

## 1. Definitions

1.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

**“Agreement”** means these terms and conditions;

**“Documentation”** means the user manuals and other documentation provided by Normanne to Licensee pertaining to the Software either by download, in print or on a Remote Server.

**“Licensee”** means the person to whom the license to use this copy of the Software was originally granted;

**“Intellectual Property Rights”** means patents, trademarks, service marks, registered designs, applications for any of the foregoing, copyright, design rights, know-how, confidential information, trade and business names and any other similar protected rights in any country;

**“License Fee”** means the fee for the License and the services to be provided under this Agreement;

**“License”** means the license granted by Normanne pursuant to Section 2.1;

**“Normanne”** means Normanne Solutions LLC, a company organized in the State of North Carolina;

**“Materials”** means the Software, the Documentation and the Media;

**“Media”** means the media on which the Software is recorded on a Remote Server;

**“Remote Server”** means remote computer server(s) that are used in “cloud computing” and that are other than local servers or personal computers.

**“Software”** means “ShalomCloud,” but for the avoidance of doubt excludes the Source Materials that are resident on a Remote Server;

**“Source Materials”** means all logic, logic diagrams, flowcharts, algorithms, routines, sub-routines, utilities, modules, file structures, coding sheets, coding, source codes, functional

specifications, program specifications and all other materials and documents necessary to enable a reasonably skilled programmer to maintain, amend and enhance the Software in question without reference to any other person or documentation and whether in eye-readable or machine-readable form;

**“Specification”** means the functional specification for the Software issued by Normanne.

**“Use the Materials”** means to use the Software and to read and use the Documentation in conjunction with the use of the Software and the Media;

**“Use the Software”** means to access the Software on a Remote Server and store data on a Remote Server in accordance with the terms of this Agreement.

## 2. License

2.1 Normanne hereby grants to Licensee a non-exclusive, perpetual (subject to Section 9) license to Use the Materials subject to the terms and conditions hereinafter set forth.

2.2 License shall commence on delivery to Licensee of access to the Software and shall continue until terminated in accordance with this Agreement.

2.3 Licensee may Use the Materials (or allow others to Use the Materials) for processing Licensee’s own data for its own internal business purposes only. Except as provided above Licensee shall not permit any third party to use the Materials or use the Materials on behalf of or for the benefit of any third party in any way whatsoever (including, without limitation, using the Materials for the purpose of operating a service bureau).

2.4 Licensee may access and use the Software through local designated web-linked digital devices controlled by Licensee.

2.5 Licensee shall not amend or modify the Source Materials for any purpose. If Licensee does amend or modify the Source Materials, or any part thereof, in derogation of this Agreement, Licensee shall indemnify Normanne

against any claim that any such amendment or modification infringes the Intellectual Property Rights of any third party or that damages any other Normanne licensee of Shalom Cloud. Normanne shall not be responsible for any error in the Software or Source Materials or failure of the Software or Source Materials to fulfill the Specification insofar as such error or failure occurs in or is caused by Licensee.

2.6 No copy of the Source Materials or any part thereof shall be made available to any third party by, through, or on behalf of, Licensee, and Licensee shall indemnify Normanne against all losses, costs, expenses, claims, actions, liabilities or damages which Normanne may sustain or incur as a result of a breach of this obligation.

2.7 No copies may be made of the Documentation without the prior written consent of Normanne (other than copies made for Licensee's own internal use, which shall be permitted).

2.8 Licensee hereby acknowledges that it is licensed to Use the Materials and the Source Materials only in accordance with the express terms of this Agreement and not further or otherwise.

### **3. Payment**

3.1 The License Fee shall be paid by Licensee on the date hereof. The License Fee and any additional charges payable under this Agreement and Schedules are exclusive of any and all sales/use, gross receipts, or other taxes (including interest and penalties imposed thereon) arising from the transactions contemplated herein ("Taxes"). Licensee shall pay all Taxes. Any charges payable by Licensee hereunder in addition to the License Fee shall be paid within thirty (30) days after the receipt by Licensee of Normanne's invoice therefore.

3.2 If any sum payable under this Agreement is not paid within 7 days after the due date then (without prejudice to Normanne's other rights and remedies) Normanne reserves the right to charge interest on such sum on a day to day basis (as well after as before any judgment) from the date or last date for payment thereof to the date of actual payment (both dates inclusive) at the

rate of 1.5% per month. Such interest shall be paid on demand by Normanne.

