

This Agreement contains the terms and conditions for supply by VeroGuard Systems Pty Limited (ACN 617 573 001) (**Supplier**), in its own right or on behalf of an Approved Channel specified in a Purchase Order, of VeroCard Administration Software (**Administration Software**) to the person or entity specified in a Purchase Order as Customer (**Customer**).

**This Agreement is a legally binding document between Supplier and Customer for the supply of the Administration Software.**

**By clicking on the “Agree” or “Accept” or similar button when downloading the Administration Software, the person undertaking that action is representing to Supplier that (i) they are authorised to bind Customer, (ii) Customer is agreeing that the terms of this agreement will govern the relationship of the parties with regard to the subject matter in this agreement and (iii) Customer is waiving any rights, to the maximum extent permitted by applicable law, to make any claim against Supplier anywhere in the world concerning the enforceability or validity of this agreement.**

If you do not have authority to agree to the terms of this agreement on behalf of Customer, or do not accept the terms of this agreement on behalf of Customer, click on the “Cancel” or “Decline” or other similar button at the end of this agreement and/or immediately cease any further attempt to install the Administration Software.

If Customer does not agree to the terms of this agreement, you may not use the Administration Software.

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## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions in VeroCard Standard Terms & Conditions

Terms used in this agreement that are defined in the VeroCard Standard Terms & Conditions have the same meaning when used in this agreement.

### 1.2 Other Definitions

In addition to clause 1.1, in this agreement, unless the contrary intention appears from the context:

**Administration Software** means software produced and owned by Supplier that enables Customer to remotely control the administrative rights of VeroCards used by Authorised End Users and any copies made by or on behalf of Customer and all Documentation for the foregoing, and includes any third party software, which may contain Accessible Code or Protected Code licensed by Supplier from a third party and embedded in a VeroCard and all Releases and Versions of the software;

**Administration Software Installation** means the installation and configuration by Supplier of the Administration Software onto the Nominated Customer Server in the manner described in the process posted on the Website;

**Administration Software Installation Date** means the date for the commencement of the Administration Software Installation, as notified by Supplier;

**Administration Software Maintenance Agreement** means the software maintenance agreement for the Administration Software that is set out in Annexure B and as amended from time to time by Supplier and posted on the Website;

**Customer Administrator** means a person nominated by a Customer as the person to administer Authorised End Users using the Administration Software;

**End User License Agreement** means the end user licence agreement for the Administration Software that is set out in Annexure A and as amended from time to time and posted on the Website;

**Nominated Customer Server** means the server owned or used by Customer to operate Customer’s IT systems that Customer nominates for the purpose of interaction with the VeroGuard Platform; and

**Training** means technical end-user training for use of the Administration Software.

### 1.3 Interpretation

The interpretation provisions in the VeroCard Standard Terms & Conditions apply in this agreement.



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## **2. ADMINISTRATION SOFTWARE**

### **2.1 Need to install**

Customer acknowledges and agrees that the supply of a VeroCard Subscription Service to Customer may require that Supplier first installs the Administration Software on a Nominated Customer Server controlled by Supplier.

### **2.2 Installation on Nominated Client Server**

Customer may elect to install the Administration Software on its Nominated Customer Server to enable Customer to manage the VeroCards issued to its Authorised End Users.

### **2.3 Customer Administrator**

Customer must appoint a Customer Administrator for the purpose of this agreement.

### **2.4 Administration Software Installation**

If installation of the Administration Software on a Nominated Customer Server is required to enable Supplier to provide the VeroCard Subscription Service, Customer acknowledges and agrees that:

- (a) Supplier will need to perform the Administration Software Installation;
- (b) Customer and Supplier will agree which service is to be the Nominated Customer Server as follows:
  - (i) Customer must first provide Supplier with details of the Nominated Customer Server, including the technical specifications in the form and content set out on the Website;
  - (ii) Supplier will attend Customer's premises to inspect the suitability of the Nominated Customer Server as the server to receive the Administration Software Installation; and
  - (iii) if Supplier forms the view that, for technical reasons, the Nominated Customer Server is not suitable for the Administration Software Installation, Supplier and Customer will work in good faith to identify a server controlled by Customer that is, or with modifications will be, suitable for the Administration Software Installation, which will then become the Nominated Customer Server;
- (c) once a server is agreed to be the Nominated Customer Server, Supplier will undertake the Administration Software Installation onto the Nominated Customer Server, if possible, on the same day that the inspection under clause 2.3(b)(ii) is carried out or, if not possible, as soon as practicable after that date; and
- (d) when the Administration Software Installation has been satisfactorily completed, Supplier will certify the same to Customer.

