SOFTWARE DEVELOPMENT AGREEMENT

THIS SOFTWARE DEVELOPMENT AGREEMENT (the "**Agreement**"), entered into as of the 20th day of October, 2020 (the "**Effective Date**").

BETWEEN:

XIGEM TECHNOLOGIES CORPORATION,
a corporation incorporated under the laws of the Province of Ontario

(the "**Client**")

– and –

2781705 ONTARIO INC.,
a corporation incorporated under the laws of the Province of Ontario

(the "**Developer**")

(each, a "**Party**", and together, the "**Parties**")

WHEREAS, the Developer is engaged in the business of providing software development and related services and work products.

WHEREAS, the Client desires to retain the Developer to provide the software development and related services and work product described herein from time to time, and the Developer desires to provide the same to the Client, in each case upon and subject to the terms and conditions set forth herein.

NOW THEREFORE, THIS AGREEMENT WITNESSES THAT, in consideration of the respective covenants and agreements of the Parties contained herein, the sum of TWO ($2.00) DOLLARS paid by each Party to the other Party, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the Parties) it is agreed, as follows:

ARTICLE ONE
INTERPRETATION

1.1 *Definitions.* In this Agreement, and subject to Section 1.2, unless there is something in the context inconsistent therewith, the following terms shall have the following meanings:

(a) "**Approved Third-Party Materials**" means the Third-Party Materials that the Client has approved to be included in or for use in connection with the Software developed or provided hereunder and which are specifically identified the Statement of Work.

(b) "**Business Day**" means a day other than a Saturday, a Sunday, Remembrance Day, or any day that is a statutory holiday in the Province of Ontario.

(c) "**Deliverables**" means the Software, the Documentation, and and all other documents, work product, and other materials that the Developer is required to provide to the Client under this Agreement and otherwise in connection with any Services, including any and all items specifically identified as Deliverables in any Statement of Work.

(d) "**Developer Personnel**" means all employees of the Developer or its Affiliates involved in the performance of Services or providing the Work Product hereunder.

(e) "**Documentation**" means all generally available documentation relating to the Software, including all user manuals, operating manuals, and other instructions, specifications, documents, and materials, in any form or media, that describe any component, feature, requirement, or other aspect of the Software, including any functionality, testing, operation, or use thereof.

(f) "**Harmful Code**" means any (a) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software, or (b) time bomb, drop-dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise, deprive the Client of its lawful right to use the Software.

(g) "**License Agreement**" means the intellectual property license agreement entered into by and between the Client and the Developer dated October 20, 2020, as may be amended or modified from time to time.

(h) "**Open Source Components**" means any software component that is subject to any open source copyright license agreement, including software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative.

(i) "**Person**" means an individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, joint stock company, trust, unincorporated association, joint venture or other entity or governmental entity, and pronouns have a similarly extended meaning.

(j) "**Services**" means the development services to be provided by the Developer pursuant to this Agreement or the Statement of Work, as more fully described in this Agreement or such Statement of Work, as applicable.

(k) "**Software**" means, collectively, (i) the software, as a whole, to be developed and provided by the Developer for the Client in connection with the Services under this Agreement in accordance with the Specifications and the Statement of Works, which software is intended to be accessed and used via mobile devices, and (ii) all updates, upgrades, new versions, new releases, enhancements, improvements, and other modifications made or provided pursuant to the Support Services.

(l) "**Specifications**" means the technical, layout, design, and other specification (including, but not limited to, the general functionality, compatibility, and system requirements) for the Software to be provided in writing by the Client to the Developer, as amended or varied by the written agreement of the Parties from time to time.

(m) "**Statement of Works**" means the statement of work entered into by the Client to the Developer, in a form determined by the Client, which sets forth the required terms and scope of the services to be performed by the Developer pursuant to the terms and conditions of this Agreement.

(n) "**Support Services**" means the maintenance, hosting, support, and troubleshooting services to be provided by the Developer from time to time in respect of the Software.

(o) "**Third-Party Materials**" means any materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, in which any Person other than the Client or the Developer owns any Intellectual Property right, including, for greater certainty, "Third-Party Materials" of Affiliates, but specifically excluding Open Source Components.