### **4. Delivery**

4.1 On delivery access to the Software shall be granted to Licensee.

### **5. Limited Warranty**

5.1 Normanne warrants that, for a period of one (1) year after delivery of access to the Software (the "Warranty Period"), the Software will provide the facilities and functions set out in the Documentation and Specification when properly used on the equipment in connection with which it was supplied. A failure of the Software to conform in any material respect with the Specification is referred to herein as an "Error" or "Defect."

5.2 Normanne's sole obligations under the warranty set forth in Section 5.1 shall be to correct or cause to be corrected any reproducible Error or Defect found in the Software during the applicable Warranty Period, provided that Normanne shall have no obligations or liability hereunder unless Licensee provides Normanne with written notice providing a documented example of the Error or Defect in question no later than the expiration of the Warranty Period. Licensee shall cooperate in providing detailed information concerning any such Error or Defect.

5.3 The warranty made by Normanne hereunder is, and all obligations of Normanne under this Section shall be, contingent upon Licensee's use of the Software in accordance with the Documentation and the provisions of this Agreement. To the extent that any of the following cause an Error or Defect, no such warranties or obligations shall apply to Normanne: (i) Licensee has used the Materials in a manner inconsistent with the provisions of this Agreement; (ii) the Materials have been damaged by negligence or misuse by Licensee or by accident, fire, casualty, or other external causes; (iii) the Error or Defect is determined to be caused by third party products or equipment or third party hosting servers or services or other service providers, Licensee's hardware, Licensee's operating system software or

Licensee's internet service provider, to the extent any of the foregoing are not contemplated by the Documentation; (iv) the Error or Defect is determined to be caused by Licensee's failure to maintain the proper operating environment, as set forth in the Documentation; or (v) the Error or Defect is determined to be caused by Licensee data or Licensee's method of data input.

5.4 NORMANNE, ITS SUBSIDIARIES AND AFFILIATES DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE SOFTWARE WILL BE UNINTERRUPTED, TIMELY, SECURE OR ERROR FREE, THAT INTERNET SERVICE WILL BE AVAILABLE AND LICENSEE WILL BE ABLE TO ACCESS SOFTWARE AT ANY TIME OR FROM ANY LOCATION, THAT ALL USAGE DATA PROVIDED THROUGH NORMANNE WILL BE ACCURATE, THAT ALL DEFICIENCIES, ERRORS, DEFECTS OR NONCONFORMITIES WILL BE CORRECTED, THAT THE SOFTWARE IS FREE FROM BUGS, VIRUSES, THEFT OR DESTRUCTION OR THAT THE SOFTWARE WILL MEET LICENSEE'S SPECIFIC REQUIREMENTS OR EXPECTATIONS. EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THIS ARTICLE, THERE ARE NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, QUALITY, ORIGINALITY, DATA LOSS, NON-INFRINGEMENT, THE ACCURACY, RELIABILITY, QUALITY OR CONTENT IN OR LINKED TO THE SOFTWARE OR FITNESS FOR A PARTICULAR PURPOSE.

5.5 Licensee acknowledges that the Software has not been prepared to meet Licensee's individual requirements and that it is therefore the responsibility of Licensee to ensure that the facilities and functions described in the Specification meet its requirements. Normanne shall not be liable for any failure of the Software to provide any facility or function not specified in the Documentation.

5.6 Licensee expressly agrees and acknowledges that no condition, warranty or representation of any kind is or has been given by or on behalf of Normanne in respect of the Software or the Source Materials except as set out in this Agreement and accordingly Licensee confirms that it has not, in entering into this Agreement, relied on any condition, warranty or representation by Normanne or any person on Normanne's behalf, express or implied, whether arising by law or otherwise in relation to the Materials or the Source materials, including, without limitation, conditions, warranties or representations as to the description, quality or fitness for any purpose, of the Materials or the Source Materials and the benefit of any such condition, warranty or representation by Normanne is hereby irrevocably and unconditionally waived by Licensee. No third party making any representation or warranty relating to the Materials or the Source Materials is the agent of Normanne or has any such third party authority to bind Normanne thereby.

