

**RHONDOS POWERCONNECT
END USER LICENSE AGREEMENT**

You may purchase a PowerConnect Software License and corresponding Support Services directly from RHONDOS, Inc. or from one of our authorized resellers (“*Resellers*”). In each case, the PowerConnect Software is provided to You on the terms and conditions set forth in this end user license agreement (this “*EULA*” or this “*Agreement*”, published on the website of RHONDOS located at www.rhondos.com/EULA (as amended from time to time)), and on the condition that You accept and comply with them. This Agreement is a binding contract by and between RHONDOS (“*RHONDOS*” “*we*,” “*us*” or “*our*”) and You individually if You are agreeing to it in Your own capacity as an individual or, if You are entering into the Agreement on behalf of a firm or entity, between the firm or entity for whose benefit You act (in either case “*Licensee*”, “*You*” or “*Your*”). This Agreement shall be effective on the date on which You tender Your acceptance to it and/or otherwise the first time that You download, install, access, or use the Software (the “*Effective Date*”). Throughout this Agreement, You and RHONDOS may each be referred to as a “*Party*” or collectively, as the “*Parties*”.

By clicking the “Accept” button or checking the appropriate box to accept this Agreement, by physically or electronically signing a copy of this Agreement or by downloading, installing, accessing or using the Software, You acknowledge, agree, and represent that You: (a) have read this Agreement and understand its terms; (b) accept the terms and conditions of this Agreement, and agree to be bound by them; (c) are lawfully able to enter into this Agreement and, if You are an individual entering into this Agreement on behalf of a firm or entity, that You have the legal authority to bind such firm or entity. If You do not agree to the terms of this Agreement, or if You do not have the requisite authority or capacity to enter into it, do not click the “Accept” button or check any box to accept it, and You must not download, install, access, or use the Software. Downloading, installing, accessing or using the Software constitutes Your acceptance of this Agreement.

1. SOFTWARE LICENSE GRANT AND SCOPE. During the Term (as defined in Section 11), subject to Your compliance with the terms of this Agreement, RHONDOS hereby grants You a non-exclusive, non-sublicensable, non-transferable, revocable, limited license to: (i) utilize the Object Code of the Software and Documentation, solely for Your internal business use for the Software’s intended and designed purposes as described in the Documentation, solely through Your Authorized Users; and (ii) store the Source Code solely for the purpose of running the Software in its Object Code form in Your internal SAP environment and for no other purpose (collectively, the “*Software License*”). If the Software License is an evaluation license (“*Software Evaluation License*”) the license granted hereunder shall be further limited to Your internal evaluation of the Software only for the time prescribed for the Software evaluation in the Order Form or valid purchase order from a Reseller (“*Software Evaluation Period*”).

2. SOFTWARE USE. Each Software License granted to You hereunder grants You the right, exercisable solely by and through Your Authorized Users, to:

(a) Download, install, access and utilize the Object Code of the Software solely in accordance with the type and number of active and valid Software Licenses licensed to You as set out in the Order Form or valid purchase order from the Reseller;

(b) Create one copy of the Object Code of the Software solely for backup purposes, provided that You shall not, and shall not allow any other party to, install or use any backup copy unless the licensed copy installed in accordance with this [Section 2](#) is inoperable and that You uninstall and otherwise delete such copy that is inoperable. Download or otherwise make one (1) copy of the Documentation per Software License and use such Documentation, solely in support of Your licensed use of the Software in accordance with this Agreement. All copies of the Software and Documentation made by You: (i) will be the exclusive property of RHONDOS; (ii) will be subject to the terms of this Agreement; (iii) must include all trademark, copyright, patent and other Intellectual Property Rights notices contained in the original; and (iv) must be securely stored in a place inaccessible to non-Authorized Users; and

(c) Use and run the Object Code of the Software as properly installed and configured in accordance with this Agreement and the Documentation, solely for Your internal business use for the Software’s intended and designed purposes as described in the Documentation.

3. ITEMS. The Software may include, incorporate, utilize or work with other items such as software, tools, applications, reports, content, data, information, images, equipment or other materials (in whatever form), including related documentation (“*Items*”), that:

(a) are owned by third parties and that are provided to You on license terms that are in addition to and/or different from those contained in this Agreement. A list of RHONDOS third party licenses can be found at the following link: <https://www.powerconnect.io/java-open-source-components/>. You agree to (and confirm that Your Authorized Users agree to) be bound by and comply with all RHONDOS third party licenses. Any breach by You or any of Your Authorized Users of any RHONDOS third party license is also a breach of this Agreement.