(p) "**Work Product**" means the Software, the Documentation, the Specifications (where applicable), and all other documents, work product, and materials related thereto, that Developer provides to the Client or its designee hereunder, together with all ideas, concepts, processes, and methodologies developed in connection therewith, whether or not embodied therein, but excluding specifically, any Subject Intellectual Property in which the Developer and/or its Affiliates retain sole and exclusive ownership of, as contemplated in Section 2.3 of the License Agreement.

1.2 *Additional Defined Terms.* The following terms shall have the respective meaning given to such terms in the License Agreement, are specifically incorporated by reference herein, notwithstanding any termination or expiry of the License Agreement: "Affiliate", "Confidential Information", "First Commercial Sale", "Intellectual Property", and "Subject Intellectual Property".

1.3 *Certain Words.* In this Agreement (i) the words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation", and (ii) the words "herein," "hereof," "hereby," "hereto" and "hereunder" shall refer to this Agreement as a whole.

1.4 *Gender and Number.* In this Agreement, words importing the singular include the plural and vice versa, and words importing gender include all genders.

1.5 *Article and Section Headings.* The insertion of headings and the division of this Agreement into articles and sections are for convenience of reference only and shall not affect the construction or interpretation hereof.

1.6 *Currency.* Unless otherwise indicated, all dollar amounts expressed herein and all amounts to be paid hereunder shall be in United States dollars ($).

ARTICLE TWO
SOFTWARE DEVELOPMENT SERVICES

2.1 *Engagement of Developer.* The Client hereby engages the Developer, and the Developer hereby accepts such engagement, to develop the Software and provide the Services related thereto, as described and/or as described in the Statements of Work, all on the terms and conditions set forth in this Agreement and such Statements of Work.

2.2 *Performance of Services.* The Developer shall provide all Services and Work Product hereunder in a timely, professional, and workmanlike manner and in accordance with the terms, conditions, and Specifications set forth in this Agreement and each Statement of Work.

2.3 *Software Development.* The Developer shall design, develop, create, test, deliver, install, configure, integrate, customize, and otherwise provide and make fully operational the Software as described in the Statement of Work on a timely and professional basis in accordance with all terms, conditions, and Specifications set forth in this Agreement and the Statement of Work. The Developer shall ensure that the Software complies with the Specifications therefor, and shall provide the Software to the Client in both object code and source code form.

2.4 *Developer Personnel.* During the Term, the Developer agrees and acknowledges that it will maintain a dedicated team of Developer Personnel consisting of at least four (4) full-time software developers and one (1) supervisor, all of whom are employed by an Affiliate of the Developer. The Developer is solely responsible for all Developer Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance, and disability benefits.

2.5 *Client Ownership of Work Product.* The Developer agrees, acknowledges, and confirms that all Work Product, or any part thereof, shall be a "work for hire" as such term is defined under applicable laws, and the Client shall be deemed the author and sole and exclusive owner of any copyrights and other rights and interests therein. If any of the Work Product, or any part thereof, is considered to be work not included in the categories of work covered

by the said "work for hire" definition (or analogous term) of applicable laws, such Work Product (and any part thereof) shall be owned by the Client or assigned or transferred completely and exclusively to the Client. To the extent that title to any such works may not, by operation of applicable laws, vest in the Client or such works may not be considered works made for hire, the Developer shall, and hereby does (i) assign, transfer, and otherwise convey to the Client, irrevocably and in perpetuity, throughout the world, all right, title, and interest in and to such Work Product, including all Intellectual Property rights therein, and (ii) irrevocably waive any and all claims the Developer may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of *droit moral* with respect to the Work Product. The Developer agrees to provide the Client and any Person designated by Client, with reasonable assistance, at the Client's expense, required to perfect the rights defined in this Section.

ARTICLE THREE
DOCUMENTATION

3.1   ***Documentation.*** Prior to or concurrently with the delivery of the Software hereunder, the Developer shall provide the Client with complete and accurate Documentation for the Software. Where the applicable Statement of Work requires or permits delivery of the Software in two or more phases, the Developer shall also provide Client with integrated Documentation for the aggregate Software upon its delivery.