### **2.5 Administration Software Installation Fee**

In consideration of the due performance of the Administration Software Installation, Customer covenants to pay to Supplier the Administration Software Installation Fee (if any) in the currency specified and at the time or times required in the same manner as is set out in the Customer Agreement.

### **2.6 Training**

- (a) Supplier will, for no cost, provide Training to a maximum of two key IT staff of Customer.
- (b) Customer may from time to time request that Supplier provide additional Training to nominated Customer staff in consideration of the payment by Customer of the Training Fee for the Training of each additional person.

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## **3. SUPPLIER'S LIABILITY**

### **3.1 Supplier liability**

- (a) Supplier's entire liability and Customer's exclusive remedies under this agreement will be for Supplier, at its option, to remedy the non-compliance.



- (b) The foregoing clause does not void any supplementary remedies made available to Customer by a third party with respect to which Supplier will have no liability or obligation.

### **3.2 Limitation on direct damages**

Supplier's total liability and Customer's sole and exclusive remedy for any claim of any type whatsoever, arising out of the Administration Software is limited to proven direct damages caused by Supplier's sole negligence in an amount not to exceed:

- (a) \$2,000, for proven damage to real or tangible personal property; and
- (b) an amount equal to the aggregate previous 12 months RRP Supply Fees paid by Customer for all VeroGuard (VeroCard) Subscription Services for damage of any type not identified in clause 3.2(a) or otherwise excluded under this agreement

### **3.3 No indirect damages**

Except with respect to claims regarding violation of Supplier's Intellectual Property Rights, neither Customer nor Supplier have liability to the other for any special, consequential, exemplary, incidental or indirect damages (including loss of profits, revenues, data and/or use, even if advised of the possibility thereof).

### **3.4 Limitation period**

Unless otherwise required by applicable Law, the limitation period for claims for damages will be 12 months after the cause of action accrues, unless statutory law provides for a shorter limitation period.

### **3.5 Continuation of limitations**

The foregoing limitations will apply even if any warranty or remedy fails of its essential purpose. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to Customer.

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## **4. CUSTOMER DEFAULT AND INDEMNITY**

### **4.1 Default of Customer**

Without prejudice to any of Supplier's other rights under this agreement, if Customer:

- (a) breaches any term of this agreement; or
- (b) fails to make any payment due to Supplier under this agreement,

then Supplier may, in its absolute discretion and without further liability to Customer, exercise any of Supplier Remedies in relation to this agreement.

### **4.2 Indemnity**

Subject to clause 3.3, Customer agrees to indemnify Supplier and Supplier's Personnel against any Claims of any nature whatsoever in connection with or arising out of any or all of the following:

- (a) breach by Customer, any Authorised End User of Customer or any of Customer's directors, employees, subcontractors and agents, of any warranties, terms or conditions of this agreement
- (b) incorrect application of the Administration Software;
- (c) incorrect information given by Customer or any Authorised End User of Customer to anyone relation to the Administration Software;
- (d) any loss or damage to any of the Administration Software or to property of any person (including Customer's property) or for any injury to, or death, illness or incapacitation of any person, arising from, contributed to or caused by or in relation to Customer's use, maintenance, possession or storage of the Administration Software and whether occasioned by Supplier's negligence or otherwise;
- (e) delivery, selection, purchase, acceptance or rejection, ownership, possession, use, repair, maintenance, storage or operation of the Administration Software and by whomsoever used or operated (except where used by Supplier or any person on behalf of Supplier);
- (f) any reasonable action taken by Supplier to remedy a default of this agreement by Customer or Customer's directors, employees, subcontractors and agents and invitees; or



- (g) all costs and legal expenses, stamp duties, debt collector fees and any other expenses, taxes or costs (on a full indemnity basis) reasonably incurred by Supplier in order to recover monies owing by Customer for a VeroGuard (VeroCard) Subscription Service for which payment has not been received.