(b) may be provided by You or by third parties. You acknowledge and agree that, in the event that You or any third party: (I) remove access and/or use of an Item; or (II) modify an Item, the Software may cease to function or experience a reduction in its performance and/or functionality. In such event, no License Fees and/or Support Fees will be reduced or refunded to You.

4. USE RESTRICTIONS. You shall not, and You shall ensure Your Authorized Users do not, directly or indirectly:

(a) Access or use (including make any copies of) the Software or Documentation beyond the scope of any license granted hereunder;

(b) Bypass any Software license keys, digital interlocks, data collection or recording mechanisms;

(c) Provide any party who is not an Authorized User (including for example, any independent contractor, or service

provider) with access to or use of the Software or Documentation;

- (d) Modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;
- (e) Combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs;
- (f) Reverse engineer, disassemble, decompile, decode or otherwise attempt to use, derive or gain access to the Source Code of the Software or any part thereof (except as licensed to You in [Section 1](#));
- (g) Utilize the Software or the Documentation (including any Source Code of the Software, or any portion thereof that is visible or otherwise accessible to You (through the normal installation or operation of the Software)) to design, build (or guide, instruct, or train any third party to design or build - regardless of whether such effort includes machine learning or other algorithmic techniques) any product or service with functionality(ies) that is substantially similar to the Software or that competes with the Software (a “**Competing Product**”);
- (h) Remove, delete, alter or obscure any trademarks or any copyright, patent or other intellectual property or proprietary rights notices provided on or with the Software or Documentation, including any copy thereof;
- (i) Except as expressly permitted in [Section 2](#), copy the Software or Documentation, in whole or in part;
- (j) Rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Software, or any features, functionality, components, elements or parts of the Software, to any third party for any reason, whether or not over a network or on a hosted basis, including in connection with the internet or any web hosting, wide area network (WAN), virtual private network (VPN), virtualization, software as a service, cloud hosting technology or any other technology or service;
- (k) access or use the Software for purposes of: (i) benchmarking or competitive analysis or publicly disseminate performance or comparison information or analysis; or (ii) performing penetration testing; or
- (l) Use the Software or Documentation for any unlawful purpose or in violation of any applicable law.

5. RESPONSIBILITY FOR USE OF SOFTWARE AND COMPLIANCE WITH AGREEMENT TERMS.

- (a) You are responsible for all uses of the Software and Documentation, including any unauthorized uses due to loss, theft, unauthorized access, use and/or distribution of the Software and Documentation. You shall ensure that all Authorized Users, or any other third party to which you provide access to the Software or Documentation, complies with the terms of this Agreement. In addition, You shall ensure that access and/or use of the Software by Your Authorized Users is limited to accessing and using the Software within the limited license and use rights granted to You under this Agreement and You have a valid legally binding agreement in place with such Authorized Users which contain provisions at least as protective of RHONDOS’s rights in connection with the Software and this Agreement (including, but not limited to, [Sections 1-4, 6, 9 and 14](#) of the Agreement). You agree that you will indemnify RHONDOS for any loss or damage suffered in connection with the Authorized User’s failure to comply with this Agreement or Your failure to comply with this Section.
- (b) Furthermore, You are solely and exclusively responsible for any and all costs and expenses associated with the purchase, licensing, or use of any SAP Products or any other third party products or services and, in deploying, testing, running, or utilizing the Software, You are solely and exclusively responsible for any impact that the Software may have on the costs of SAP Products or any other third party products or services payable by You.