3.2   ***Adequacy of Documentation.*** All Documentation shall include all such information as may be reasonably necessary for the effective installation, testing, use, support, and maintenance of the Software by the intended user, including the effective configuration, integration, and systems administration of the Software and performance of all other functions set forth in the Specifications.

3.3   ***Documentation Specifications.*** The Developer shall provide all Documentation in both hard copy and electronic form, in such formats and media as are set forth in the Statement of Work, or as the Client may otherwise reasonably request in writing.

3.4   ***Third-Party Documentation.*** Other than the Documentation for Approved Third-Party Materials, no Documentation shall consist of or include Third-Party Materials. To the extent the Documentation consists of or includes Third-Party Materials, the Developer shall secure, at its sole cost and expense, all rights, licenses, consents, approvals, and authorizations with respect to Approved Third-Party Materials.

ARTICLE FOUR
THIRD PARTY MATERIALS AND OPEN SOURCE COMPONENTS

4.1   ***Third Party Materials.*** The Developer shall not include in the Software, and operation of the Software in accordance with its Specifications and the Documentation shall not require, any Third-Party Materials, other than Approved Third-Party Materials specifically described in the Statement of Work for the Software and duly licensed to the Client.

4.2   ***Third Party Licenses.*** The Developer shall secure, at its sole cost and expense, all necessary rights, licenses, consents, approvals, and authorizations necessary for the Client to use, perpetually and throughout the world, all Approved Third-Party Materials as incorporated in or otherwise used in conjunction with the Software as specified in the applicable Statement of Work or elsewhere in this Agreement.'

4.3   ***Open Source Components.*** The Developer shall not include in the Software, and operation of the Software in accordance with its Specifications and Documentation shall not require the use of, any Open Source Components, unless agreed upon in writing by the Client, and in accordance with the terms and conditions requested in writing by the Client (acting reasonably in and in good faith).

ARTICLE FIVE
STATEMENT OF WORKS

1.7   ***Statements of Work.*** The Developer shall provide the Services and the Work Product pursuant to Statements of Work entered into as set forth herein. The Statement of Work shall not be effective unless signed by duly authorized

representatives of both Parties. The term of the Statement of Work shall be as set forth therein or, if no term is specified, shall commence on the Parties' full execution thereof and terminate when the parties have fully performed their obligations thereunder. The Parties agree and acknowledge that the Statement of Work is incorporated by reference herein and forms an integral part hereof.

5.1 *Changes to Statements of Work.* The Client may at any time request in writing (each, a "**Change Request**") changes to the Statement of Work, including changes to the Services, the Work Product, or any Specifications (each, a "**Change**"). Upon the Client's submission of a Change Request, the Parties shall, acting in good faith and reasonably, evaluate and implement all Changes as may be necessary as soon as practicable. No Change will be effective until the Parties have executed a simple form written agreement (a "**Change Agreement**") with respect thereto. Except as the Client may request in its Change Request or otherwise in writing, the Developer shall continue to perform its obligations hereunder in accordance with the Statement of Work pending negotiation and execution of a Change Agreement. The Developer shall limit any delays or Fee increases from any Change to those necessary to perform the Change in accordance with the applicable Change Agreement. Each Party shall be responsible for its own costs and expenses of preparing, evaluating, negotiating, and otherwise processing any Change Request, Change proposal, and Change Agreement.

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ARTICLE SIX
DELIVERY, INSTALLATION, AND ACCEPTANCE

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6.1 *Pre-Delivery Testing.* Before delivering and/or installing the Software, the Developer shall (i) test the Software to confirm that it is fully operable, meets all applicable Specifications, and will function in accordance with the Specifications and Documentation, (ii) scan the Software using the most up-to-date scanning software and definitions to confirm it is free of Harmful Code, (iii) remedy any non-conformity or Harmful Code identified and retest and rescan the Software, and (iv) prepare, test, and, as necessary, revise the Documentation component of the Software to confirm it is complete and accurate and conforms to all requirements of this Agreement.