#### **4.3 Survival**

The indemnity in clause 4.1 survives termination of this agreement by either Supplier or Customer for any reason.

#### **4.4 Enforcement**

It is not necessary for Supplier to incur expense or make payment before enforcing a right of indemnity against Customer conferred by this agreement.

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### **5. GST**

#### **5.1 GST**

- (a) Unless stated otherwise, all amounts payable under this agreement are exclusive of GST.
- (b) Supplier will, when making a claim for payment, render a Tax Invoice to Customer to which the particular payment claim refers.
- (c) Notwithstanding any contrary provision in this agreement, the Recipient is not obliged to make any payment under this agreement unless Supplier has provided a Tax Invoice in respect of the Taxable Supply attributable to that payment.

#### **5.2 Reimbursements**

If any payment to be made to a Party under or in accordance with this agreement is a reimbursement or indemnification of an expense or other liability incurred or to be incurred by that Party (in this clause a Reimbursement), then the amount of the payment must be reduced by the amount of any input tax credit to which that Party is entitled for that Reimbursement, such reduction to be effected before any increase in accordance with clause 5.3.

#### **5.3 Adjustment for GST**

- (a) If a Supply under or in connection with this agreement constitutes a Taxable Supply, Supplier may recover from the Recipient an amount on account of GST in addition to any payment or other consideration for the Supply.
- (b) The additional amount is equal to the Value for the Supply multiplied by the prevailing GST Rate.
- (c) The Recipient must pay that additional amount at the same time and in the same manner as the GST exclusive consideration is payable or to be provided for that Supply.

#### **5.4 Definitions**

A word or expression used in this clause 5 which is defined in the GST Law has the same meaning in this clause 5.

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### **6. GENERAL**

#### **6.1 Force Majeure**

If either Supplier or Customer is prevented from or delayed in complying with an obligation (other than to pay money) by a Force Majeure Event, performance by it of that obligation is suspended during the time, but only to the extent that compliance is prevented or delayed.

#### **6.2 Further assurances**

Each of Supplier and Customer must do or cause to be done all things necessary to give effect to this agreement and refrain from doing anything which might hinder performance of this agreement.

#### **6.3 Relationship of Parties**

Supplier is an independent contractor and this agreement does not:

- (a) constitute a partnership or a joint venture between Supplier and Customer;



- (b) authorise either of Supplier or Customer to assume or create any obligations on behalf of another, except as specifically permitted under this agreement; or
- (c) constitute a relationship between Customer and Supplier as that of employer and employee.

**6.4 Severance**

If the whole or any part of a provision of this agreement is invalid, illegal or unenforceable, then that provision will be severed from this agreement and will not affect the validity or enforceability of the remaining provisions of this agreement.

**6.5 Waiver**

The failure or delay by Supplier or Customer to exercise any of its rights conferred upon that party by this agreement will not operate as a waiver of its rights and will not prevent that party from subsequently enforcing any right or treating any breach by the other party as a repudiation of this agreement.

**6.6 Successors and assigns**

This agreement binds and endures to the benefit of the Supplier and Customer and each of their respective successors and permitted assigns.

**6.7 Governing law**

This agreement is governed by and construed according to the laws of Victoria, Australia. Supplier and Customer each submit themselves exclusively to the courts of competent jurisdiction and the courts of appeal in Victoria, Australia.



## ANNEXURE A – END USER LICENCE AGREEMENT

### \*\*\* IMPORTANT INFORMATION - PLEASE READ CAREFULLY \*\*\*

The Administration Software contains computer programs and other proprietary material and information of Supplier, the use of which is subject to and expressly conditioned upon acceptance of this End User Licence Agreement (**EULA**). The Customer's use of any of the Administration Software is subject to the terms and conditions as outlined in this EULA.

