14.1. Export Compliance. The Data.com Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use Data.com Services in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.

14.2. Anti-Corruption. You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our Legal Department (legalcompliance@salesforce.com).

14.3. Force-Majeure. SFDC shall not be liable for any losses arising out of the delay or interruption of its performance of obligations under the Agreement due to any act of God, act of governmental authority, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving SFDC employees), Internet service provider failures or delays, or denial of service attacks, unplanned system down time, or any other cause beyond SFDC’s reasonable control.

14.4. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

14.5. No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

14.6. Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

14.7. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

14.8. Attorney Fees. You shall pay on demand all of Our reasonable attorney fees and other costs incurred by Us to collect any fees or charges due Us under this Agreement following Your breach of Section 6.2 (Invoicing and Payment).

14.9. Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct
competitor of the other party. A party’s sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party’s election, termination of this Agreement upon written notice to the assigning party. In the event of such a termination, We shall refund to You any prepaid fees covering the remainder of the term of all subscriptions after the effective date of termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

14.10. Modification to Terms. To the maximum extent permitted and enforceable under applicable law, we reserve the right to modify the terms and conditions of this Agreement at any time, effective upon the posting of an updated version of this Agreement. You are responsible for regularly reviewing this Agreement. Continued use of the Data.com Services after any such changes shall constitute your consent to such changes.

14.11. Entire Agreement. This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Subject to Section 14.10 above, no modification, amendment, or waiver of any provision of this Agreement shall be effective unless duly entered into by the party against whom the modification, amendment or waiver is to be asserted. However, to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form, the terms of such exhibit, addendum or Order Form shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in Your purchase order or other order documentation (excluding Order Forms) shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.