6.2 *Delivery.* The Developer shall deliver the Deliverable (including the source code therefor) on or prior to the date that is ninety (90) days from the date on which the Client requests the Developer, in writing, to commence providing the Services (the date of such written request, the "**Service Commencement Date**", and the last date of such ninety (90) day period, the "**Delivery Deadline Date**") in accordance with the delivery criteria set forth for the Deliverable in the Statement of Work therefor.

6.3 *Non-Conformities, Testing, and Acceptance.* The Software delivered hereunder shall be subject to testing and acceptance by the Client for substantial conformance to the Specifications. If the delivered Software fails to substantially conform to the Specifications, the Client shall notify the Developer within ten (10) Business Days of receiving the Software, and shall specify any failures with sufficient detail to allow the Developer to reproduce and correct such failures (the "**Rejection Notice**"). Within ten (10) Business Says of the receipt of a Rejection Notice, the Developer shall correct the specified failures in the Software. The Software resubmitted to the Client after the receipt of a Rejection Notice therefor shall be subject to the acceptance testing requirements described above. If the Software is rejected five or more times, the Client may terminate this Agreement in accordance with Section 11.3.

6.4 At the Client's request, and subject to the payment of the Fees, the Developer shall regularly develop, on a best effort basis, and have ready for commercialization, new versions of the Software, at least every six (6) months from the date of the acceptance of the Software by the client, according to a schedule to be determined by the Client and the Developer, each acting reasonably, and the Developer shall make any new versions of the Software available for commercialization first, for a period of six (6) months, to the Client.

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ARTICLE SEVEN
TRAINING, MAINTENANCE, AND SUPPORT

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7.1 *Training.* With respect to the Software, the Developer shall, at no additional charge to the Client, provide the Client and its personnel with such training as may be reasonable necessary in accordance with prevailing commercial standards in order to use, make use of, and commercially exploit, the Software as intended by the Client, it being acknowledged and agreed that the Fees include full consideration therefor.

7.2   *Maintenance and Support.* The Parties agree and acknowledge that, not later than ninety (90) calendar days prior to the date of the commercial launch of the Software (such date, the "**Software Launch Date**"), the Parties shall (each acting in good faith and reasonably), enter into negotiations with a view to agreeing upon and entering into, not later than thirty (30) calendar days prior to the Software Launch Date, an agreement setting forth the terms and conditions upon which (i) the Developer will provide the Client with the Support Services (including the monthly fees and payments due to the Developer for the provision of such Support Services), and (ii) the Developer will establish and maintain a dedicated, permanent technical support team to support the commercialization of the Software (the foregoing, the "**Maintenance and Support Services**"). The Parties further agree and acknowledge that all services, fees and payments associated with, and forming a part of, such Maintenance and Support Services shall be in line with (and in the case of fees and payments, and no higher than), the then prevailing commercial terms for such services, fees and payments as is customary in the applicable industries and markets.

ARTICLE EIGHT
FEES AND PAYMENT

8.1   *Fees.* Subject to all terms and conditions set forth herein, and the Developer's performance of the Services to the Client's satisfaction and the Client's acceptance of the Deliverables, the Client shall pay to the Developer, during the period beginning on the Service Commencement Date, and ending on the Delivery Deadline Date (the "**Service Period**"), a monthly development fee (the "**Fees**") in the amount of US$20,000 (Twenty Thousand United Stated Dollars), payable in advance. The Client shall also pay the monthly fees and payments in connection with the Maintenance and Support Services contemplated in subsection 7.2 above, provided that all such periodic (monthly) fees for the maintenance and Support Services shall be paid in advance prior to the commencement of relevant services and all fees computed on a hourly or other non-periodic basis shall be paid not later than 30 days from the invoice presentment date.

8.2   *Taxes.* All fees set forth herein are exclusive of taxes, and that the Client shall be responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, provincial, state, or local governmental entity on any amounts payable by the Client hereunder, other than any taxes imposed on, or with respect to, the Developer's income, revenues, gross receipts, or other receipts, property and/or assets.

8.3   *Invoice and Payments.* Within seven (7) Business Days of the Service Commencement Date, the Developer shall invoice (such invoice, "**Invoice**") the Client, in electronic format, via such delivery means and to such address as the Client may reasonably request in writing from time to time, for the full amount of the Fees payable during Service Period, in accordance with prevailing commercial invoicing practices.   Subject to the terms and conditions of this Article 8, the Client shall pay the Fees payable during Service Period in advance on the Service Commencement Date, it being the intention of the Parties that the Fees shall be paid prior to the date on which the Client becomes a "reporting issuer", and prior to the commencement of any requested work hereunder.