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#### 1. DEFINITIONS

Terms used in this EULA that are defined in the VeroCard Standard Terms & Conditions have the same meaning when used in this EULA. In addition:

**Administration Software** means the VeroCard Administration Software;

**Maintenance** means the provision by Supplier to Customer, under a Maintenance Agreement, of Administration Software updates and/or enhancements made generally available to customers from time to time and online technical support (and, where applicable, phone support) for the sole purpose of addressing technical issues relating to the use of the Administration Software; and

**User License** means a license granted under this EULA to permit the Customer Administrator to use the Administration Software as part of its use of the VeroCard Subscription Service.

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#### 2. GRANT OF LICENSE

##### 2.1 Grant

Subject to Customer's compliance with this EULA and the VeroCard Standard Terms & Conditions and the payment by Customer of all fees set out in Customer Agreement, Supplier grants Customer the non-exclusive right to use the Administration Software as part of their use of the VeroCard Subscription Service, subject to the following clauses.

##### 2.2 Maximum number of VeroCards that can be used

The User Licence granted in clause 2.1 of this EULA is subject to the condition that Customer must ensure the maximum number of VeroCards used to access and use the Administration Software is equal to the number of VeroCards for which the fees set out in Customer Agreement have been paid by Customer to Supplier.

##### 2.3 Scope

The User Licence granted in clause 2.1 of this EULA is, unless otherwise specified in this EULA or agreed by Supplier in writing, worldwide, non-exclusive, non-transferable and non-sub-licensable.

##### 2.4 Duration

Subject to the terms of this EULA and unless terminated earlier in accordance with this EULA, the term of the User Licence granted in clause 2.1 of this EULA lasts until the expiry of the last of the VeroCard Subscription Service Supply Periods for Customer and its Authorised End Users.

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#### 3. FEES

##### 3.1 Payment of fees on time

Customer must pay all fees set out in Customer Agreement by their due date.

##### 3.2 Failure to pay fees on time

Failure by Customer to pay fees set out in Customer Agreement by the due date will result in the immediate termination of all User Licenses granted under this EULA.

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#### 4. RESERVATION OF RIGHTS AND OWNERSHIP

- (a) Supplier reserves all rights not expressly granted to Customer in this EULA.
- (b) All of the Administration Software and all copies are protected by copyright and other intellectual property laws and treaties.
- (c) Supplier or relevant third parties own the title, copyright and other intellectual property rights in the Administration Software and all subsequent copies of the Administration Software.



- (d) Customer irrevocably acknowledges and agrees that:
  - (i) the right to use the Administration Software is non-exclusively licensed to Customer under this EULA; and
  - (ii) the grant of the right to use the Administration Software does not under any circumstances constitute any form of sale or transfer of any of the rights of Supplier to the Administration Software to Customer or its Authorised End Users and Customer and its Authorised End users do not acquire any rights of ownership in any of the Administration Software.

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## 5. SUPPORT AND MAINTENANCE

### 5.1 Additional Administration Software support services

This EULA applies to upgrades, updates, revisions, supplements, add-on components, or Internet-based services components, of any of the Administration Software that Supplier may remotely upload to the VeroCards from time to time (**Support Services**).

### 5.2 Provision of Support Services

Any Support Services provided by Supplier will be substantially as described on the Website from time to time and may be the subject to the payment of additional fees set out in Customer Agreement.

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## 6. CUSTOMER OBLIGATIONS

### 6.1 Positive obligations

Customer must at all times:

- (a) ensure that Customer uses the Administration Software only in accordance with the terms and conditions of the VeroCard Standard Terms & Conditions and this EULA; and
- (b) without the specific written consent of Supplier, ensure that the Administration Software are not used for rental, timesharing, subscription services, hosting or outsourcing.

### 6.2 Negative obligations

Customer must not, whether wilfully or through any negligent act or omission or without the prior written consent of Supplier (which may be withheld at Supplier's discretion and include certain conditions):

- (a) decompile, reverse engineer, disassemble, modify, adapt, create derivative works from or otherwise attempt to derive source code from any portion of the Administration Software;
- (b) directly or indirectly access or use any Administration Software independently of the VeroCard Subscription Service;
- (c) sell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine-readable form the Administration Software or any data/information not owned by Customer which is provided to Customer through the Administration Software to any person who is not Customer;
- (d) vary or amend the Administration Software (including any Protected Code or Accessible Code);
- (e) except as otherwise permitted in this EULA, publish, promote, broadcast, circulate or refer publicly to Supplier's name, trade names, trademarks, service marks or logos;
- (f) commit any act or omission the likely result of which is that Supplier or any of its third party suppliers' reputations will be brought into disrepute or which act or omission could reasonably be expected to have or does have a material and adverse effect on Supplier's interests; or
- (g) copy or embed elements of the Accessible Code contained in the Administration Software into other applications.