6. AUDIT

- (a) Subject to the confidentiality provisions in this Agreement, during the Term and for twelve (12) months thereafter, RHONDOS, or its appointed representatives, may conduct an audit to assess Your compliance with the terms of this Agreement. RHONDOS shall provide at least thirty (30) days’ notice, once per calendar year (except where RHONDOS reasonably believes there may be a potential breach of [Sections 1, 2 or 4](#) which may be initiated at any time upon seven (7) days’ notice) of any such audit. You shall cooperate with RHONDOS and its representatives and shall provide all reasonable assistance and access to information, systems, personnel and sites that RHONDOS or its representatives may reasonably request. RHONDOS shall use its reasonable endeavors to ensure that any such audit does not unreasonably interfere with Your normal business operations and that it is conducted during Your normal business hours. Where an audit reveals a breach of the terms of this Agreement You shall reimburse RHONDOS’s and its representatives’ reasonable costs and expense of the audit. Where RHONDOS reasonably believes that You have copied the Source Code of the Software or have utilized the Software to develop a Competing Product, You shall in addition provide RHONDOS, with an opportunity to, in a narrow and focused manner, examine the components of Your technical SAP development system (not production, but SAP transport system(s) only) that hosted the Software (whether currently or previously), solely to determine if a copy of the Software was made from such environment. Any such review would not involve access to any of Your production systems or business data. Furthermore, any such review shall be performed under Your control and supervision. If RHONDOS requests to exercise its right to review a Competing Product pursuant to this [Section 6](#), You agree to cooperate with RHONDOS and with such request in good faith.
- (b) If as a result of an audit RHONDOS determines that: (i) You are in breach of any term under this Agreement, You shall, if such breach can be cured, cure or, procure its cure, within thirty (30) calendar days of receiving RHONDOS’s written notification requiring it be cured. For the avoidance of doubt, if as a result of an audit RHONDOS determines that You have directly or indirectly copied the Source Code of the Software or utilized the Software to develop a Competing Product, then it shall be deemed a material breach of the Agreement which is incapable of cure; or (ii) Your use of the Software is in excess of Your rights under this Agreement, You agree to pay, within thirty (30) days of written notification, the retroactive License Fees for such excess use and, unless RHONDOS terminates this Agreement pursuant to the below, obtain and pay for a valid license to bring Your use into compliance with this Agreement.
- (c) RHONDOS’s remedies set forth in this [Section 6](#) are without prejudice to any other remedies RHONDOS may have

under this Agreement, at law or otherwise.

7. UPDATES AND SUPPORT SERVICES.

(a) RHONDOS may (either directly or indirectly through its Resellers) provide periodic updates, upgrades, new releases, adaptations, bug fixes, patches, workarounds and other error corrections (collectively, “*Updates*”). RHONDOS may develop and provide Updates in its sole discretion, and You agree that RHONDOS has no obligation to develop any Updates at all or for particular issues, and RHONDOS expressly disclaims any liability for not doing so. You further agree that all Updates will be deemed Software, and related documentation will be deemed Documentation, all subject to the terms and conditions of this Agreement.

(b) During the Term, subject to Your compliance with this Agreement, RHONDOS shall use its reasonable endeavors to provide the Support Services in accordance the terms and conditions set out in <https://www.rhondos.com/support/terms>. The Order Form will specify of the level of support applicable to your License.

8. COLLECTION AND USE OF INFORMATION.

(a) You acknowledge that RHONDOS may, directly or indirectly, including through the services of third party contractors, collect information regarding Your and Your Authorized Users’ use of the Software. RHONDOS may collect such information and data through means including, but not limited to: (i) Your use of the Software; and (ii) the provision of Support Services.

(b) The Software does not store, host, or provide RHONDOS with access to any of Your information pertaining to Your business operations (“**Licensee Data**”) that is generated by, or stored within, Your systems or that is transmitted through the use of the Software (including without limitation, data generated by Your use of any SAP Product (the “**SAP Data**”). For the avoidance of doubt, Licensee Data may include SAP Data. Any information that RHONDOS does receive about Your use of the Software shall be used solely to: (a) deliver the Software to You and Your Authorized Users; (b) improve the Software or provide Support Services; (c) verify Your compliance with the terms of this Agreement; and (d) enforce RHONDOS’s rights, including all Intellectual Property Rights in and to the Software. You acknowledge that RHONDOS collects (and may involve third parties in) identifying information of each active Software License (including the license number, licensee to whom the license was issued, and installation number), which is transmitted directly to RHONDOS’s servers.

(c) To the extent that the use or implementation of RHONDOS services involves the processing of Personal Data by RHONDOS on Your behalf of and under Your instructions, the Parties agree that this Agreement shall incorporate a mutually agreed upon Data Processing Addendum (“**DPA**”).