ARTICLE NINE
CONFIDENTIALITY

9.1   *Confidential Disclosure.* Each Party (the "**Receiving Party**") shall hold in confidence all Confidential Information disclosed to it by the other Party and its Affiliates (together, the "**Disclosing Party**") and shall not disclose such Confidential Information to any third party or use such Confidential Information for any purpose, whatsoever, other than for the purposes set forth in this Agreement, without the prior written consent of the Disclosing Party. In addition, the Receiving Party shall confine the disclosure of Confidential Information to those individuals who have a need to know such Confidential Information for the purpose of business transactions contemplated by this Agreement, and to its legal and financial advisors. The Receiving Party will use its commercially reasonable best efforts to ensure that individuals receiving such Confidential Information do not disclose such Confidential Information to any other third party.

9.2   *Exceptions.* The confidentiality obligations set forth herein shall not apply to any Confidential Information (i) which was previously known by the Receiving Party and/or its Affiliates prior to its receipt of such Confidential Information and was not previously obtained directly or indirectly from the Disclosing Party, (ii) which is or becomes

in the public domain or available to the general public other than through an intentional breach of this Agreement or any other agreement between the Parties, or (iii) which was obtained from a third party who, to the knowledge of the Receiving Party and/or its Affiliates, was, at the time of such disclosure, in possession of such Confidential Information without any breach of any confidentiality obligations owing to the Disclosing Party.

9.3 *Disclosure Required by Law.* In the event that the Receiving Party or its Affiliates are required or compelled to disclose Confidential Information pursuant to a subpoena, court order or other similar process ("**Court Order**"), the Receiving Party shall provide the Disclosing Party with notice of such request(s), to the extent that such notice is legally permissible, so that the Disclosing Party may seek an appropriate protective order. In the event that the Disclosing Party is not successful in obtaining a protective order and the Receiving Party is compelled to disclose the said Confidential Information, the Receiving Party may disclose such information solely in accordance with, and for the limited purpose of compliance with (and solely to the extent necessary to comply with), the Court Order without liability hereunder.

9.4 *Right to Seek Equitable Remedies.* The Parties acknowledge that monetary damages may be both incalculable and an insufficient remedy for any breach of the confidentiality provisions of this Agreement, and that any such breach would cause the other party irreparable harm. Accordingly, the Parties agree that in the event of any such breach or threatened breach hereof by a Receiving Party or by its Affiliates, the Disclosing Party shall be entitled, in addition to any other available remedies at law, to seek equitable relief, including injunctive relief and specific performance.

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ARTICLE TEN
REPRESENTATIONS, WARRANTIES, AND COVENANTS

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10.1 *Authority.* Each of the Parties represents and warrants to the other Party that (a) it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement, (b) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary corporate or other actions, (c) it has duly and validly executed and delivered this Agreement, and (d) this Agreement is a legal, valid and binding obligation, enforceable against it in accordance with its terms subject to applicable bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equity principles.

10.2 *Developer Representations.* The Developer represents and warrants to the Client that (i) it will perform all Services in a professional and workmanlike manner in accordance with generally recognized and commercially reasonable industry standards and practices for similar services, using personnel with the requisite skill, experience, and qualifications, and shall devote adequate resources to meet its obligations under this Agreement, (ii) it is in compliance with, and will perform all Services in compliance with, all applicable laws, (iii) the Client will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind, (iv) when delivered, no Software Deliverable will contain any Harmful Code, (v) all Work Product, including all updates, upgrades, new versions, new releases, enhancements, improvements, and other modifications thereof, but excluding Client Materials, and Approved Third-Party Materials, is or will be the original creation of Developer, and (vi) as delivered, installed, specified, or approved by Developer and used by the Client or any third party authorized by the Client, the Work Product (A) will not infringe, misappropriate, or otherwise violate any Intellectual Property right or other right of any third party, and (B) will comply with all applicable Laws.