### 6.3 Protection mechanisms

The Administration Software may include license protection mechanisms that are designed to manage and protect the intellectual property rights of Supplier and its third party suppliers. Customer must not modify or alter those features to try to defeat the Administration Software use rules that the license protection mechanisms are designed to enforce. Any such attempt by Customer will result in the immediate termination of all User Licenses granted under this EULA.



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## **7. BREACH NOTIFICATION**

### **7.1 Obligation to notify**

If Customer discovers that the Customer Administrator has breached any of the obligations under this EULA and, in particular, the obligations in clause 6, Customer must immediately report the breach to Supplier in writing.

### **7.2 Failure to notify**

If Customer fails to notify a breach under clause 7.1 of this EULA, but Supplier becomes aware of a breach, Customer will be deemed to have notified the breach.

### **7.3 Penalties**

Where a breach notified under clause 7.1 of this EULA or deemed to have been notified under clause 7.2 of this EULA involves the use and distribution of the Administration Software, Supplier and/or any third party owner of any part of the Administration Software will be entitled, in addition to any other right or claim that Supplier or any third party owner of the Administration Software may have against Customer, to retroactively charge Customer, in addition to any other fees set out in Customer Agreement payable by Customer under this EULA, a fee calculated based on the individual number of prohibited uses multiplied by the prices that Supplier charges for the VeroCard Subscription Service.

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## **8. INVESTIGATION OF UNAUTHORISED USE AND DISTRIBUTION**

### **8.1 Supplier right to require independent audit certificate**

If Supplier reasonably suspects that:

- (a) any Administration Software supplied to Customer has been distributed to or obtained by any person or party who is not Customer without Supplier's prior written consent;
- (b) the Administration Software is being varied or accessed or used independently of the VeroCard Subscription Service; or
- (c) Customer or the Customer Administrator is otherwise breaching a term of this EULA and, in particular, its obligations under clause 6 of this EULA,

Supplier reserves the right to require Customer to provide an unqualified certificate executed by Customer's auditor verifying compliance by Customer with the terms of this EULA.

### **8.2 When requests may be made**

Other than where clause 7.2 of this EULA applies, requests under clause 8.1 of this EULA must be made no more frequently than once per calendar year. Where clause 7.2 of this EULA applies, the request under clause 8.1 of this EULA may be made at any time following discovery of the breach by Supplier.

### **8.3 Failure to provide unqualified certificate**

If an unqualified certificate required under clause 8.1 of this EULA is not received by Supplier within 30 calendar days of being required, it will be considered that a breach of this EULA by Customer has occurred allowing Supplier to immediately terminate, with no penalty, all licenses granted under this EULA.

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## **9. TERMINATION**

### **9.1 Supplier's right to terminate**

Without prejudice to any other rights and in addition to any other termination rights in this EULA, if Customer fails to comply with the terms and conditions of this EULA, Supplier may, at any time with no penalty, terminate this EULA.

### **9.2 Consequences of termination**

If the EULA is terminated under clause 9.1 of this EULA:

- (a) each User Licence to use the Administration Software granted under this EULA immediately terminates; and
- (b) Customer must immediately cease using the VeroCard Subscription Service and return to Supplier all of the VeroCards in Customer and each of its Authorised End User's possession or control.





### 9.3 Survival

Clauses 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of this EULA survive any termination of this EULA.

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## 10. INFRINGEMENT INDEMNIFICATION

### 10.1 Infringement by Administration Software

If the Administration Software becomes, or in the opinion of Supplier may become, the subject of a claim of infringement of any third party's intellectual property rights, Supplier may, at its option and in its discretion:

- (a) procure for Customer the right to use the Administration Software free of any liability;
- (b) at Supplier's cost, replace or modify the Administration Software to make it non-infringing; or
- (c) refund any fees set out in Customer Agreement related to the VeroCards paid by Customer.