9. INTELLECTUAL PROPERTY RIGHTS. You acknowledge and agree that the Software and Documentation are provided under license, and not sold, to You. All right and title in and to all Intellectual Property Rights of whatever nature in the Software and the Support Services, whether possessed by RHONDOS or its licensors prior to the commencement of this Agreement, or developed, improved, or refined during the course of performance this Agreement regardless of whether such Intellectual Property Rights are created by RHONDOS, You, Your Authorized Users, or any third party acting on Your behalf (including all improvements, enhancements, and derivative works thereof) are and shall remain vested in RHONDOS and its licensors (as the case may be). Accordingly, any data or outputs generated by the Software are licensed solely and exclusively for Your use with the Software and may not be utilized in connection with any third-party system or service. You shall do all such acts and things as RHONDOS may reasonably require for the purpose of preserving or perfecting RHONDOS’s and its licensors’ title and Intellectual Property Rights. To the extent any of the rights, title and interest in and to Intellectual Property Rights therein cannot be assigned by You to RHONDOS, You hereby grants to RHONDOS an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) to fully use, practice and exploit those non-assignable rights, title and interest. To the extent that the foregoing assignment and license are not enforceable, You agree to waive and never assert against RHONDOS or its licensors those non-assignable and non-licensable rights, title and interest. You agree to execute any documents or take any actions as may reasonably be necessary, or as RHONDOS may reasonably request, to perfect ownership of the applicable Intellectual Property Rights. If You are unable or unwilling to execute any such document or take any such action, RHONDOS may execute such document and take such action on Your behalf as Your agent and attorney-in-fact. The foregoing appointment is deemed a power coupled with an interest and is irrevocable.

10. PAYMENT AND TAXES. Fees and payment terms shall be as set out in the applicable Order Form. All amounts payable by You will be made without setoff or counterclaim, and without any deduction or withholding. Notwithstanding the foregoing, all purchases made through a Reseller shall be as agreed exclusively by and between You and the Reseller.

11. TERM AND TERMINATION.

(a) This Agreement and the Software License granted hereunder shall remain in effect for the term specified in the Order Form or valid purchase order from a Reseller (the “*Term*”). All Software Licenses granted hereunder shall terminate immediately upon the earlier of: (i) the conclusion of the relevant Term; or (ii) termination of this Agreement for any reason.

(b) This Agreement shall automatically terminate after the last day of the Term of the last active Software License held by You (except to the extent that any provisions hereof shall have survived termination). Termination of this Agreement under this or any other Section shall not affect the continuance of any Sections which are stated or by their nature are intended to continue after termination nor shall it affect any existing obligations already incurred whether relating to payment or otherwise.

(c) Either Party may terminate this Agreement with immediate effect in the event of: (i) the suspension of business by the other Party; (ii) the insolvency, the institution of bankruptcy or liquidation proceedings by or against the other Party; (iii) the appointment

of a trustee or receiver for the other Party's property or business; or (iv) in the case of any assignment, reorganization or arrangement by the other Party for the benefit of its creditors; or (v) in the event anything analogous to the foregoing occurs under the law of any jurisdiction in relation to the other Party.

(d) Either Party may terminate this Agreement for cause with immediate effect upon written notice to the other Party, if the other Party breaches a material obligation under the Agreement and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured for thirty (30) days after the non-breaching Party provides written notice thereof.

(e) Upon expiration or earlier termination of this Agreement, the license(s) granted hereunder shall terminate, You shall pay all RHONDOS License Fees and Support Fees due and cease using and destroy all copies of the Software and any Documentation. RHONDOS shall have the right to immediately disable the Software and cease the provision of all Support Services. In the event that You terminate, or elect not to renew, one or more individual Software Licenses, but still retain license and use rights to at least one (1) other Software License, and are otherwise in compliance with this Agreement, then this Agreement shall not terminate and shall remain in full force and effect. Upon such event, for the avoidance of any doubt, You shall cease using and destroy all copies of any Software and any Documentation related to any terminated or non-renewed Software Licenses.

12. WARRANTIES AND WARRANTY DISCLAIMER.

(a) RHONDOS represents and warrants that: (i) it has the authority required for it to enter into this Agreement; and (ii) at all times during the term of the Agreement, RHONDOS will not knowingly introduce malicious code or other defects into the Software.