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ARTICLE ELEVEN
TERM AND TERMINATION

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11.1 *Term.* The term of this Agreement (the "**Term**") begins as of the Effective Date, and unless earlier terminated in accordance with the provisions of this Article 11 shall continue in full force and effect thereafter until the earliest of the following dates (i) the date on which all Services required hereunder or under the Statement of Work have been completed, (ii) the date on which the Software has been developed and delivered, and accepted in writing by the Client, or (iii) the date on which this Agreement is terminated as otherwise provided for in this Article 11.

11.2 *Termination by Developer.* This Agreement may be terminated by the Developer prior to the end of the Term as follows: Upon the failure of the Client to pay to the Developer any monies due hereunder, when due hereunder,

the Developer may give not less than thirty (30) Business Days' written notice to the Client of such non-payment. In the event that the Client fails to pay such monies to Developer within such thirty (30) Business Day period, this Agreement may be terminated by the Developer at any time thereafter, but only to the extent that the applicable failure is continuing, on not less than five (5) Business Days' written notice to the Client.

11.3   *Termination by Client.* This Agreement may be terminated by the Client prior to the end of the Term as follows: Upon any material breach of this Agreement by the Developer, the Client may give not less than thirty (30) Business Days' written notice to the Developer of such breach. If Developer fails to cure such breach within such thirty (30) Business Day period, this Agreement may be terminated by the Client at any time thereafter, but only to the extent that the applicable breach is continuing, on not less than five (5) Business Days' written notice to the Client.

11.4   *Termination by Mutual Consent.* This Agreement may be terminated at any time by mutual written agreement of the Parties.

11.5   *Effect of Termination.* In the event of any termination of this Agreement is terminated in accordance with the terms and conditions hereof, such termination shall not impair any rights nor discharge any obligations which have accrued to the Parties as of the effective date of such termination. Further, all obligations of the Parties which expressly or by their nature survive the expiration or termination of this Agreement (including, for the avoidance of doubt, Section 7.2, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, and Article 14) shall continue in full force and effect, subsequent to and notwithstanding any termination this Agreement and until they are satisfied in full or by their nature expire. Finally, upon any termination of this Agreement, the Developer shall (i) promptly deliver to the Client all Work Product generated by the Developer pursuant to this Agreement (whether complete or incomplete), (ii) provide reasonable cooperation and assistance to the Client in transitioning the Services to an alternate service provider, and (ii) return to the Client all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on Confidential Information of the Client, and permanently erase such Confidential Information from its computer systems.

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ARTICLE TWELVE
GOVERNING LAW AND DISPUTE RESOLUTION PROCEDURE

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12.1   *Governing Law and Arbitral Jurisdiction.* This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each of the Parties hereby irrevocably attorns and submits to the arbitral jurisdiction set out in Section 12.2 and, with respect to any matters not determined by arbitration or following exhaustion of arbitration, to the non-exclusive jurisdiction of the courts of the Province of Ontario respecting all matters relating to this Agreement and the rights and obligations of the Parties hereunder.

12.2   *Dispute Resolution Procedure.* In the event that any dispute arises between the Parties with respect to any matter covered by this Agreement, the Parties shall make every effort to resolve such disputes through negotiation and in so doing, shall at all times act in good faith and reasonably. In the event the Parties are unable to resolve any such dispute through negotiation within thirty (30) calendar days of the date on which one Party provides written notice to the other Party of the subject matter of the dispute, the dispute shall be submitted to binding arbitration before a single arbitrator mutually acceptable to the Parties, or if the Parties are unable to reach such agreement, by such panel of three (3) arbitrators, in each case in accordance with the rules of the ADR Institute of Ontario, as amended from time to time, pursuant to the *Arbitration Act* (Ontario) in effect on the date of this Agreement, and any such arbitration shall be conducted in the English language in the City of Toronto, in the Province of Ontario. In the case of a panel of three arbitrators, such panel shall be composed of one (1) arbitrator selected by each Party with the third arbitrator being selected by the other two (2) arbitrators. The arbitration proceedings shall be undertaken in as expeditious a manner as possible. Judgment upon any award rendered by the arbitrator or the panel, as the case may be, shall be entered into any court having competent jurisdiction without any right of appeal. Each Party shall pay its own expenses of arbitration, and the expenses of the arbitration process and the arbitration proceeding shall be shared equally. However, if in the opinion of the arbitrator or the majority of the panel, as the case may be, any claim or defense was unreasonable, then the arbitrator(s) may assess, as part of the award, all or any part of the arbitration expenses of the other Party (including reasonable attorneys' fees and costs) and of the arbitrators and the arbitration proceeding.