The foregoing states the sole liability of Supplier and the exclusive remedy of Customer for any infringement of intellectual property rights by the Administration Software or any other items provided by Supplier under this EULA.

### 10.2 Customer's use

Customer will indemnify and hold harmless Supplier against all costs, expenses, losses and claims made against Supplier as a result of any infringement of a third party's intellectual property rights arising from Customer's modification to the Administration Software.

### 10.3 Third party software

Customer acknowledges and agrees that, if Customer breaches this EULA and Supplier or any third party owner of the Administration Software suffers any loss, damage, cost or expense, directly or indirectly, in connection with the breach, Supplier or the relevant third party owner of the Administration Software may bring an action directly against Customer.

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## 11. EXCLUSION OF WARRANTIES

To the maximum extent permitted by applicable law in the jurisdiction in which the Administration Software is supplied or Maintenance provided, Supplier and its third party suppliers provide the Administration Software and any Maintenance **AS IS AND WITH ALL FAULTS** and, except otherwise expressly contained in the EULA, hereby each disclaim all other warranties and conditions, whether express, implied or statutory.

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## 12. LIMITATION OF LIABILITY

### 12.1 Non-excludable warranties

Customer may have remedies against Supplier imposed by law or statute which cannot be excluded by Supplier and its third party suppliers.

### 12.2 If legal remedies

To the extent Customer has any legal remedies against Supplier or its third party suppliers, then, to the fullest extent permitted by law, Supplier and its third party suppliers' liability is limited:

- (a) at Supplier' option, to:
  - (i) in the case of the Administration Software:
    - (A) repairing or replacing the Administration Software; or
    - (B) the cost of such repair or replacement; and
  - (ii) in the case of Maintenance services:
    - (A) re-supply of the Maintenance services; or
    - (B) the cost of having the Maintenance services supplied again; or
- (b) if any of the limitations in clause 12.2(a) of this EULA are not applicable, to an amount equal to the aggregate of the actual damages, costs, expenses and losses Customer incurs in reasonable reliance on the Administration Software up to the maximum aggregate amount actually paid by Customer for all of the VeroCard Subscription Services in the 12 months prior to the date the legal remedy arose.



### 12.3 Limitation of Liability for other Losses

Subject to clause 12 of this EULA, notwithstanding any damages, costs, expenses and losses Customer might incur for any reason whatsoever to the maximum extent permitted by applicable law, the entire liability of Supplier and any of its third party suppliers under any provision of this EULA and Customer's exclusive remedy will be limited to the greater of the aggregate of the actual damages, costs, expenses and losses Customer incurs in reasonable reliance on the Administration Software up to the maximum amount actually paid by Customer for the Administration Software.

### 12.4 Consequential Loss

Notwithstanding anything else in this clause 12 of this EULA, to the maximum extent permitted by applicable law, in no event will Supplier or its third party suppliers be liable for any special, incidental, punitive, indirect or consequential damages whatsoever arising out of or in any way related to the use of or inability to use the Administration Software, the provision of, or failure to provide, any Maintenance or other services, information, software and related content through the Administration Software or otherwise arising out of the use of the Administration Software, or otherwise under or in connection with any provision of this EULA, even in the event of the fault, tort (including negligence), misrepresentation, strict liability, breach of contract or breach of warranty of Supplier or any third party supplier and even if Supplier or any third party supplier has been advised of the possibility of such damages.

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## 13. AMENDMENT

This EULA may not be amended except with the written agreement of Supplier whose consent may be withheld in its complete discretion without any requirement to provide reasons.

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## 14. ASSIGNMENT

- (a) Customer may not assign this EULA.
- (b) Supplier may assign its rights and obligation under this EULA without consent of Customer.
- (c) Any permitted assignee will be bound by the terms and conditions of this EULA.