(b) EXCEPT FOR ANY EXPRESS WARRANTIES SET OUT IN THIS AGREEMENT, THE SOFTWARE, THE DOCUMENTATION, THE SUPPORT SERVICES AND ALL OTHER PRODUCTS OR SERVICES PROVIDED BY RHONDOS UNDER THIS AGREEMENT ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND ACCORDINGLY, RHONDOS EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND OR NATURE TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY, ACCURACY OF INFORMATIONAL CONTENT, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR QUIET ENJOYMENT, TOGETHER WITH ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE. IN ADDITION, RHONDOS MAKES NO REPRESENTATION OR WARRANTY THAT THE SOFTWARE, THE DOCUMENTATION, THE SUPPORT SERVICES OR ANY OTHER PRODUCTS OR SERVICES PROVIDED WILL MEET YOUR REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION OR IN A TIMELY MANNER, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS, BE FREE FROM MALICIOUS CODE, BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. IN RESPECT OF ANY SOFTWARE EVALUATION LICENSE, IN ADDITION TO THE FOREGOING DISCLAIMERS, FOR THE SOFTWARE EVALUATION PERIOD, DURING WHICH THE SOFTWARE IS PROVIDED TO YOU FOR TRIAL PURPOSES AT NO COST (IF AND AS APPLICABLE), THE SOFTWARE, THE DOCUMENTATION AND ANY SUPPORT SERVICES ARE PROVIDED TO YOU "AS IS", "AS AVAILABLE" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. ANY THIRD-PARTY ITEMS ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD-PARTY ITEMS IS STRICTLY BETWEEN YOU AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF THE THIRD PARTY ITEMS.

13. LIMITATION OF LIABILITY.

(a) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW: IN NO EVENT WILL RHONDOS OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, INABILITY TO USE THE SOFTWARE, LOST REVENUES OR PROFITS, DELAYS, INTERRUPTION OR LOSS OF SERVICES, LOSS OF BUSINESS OR GOODWILL, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF STATUTORY DUTY OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT RHONDOS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW: IN NO EVENT WILL RHONDOS OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY ADDITIONAL, INCREMENTAL, OR SUPPLEMENTARY COSTS, FEES, OR EXPENSES INVOLVING SAP PRODUCTS OR ANY THIRD PARTY PRODUCTS OR SERVICES THAT MAY ARISE FOR YOU IN CONNECTION WITH YOUR DEPLOYMENT, TESTING, HOSTING, OR USE OF THE SOFTWARE, INCLUDING WITHOUT LIMITATION, ANY IMPACTS ON YOUR SAP PRODUCT LICENSING COSTS.

(c) TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW: IN NO EVENT WILL RHONDOS'S AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF STATUTORY DUTY OR OTHERWISE, EXCEED THE GREATER OF: (I) FIFTY THOUSAND US DOLLARS (US\$50,000); OR (II) THE TOTAL NET AMOUNT ACTUALLY PAID BY YOU TO RHONDOS UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD THAT IMMEDIATELY PRECEDED THE EVENT GIVING RISE TO THE

CLAIM.

(d) The limitations and exclusions set out in Section 13 (c) above shall not apply to claims and/or losses based on any of the following: (i) death and/or personal injury directly caused by the negligence of RHONDOS or its personnel; (ii) willful misconduct or gross negligence by RHONDOS personnel; (iii) fraudulent misrepresentation by RHONDOS or its personnel; (iv) an indemnity provided under Section 14; or (v) any other liability which cannot be excluded or limited at law.

14. INDEMNITY.

(a) To the extent permissible under applicable law, You shall promptly indemnify and defend RHONDOS, its parents, affiliates, suppliers, licensors, successors and assigns, and all of their officers, directors, employees and agents from and against any and all claims, demands, costs, liabilities, losses, expenses, and damages (including reasonable attorney's fees) arising out of or in connection with: (i) misuse or unlawful use of the Software by You or Your Authorized Users; or (ii) breach of Section 1, Section 2, Section 3, Section 4, Section 10, or Section 15 of this Agreement by You or Your Authorized Users.

(b) RHONDOS agrees to indemnify and defend You from and against any and all third party claims, demands, costs, liabilities, losses, expenses, and damages (including reasonable attorney's fees) arising out of or in connection with any claims brought against You alleging that the Software infringes upon the Intellectual Property Rights of a third party.