ARTICLE THIRTEEN
INDEMNITY

13.1 *Indemnification.* The Developer shall defend, indemnify, and hold harmless the Client and its Affiliates, and their respective directors, officers, employees, and representatives, from and against any and all claims, actions, demands, and legal proceedings, and any and all liabilities for damages, losses, judgments, authorized settlements, costs and expenses including, reasonable attorneys' fees (collectively "**Claims**"), arising out of or in connection with (i) any allegation by any third party claiming the Software and/or any Work Products delivered or furnished to the Client pursuant to this Agreement infringes, violates, or misappropriates any third party's Intellectual Property rights or any other similar right, including, but not limited to, misappropriation of trade secrets, and (ii) any breach by the Developer of its representations, warranties, and covenants set forth in this Agreement or other failure by the Developer to comply with any of the other terms or conditions of this Agreement.

13.2 *Indemnification Procedure for Third Party Claims.* The following procedures will apply with respect to indemnification for Claims asserted, commenced, or brought forward by third parties ("**Third Party Claims**") and arising in connection with this Agreement:

    (a) Upon the Client discovering or becoming aware of the existence, or the assertion or the commencement, of any Third Party Claim (for the avoidance of doubt, whether by legal process or otherwise) with respect to any matter within the scope of this Article 10, the Client shall give written notice thereof to the Developer and shall thereafter keep the Developer reasonably informed with respect thereto, provided, however, that the failure of the Client to give the Developer such prompt written notice will not relieve the Developer of its obligations hereunder except to the extent such failure results in material prejudice to the Developer's defense of such Third Party Claim. Within thirty (30) days following receipt of written notice from the Client relating to any Third Party Claim, but no later than ten (10) days before the date on which any response to a complaint, statement or summons associated with the applicable Third Party Claim is due, the Developer will notify the Client in writing that the Developer will assume control of the defense and settlement of such Third Party Claim (the "**Claim Assumption Notice**").

    (b) If The Developer delivers the Claim Assumption Notice relating to any Third Party Claim within the required notice period, the Developer will be entitled to have sole control over the defense and settlement of such Third Party Claim, provided, however, that,

        a. the Developer shall thereafter keep the Client reasonably informed with respect thereto;

        b. the Client will be entitled to participate in the defense of such Third Party Claim and to employ legal counsel, at its own cost and expense, to assist in the handling of such Third Party Claim, and provided, however, that if the Client's defenses to any such Third Party Claim are materially different from or materially adverse to the Developer's defenses, than the costs and expenses of such separate legal counsel shall be paid by the Developer; and

        c. the Developer may not enter into any settlement, consent judgment, or other voluntary final disposition of such Third Party Claim which invalidates or restricts or prejudices the rights and interests of the Client hereunder to any Subject Intellectual Property without the prior written consent of the Client, which consent shall not be unreasonably withheld or delayed.

    (c) Notwithstanding the foregoing, if the Client becomes subject to a Third Party Claim, then in addition to the Developer's indemnification obligations (which shall continue to remain in full force and effect, unaffected, and unmodified), the Developer shall consult in good faith with the Client, and at its sole option and expense, use its commercially reasonable best efforts to (i) with the prior written consent of the Client, procure for the Client the right to continue to use the Software or component thereof to the full extent contemplated by this Agreement, or (ii) with the prior written consent of the Client, modify or replace the materials that infringe or are alleged to infringe ("**Allegedly Infringing Materials**") to make the Software and all of its components non-infringing while

providing fully equivalent features and functionality. The remedies and obligations set forth in this Section 14.1(c) are in addition to, and not in lieu of, all other remedies that may be available to the Client under this Agreement or otherwise, including the Client's right to be indemnified for such Third Party Claims.