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## 15. DISPUTES

Except in circumstances where a party seeks urgent injunctive relief, before commencing any court proceedings, if any dispute arises under this EULA:

- (a) the parties will negotiate in good faith to resolve the dispute; and
- (b) if the dispute has not been resolved within 60 calendar days by the relevant parties using their best efforts to resolve the dispute, the dispute will be referred to mediation where:
  - (i) the mediation will be conducted by a single mediator;
  - (ii) the mediator must be appointed by the President of the Law Society of Victoria within 10 Business Days of request for appointment by one party to the other; and
  - (iii) during the mediation:
    - (A) the parties may not be represented by legal practitioners;
    - (B) the mediator will determine the process for mediation; and
    - (C) the costs of the mediation will be shared equally by the parties.

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## 16. ENTIRE AGREEMENT AND SEVERABILITY

This EULA (including any addendum or amendment to this EULA which is included with or as a term of the VeroCard Standard Terms & Conditions) and the VeroCard Standard Terms & Conditions are the entire agreement between Customer and Supplier relating to the Administration Software and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Administration Software or any other subject matter covered by this EULA. If any provision of this EULA is held to be void, invalid, unenforceable or illegal, the other provisions continue in full force and effect.



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**17. GOVERNING LAW AND EXCLUSIONS**

**17.1 Governing law**

This EULA is governed by the copyright laws of Victoria, Australia. Unauthorised breaches of these laws or any portion of it may result in civil and criminal penalties and will be prosecuted to the maximum extent possible under law. The parties irrevocably and unconditionally submit to the laws and exclusive jurisdiction of the courts of Victoria.

**17.2 Exclusion of UN Convention**

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this EULA.

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**18. QUESTIONS**

Should you have any questions concerning this EULA, or if you desire to contact Supplier for any reason, please contact Supplier at [www.veroguard.com.au](http://www.veroguard.com.au).



## ANNEXURE B – SOFTWARE MAINTENANCE AGREEMENT

### \*\*\* IMPORTANT INFORMATION - PLEASE READ CAREFULLY \*\*\*

This Administration Software Maintenance Agreement (**SMA**) provides Customer with access to technical support and Administration Software updates for the corresponding Administration Software license. This SMA also entitles Customer to access all electronic support services available at [www.veroguard.com.au](http://www.veroguard.com.au), including end-user documentation, knowledge base and FAQs. After this SMA period expires, the Administration Software will continue to function, but you will no longer be able to access support or Administration Software updates (including security patches). Supplier will provide technical support to Customer in accordance with the following terms and conditions.

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#### 1. DEFINITIONS

Terms used in this SMA that are defined in the VeroCard Standard Terms & Conditions have the same meaning when used in this SMA. In addition:

**Administration Software** means the VeroCard Administration Software;

**Maintenance** means the provision by Supplier to Customer of Administration Software updates and/or enhancements made generally available to customers from time to time and online technical support (and, where applicable, phone support) for the sole purpose of addressing technical issues relating to the use of the Administration Software; and

**Supplier Help Desk** means the support desk accessed by the Website.

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#### 2. TERMS AND CONDITIONS

- (a) The terms of this SMA are governed by the EULA.
- (b) The cost of the support and maintenance is included as part of the VeroCard Subscription Service.
- (c) This SMA covers general support.
- (d) Supplier is not responsible and will not be held liable for any software installation undertaken by external parties.

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#### 3. ADMINISTRATION SOFTWARE UPDATES

- (a) As with any software application, there will be upgrades and enhancements to the Administration Software that are made as part of its life cycle. An active (valid and current) SMA entitles Customer to corresponding software releases, including service releases (new builds) and new versions (higher version number), of the Administration Software covered by this SMA.
- (b) All upgrades and enhancements of the Administration Software will be undertaken by Supplier remotely.

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#### 4. GENERAL SUPPORT

- (a) Supplier Help Desk is capable of assisting with most technical issues and should be the first point of support contact.
- (b) Supplier Help Desk provides a variety of support services to Customer. All reported issues are assigned a support ticket to ensure that progress of the technical assistance can be monitored and tracked to maximise Customer satisfaction.

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#### 5. FIXING BUGS AND PROVIDING PATCHES

- (a) Supplier Help Desk will help with workarounds and bug reporting.
- (b) Critical bugs will generally be fixed in the next maintenance release.
- (c) Back patches for critical bugs will generally be issued for current versions and one prior.
- (d) Non critical bugs will be scheduled according to a variety of considerations.

Note: Customer is responsible for maintaining their patches during upgrades and server migrations.