(c) If the Software is held to be infringing third party Intellectual Property Rights, RHONDOS shall, at its own cost, and at RHONDOS's option either: (i) procure the right for You to continue using the Software; (ii) replace the Software with a non-infringing equivalent; or (iii) modify the Software to make it non-infringing. If none of the foregoing options are available on a commercially reasonable basis, RHONDOS may terminate this Agreement and refund to You any prepaid fees for the period following termination.

(d) In no event will RHONDOS have any obligations under Sections 14(b) or (c) or any liability for any claim or action to the extent that the claim is caused by, or results from: (i) You exceeding any license limits, Your use of the Software in a manner not in accordance with the Documentation and this Agreement or You otherwise being in breach of this Agreement; (ii) save where expressly agreed by RHONDOS in writing, Your combination or use of the Software with Your or any third party software, products or services; (iii) modification of the Software by anyone other than RHONDOS; or (iv) Your continued allegedly infringing activity after being provided modified or replacement Software that would have avoided the alleged infringement or refusal to accept reasonable and/or standard third party license terms.

(e) Sections 14(b), (c) and (d) set forth Your sole and exclusive remedies and RHONDOS's sole liability in the event of a claim brought against You alleging that the Software infringes upon the Intellectual Property Rights of a third party.

(f) In relation to any indemnity given under this Agreement, the indemnified Party shall: (i) use its reasonable endeavors to mitigate any claims, demands, costs, liabilities, losses, expenses, and damages (including reasonable attorney's fees) covered by the indemnity; (ii) notify the indemnifying Party promptly upon receipt of any notice, demand, letter or other document concerning any claim for which it is or may become entitled to indemnification under this Agreement; (iii) not make any admissions, nor attempt to settle or compromise any such claim without the indemnifying Party's prior written consent (such consent not to be unreasonably withheld or delayed); (iv) give the indemnifying Party the sole conduct of the defense of the claim; and (v) act in accordance with the reasonable instructions of the indemnifying Party and, at the indemnifying Party's cost, give the indemnifying Party such assistance as the indemnifying Party shall reasonably require in relation to the claim.

15. CONFIDENTIALITY.

(a) The term "**Confidential Information**" means any and all information received or obtained in connection with the discussions leading up to or in relation to any aspect of the performance of this Agreement (whether orally, in writing, electronically or in any other manner or form) by a Party (the "**Recipient**") from the other Party (the "**Disclosing Party**") which is marked or notified to the Recipient as being confidential, together with any other information which, given the nature of the information, the circumstances of the disclosure or in the normal course of business would be considered to be of a confidential nature.

(b) Notwithstanding the foregoing, Confidential Information shall not include any information, which: (i) was in Recipient's lawful possession without a confidentiality obligation prior to the disclosure and was not obtained by Recipient either directly or indirectly from the Disclosing Party; or (ii) is or becomes publicly available through no fault of the Recipient; or (iii) is rightfully obtained from a third party, who has the right to transfer or disclose it on a non-confidential basis; or (iv) is independently developed by the Recipient without any reference to Confidential Information of the Disclosing Party, as evidenced by the records of the Recipient; or (v) is required to be disclosed pursuant to law or the order or requirement of any governmental or regulatory body (including any securities exchange) to which the Recipient is bound wherever situated. In such cases, the Recipient shall, to the extent that it is not prevented by such law or requirement: (a) limit disclosure to the extent strictly necessary and give as much notice as possible to the Disclosing Party; and (b) if requested, assist the Disclosing Party (at the Disclosing Party's cost), in seeking a protective order or other assurance with respect to maintaining the confidentiality of such Confidential Information.

(c) Each Party agrees: (i) to use the Confidential Information of the other Party only for the purposes described herein; (ii) not to reproduce the Confidential Information of the other Party and to hold in confidence and protect the Confidential Information of the other Party from dissemination to, or use by, any third party; (iii) not to create any derivative work of the Confidential Information of the other Party; (iv) to restrict access to the Confidential Information of the other Party to such of its personnel, agents or consultants who need to have access for the purposes of this Agreement, who have been advised of the confidential nature of such Confidential Information and who are bound by obligations of confidentiality no less protective of such Confidential Information than this Agreement (and, as respecting You, to such persons as are also Authorized Users hereunder, to the extent otherwise required hereby); and (v) to return, destroy or delete permanently all Confidential Information of the other Party in its possession upon termination or expiration of this Agreement.