ARTICLE FOURTEEN
GENERAL CONTRACT PROVISIONS

14.1 *Notices.* All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing, properly addressed to the other Party, and delivered in person, by pre-paid first class mail, courier, email or by any electronic means of transmitting written communications that provides written confirmation of complete transmission. Any notice or other communication given under this Agreement will be deemed to have been given and received on the first Business Day following its delivery, and may be delivered to a Party at the following address (or to such other address as one Party provides to the other Parties in a notice given according to this Section 14.1):

    (a) To the Client at:

    (b) To the Developer at:

14.2 *Severability.* If any term or provision of this Agreement is held or found to be invalid, illegal or unenforceable in any jurisdiction, (i) 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, and (ii) the Parties shall negotiate in good faith to modify this Agreement to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.3 *Entire Agreement.* This Agreement and the License Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter.

14.4 *Successors and Assigns.* This Agreement (i) shall not be assignable by the Developer, without the Client's prior written consent (which consent shall not be unreasonably withheld or delayed), and (ii) shall be assignable by the Client, to any Person, without the Developer's prior written consent. Subject to the foregoing, this Agreement shall be binding upon and shall enure to the benefit of the Parties and their respective successors and permitted assigns.

14.5 *No Contra Proferentem.* This Agreement has been reviewed by each Party's professional advisors and legal counsel, and revised during the course of negotiations between the Parties. Each Party acknowledges that this Agreement is the product of their joint efforts, that it expresses their intentions, and that, if there is any ambiguity in any of its provisions, no rule of interpretation favouring one Party over another based on authorship will apply.

14.6 *No Third-Party Beneficiaries.* Except as specifically set forth or referred to herein, nothing herein is intended or shall be construed to confer upon any Person other than the Parties and their successors or permitted assigns, any rights, benefits or remedies under, or by reason of, this Agreement.

14.7 *Amendment and Modification and Waiver.* This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party. 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. No waiver by any Party shall operate or be construed as a waiver in respect of any failure, breach or default not expressly identified by such written waiver, whether of a similar or different character, and whether occurring before or after that waiver. 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.

14.8   *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

14.9   *Further Assurances.* Each Party shall promptly execute and deliver such further instruments and agreements and do such further acts and things as may be reasonably requested in writing by the other Party that may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

14.10   *Publicity.* Neither Party shall use the name of the other Party, nor the officers or employees of the other Party, nor any adaptation thereof in any advertising, promotional or sales literature, publicity or in any document employed to obtain funds or financing without the prior written approval of the other Party or individual whose name is to be used (such approval not to be unreasonably withheld). Notwithstanding the foregoing and anything to the contrary in this Agreement, the Client shall be permitted to make any public announcement of the transactions contemplated under this Agreement, to the extent required to by applicable law or regulation.

14.11   *Independent Contractors.* The Parties agree and acknowledge that the Developer and the Client shall at all times be independent contractors and that the relationship between the Parties shall not constitute a partnership, joint venture or agency. Neither the Developer nor the Client shall have the authority to make any statements, representations or commitments of any kind, or to take any action, which shall be binding on the other Party, without the prior written consent of the other Party to do so.

14.12   *Time of the Essence.* The Developer acknowledges that time is of the essence with respect to Developer's obligations hereunder and agrees that prompt and timely performance of all such obligations in accordance with this Agreement and each Statement of Work is strictly required.

14.13   *No Joint Venture or Partnership.* The Parties expressly agree and acknowledge that nothing in this Agreement shall (i) constitute (or be construed to constitute) any Party as an agent or representative of the other Party for any purpose, or (ii) create (or be be deemed to create) any partnership or joint venture among the Parties.

[Remainder of page intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first written above.

<div align="right">

XIGEM TECHNOLOGIES CORPORATION

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Per: *signed "Brian Kalish"*
_____

Name: Brian Kalish
Title: Authorized Signing Officer
I have authority to bind the Client.

<div align="right">

2781705 ONTARIO INC.

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Per: *signed "Leonid Dudarev"*
_____

Name: Leonid Dudarev
Title: Authorized Signing Officer
I have authority to bind the Developer.