(d) Recipient will immediately, and at least within seventy-two (72) hours, notify Disclosing Party if Confidential Information of Disclosing Party is used or disclosed in breach of this Agreement.

16. EXPORT REGULATION. The Software and any Documentation may be subject to export control laws. You shall not, directly or indirectly, export, re-export or release the Software or any Documentation to, or make the Software or Documentation accessible from, any jurisdiction or country to which export, re-export or release is prohibited by law, rule or regulation. You shall comply with all applicable laws, regulations and rules in the country or countries where You are licensed to use the Software, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing or otherwise making the Software or Documentation available.

17. US GOVERNMENT RIGHTS. The Software is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if You are the US Government or any contractor therefor, You shall receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with: (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense, as well as contractors thereto; or (b) 48 C.F.R. §12.212, with respect to any other licensee(s) that reasonably constitute(s) a facet of the US Government thereunder, as well as contractors thereto.

18. MISCELLANEOUS.

(a) **Governing Law and Courts of Jurisdiction.** This Agreement is governed by and construed in accordance with the laws of the State of Delaware, United States, without giving effect to conflict or choice of law principles. Each Party submits to the exclusive jurisdiction of the Courts the State of Delaware, United States in respect of any dispute or proceedings which may arise out of or in connection with this Agreement. Application of the United Nations Convention on Contracts for the International Sales of Goods ("CISG") is expressly excluded. Notwithstanding the foregoing, the Parties agree that RHONDOS may enforce its rights (both at law and in equity) under this Agreement, to enforce its Intellectual Property Rights and all claims in connection therewith in any court with jurisdiction worldwide. Each Party agrees that a final judgment in any action, litigation or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) **Force Majeure.** Neither Party shall be liable for any delay or failure to perform its obligations under this Agreement (other than payment obligations) to the extent that such delay or failure is a result of a Force Majeure Event. Each Party shall promptly notify the other Party of a Force Majeure Event or potential Force Majeure Event which could affect its ability to perform its obligations under this Agreement. Each Party shall use reasonable endeavors to mitigate the effects of the Force Majeure Event on the performance of its obligations.

(c) **Notices.** Any and all notices, requests, demands, or other communications which relate to the other party's failure to perform or which otherwise affect either party's rights under a contract and/or purchase order established between the parties shall be deemed properly given when furnished by receipted hand-delivery to the other party, deposited with an express courier or deposited with the U.S. Postal Service. Notwithstanding the foregoing, notice may be given and be deemed received by email when acknowledged by the addressee by return email or otherwise in writing. For the avoidance of doubt a computer generated automated "Out of Office" response or such similar response does not constitute a return email for purposes of this clause.

(d) **Entire Agreement.** This Agreement constitutes the sole and entire agreement between You and RHONDOS with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

(e) **Assignment and Subcontractors.** You shall not assign or otherwise transfer any of Your rights, or delegate or otherwise transfer any of Your obligations or performance, under this Agreement, whether voluntarily, involuntarily, by operation of law or otherwise, without RHONDOS's prior written consent, which consent RHONDOS may grant or withhold in its sole discretion. For purposes of the preceding sentence, and without limiting its generality, any merger, consolidation or reorganization involving You (without regard to whether You are a surviving or disappearing entity) will be deemed to be a transfer of rights, obligations or performance under this Agreement for which RHONDOS's prior written consent is required. No delegation or other transfer will relieve You of any of Your obligations or performance under this Agreement. RHONDOS may assign this Agreement or use subcontractors in the provision of the Software or any other services under this Agreement at any time. Any purported assignment, delegation or transfer by You in violation of this Section 18(e) is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(f) **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the Parties hereto and their respective permitted successors and assigns and nothing herein, express or implied, is intended to or shall confer on any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

(g) **Waiver.** No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege hereunder or otherwise.

(h) **Severability.** If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(i) **Equitable Relief.** Both Parties acknowledge and agree a breach of this Agreement would cause the other Party

irreparable harm for which money damages alone may not be an adequate remedy. In addition to damages and any other remedies to which one Party may be entitled, both Parties acknowledge and agree that each Party may seek injunctive relief, for specific performance or other appropriate order to prevent the actual, threatened or continued breach of this Agreement.

(j) **Interpretation; Headings.** For purposes of this Agreement, (a) the words “include”, “includes” and “including” shall be deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; and (c) the words “herein”, “hereof”, “hereby”, “hereto” and “hereunder” refer to this Agreement as a whole. Unless the context otherwise requires, references herein: (a) to Sections refer to the Sections of this Agreement; (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof and (c) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The headings in this Agreement are for reference only and do not affect its interpretation.

(k) **Conflicting Terms.** The terms and conditions set forth in this Agreement and in the Documentation (to the extent applicable) shall govern the terms and conditions of Your access and use to the Licensed Software, and shall expressly supersede and negate any contrary, additional or differing terms that may be set forth in any purchase order, request for proposal, or any other document. The Parties agree that any such contrary, additional or differing terms presented by You that are not expressly included in this Agreement or the Documentation are automatically null and void.

19. DEFINITIONS. In this Agreement, unless otherwise defined in the Agreement or the context requires otherwise the following terms shall have the following meaning:

“**Authorized Users**” means the final user who: (a) is a physical person (save in respect of any agent, sub-contractor, or consultant that is a legal entity); (b) is an employee, agent, sub-contractor, consultant or representative of You; and (c) has been authorized to use the Software by You pursuant to the license granted under this Agreement.

“**Documentation**” means any user manuals, technical manuals and any other materials provided by RHONDOS, in printed, electronic or other form, that describe the installation, operation, use or technical specifications of the Software. For the avoidance of any doubt, the Documentation may be updated or amended by RHONDOS from time to time in its sole discretion, and such updated Documentation shall supersede and replace the then-existing Documentation in its entirety, immediately upon issuance of the updated Documentation by RHONDOS.

“**Effective Date**” means the date on which this Agreement enters into effect.

“**Force Majeure Event**” means: (i) acts of God, flood, fire, wind, storm, drought, earthquake or other natural disaster; (ii) epidemic or pandemic; (iii) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; (iv) nuclear, chemical or biological contamination or sonic boom; (v) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary license or consent; (vi) collapse of buildings, breakdown of plant or machinery, fire, explosion or accident; (vii) any labor or trade dispute, materials or transport, strikes, industrial action or lockouts; (viii) interruption or failure of utility service; or (ix) for any other cause, whether similar or dissimilar to those enumerated, that is beyond the reasonable control and without the fault or negligence of the party whose performance is affected.

“**Intellectual Property Rights**” means patents, rights to inventions, copyrights, software, trademarks, trade names, service marks, logos, trade secrets, Confidential Information, compilations, diagrams, layouts, mask works, know-how, database rights, designs, methods, processes, formulas, rights to use and other proprietary rights and privileges, whether registered or unregistered, together with all improvements, modifications, enhancements, and derivative works to all of the foregoing, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world together with all applications for registration of any such rights and the right to apply for registration, and all renewals, revisions and extensions of such registrations.

“**Fees**” means the fees payable by You for the Software License(s) and Support Services as set out in the Order Form.

“**Object Code**” means the fully-compiled version of the Software that can be executed by a computer and used by a user without further compilation.

“**Order Form**” means the document or form provided by RHONDOS to You when purchasing a license in the Software and/or Support Services directly from RHONDOS.

“**SAP Product**” means the specific SAP® software that You will utilize in conjunction with the Software. Each SAP Product utilized by You is further defined by its unique installation number and SAP product set as set forth by SAP in the Platform Availability Matrix (PAM) <http://service.sap.com/PAM>.

“**SIEM Solution**” means the security information and event management solutions supported by the Software as set out in the Documentation.

“**Software**” means the PowerConnect software that facilitates queries and visualizations that are available in or via the SIEM Solution to be applied to data generated by Your SAP® Product. The term Software will include Object Code and Source Code, unless specified otherwise within the Agreement.

“**Source Code**” means computer programming code other than in Object Code form. Source Code includes code that may be displayed in a form readable and understandable by a programmer of ordinary skill, as well as any enhancements, corrections and documentation related thereto, and all related source code level system documentation, comments, procedural code, and explanatory materials.

“**Support Services**” means the maintenance and support services set out at <https://www.rhondos.com/support/terms>.

Taxes means any tax, however denominated, charge, tariff, contribution, duty, levy, assessment, government charge or fee of any kind charged, imposed or levied, directly or through withholding, by any competent authority (including withholding tax, customs charges and duties, sales tax, goods and services tax and value added tax).