5.7 Normanne, its subsidiaries and affiliates shall be contracting with third party hosting companies and other service companies to host the Software on such third party's servers and Remote Servers and to provide other services required for the operation of Normanne under contract and licensing agreements that may vary from this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the provisions of such third party contracts or licensing agreements shall apply to such third party's operations and services provided to Normanne and to Licensee.

5.8 Normanne intends to enter a hosting agreement with Amazon Web Services ("AWS") and a payment/receivables agreement with Stripe. The current AWS Customer Agreement is found at <https://aws.amazon.com/agreement/>. The current Stripe Terms of Service Agreement is found at <https://stripe.com/us/terms>. These agreements are subject to change by AWS and Stripe at any time. Normanne reserves the right to change the vendor or scope of services provided by AWS and Stripe and other vendors at any time. Normanne as a contract party and Licensee as a third party are subject to such

agreements. In the event that Licensee objects to either the terms or the vendor selected by Normanne, Licensee upon thirty (30) days written notice to Normanne may terminate this Agreement after making full payment to Normanne for services provided Licensee through the date of termination.

## **6. Proprietary Rights**

6.1 The Materials, the Source Materials, the Documentation, and all other work product, materials, or information related, in any way, which has, or will, come into possession or knowledge of Licensee in connection with, or related to, this Agreement (collectively, the "Proprietary Information"), remains the sole and exclusive property of Normanne or its licensors. Normanne reserves the right to grant licenses to use the Materials and Source Materials to third parties.

6.2 Normanne owns the exclusive right, title, and interest in and to the Proprietary Information and any Intellectual Property Rights embodied or represented in the Proprietary Information or associated therewith. To the extent that title to any of the Proprietary Information or Intellectual Property Rights may not, by operation of law, vest in Normanne, all right, title, and interest therein is hereby irrevocably assigned to Normanne by Licensee without further consideration. Licensee expressly acknowledges that the Software shall not be construed as a work made for hire for purposes of Section 102 of the United States Copyright Act (Title 17 U.S.C. § 102).

6.3 Licensee shall not: (a) alter, modify, translate, reverse engineer, decompile, disassemble, or adapt, in whole or in part, the Software or Source Materials; (b) take any other steps intended to produce a source language statement of the Software or Source Materials; (c) assist others in developing, improving, or enhancing any software based in whole or in part on the rules, training, support materials, data collection techniques, screen layouts, reports, or other proprietary aspects of the Software or Source Materials; (d) direct or knowingly permit the copying of any of the Software or Source

Materials except as permitted under this Agreement; (e) disclose, display, publish, loan, transfer possession of (whether by sale, exchange, or gift), assign, sublicense, or otherwise make available all or any part of the Software or Source Materials, except with the prior written consent of Normanne, which may be withheld at Normanne's sole discretion; or (f) prepare any derivative works of the Software or Source Materials. If Licensee breaches this Section, Normanne shall own exclusively all right, title, and interest in and to any copies, modifications, or derivative works prepared by Licensee or its agents.

6.4 Notwithstanding any other provision hereof, Normanne hereby represents, warrants and covenants to Licensee that at all times relevant to Licensee's use of the Software, Normanne has had, and will continue to have, all right, title, and interest necessary to lawfully grant to Licensee the rights contained in this Agreement, and that Licensee's use of the Software and Materials shall be free and clear of any and all claims, liens, or encumbrances of any third party.

## **7. Confidentiality**

7.1 Licensee undertakes to treat as confidential and keep secret the Proprietary Information.

7.2 Licensee shall not without the prior written consent of Normanne divulge any part of the Proprietary Information to any person except:

(a) Licensee's own employees and then only to those employees who need to know the same;

(b) Licensee's auditors or other professional advisors, or as otherwise required by law;

(c) any person who is from time to time appointed by Licensee to maintain any equipment on which the Software is being used (in accordance with the terms of the License) and then only to the extent necessary to enable such person properly to maintain such equipment.

7.3 Licensee undertakes to ensure that any person to whom the Proprietary Information is disclosed does not use it or disclose it except as permitted by this Agreement and Licensee shall indemnify Normanne against all losses, costs, expenses, claims, actions, liabilities or damages which Normanne may sustain or incur as a result of a breach of this obligation.

7.4 Normanne, its subsidiaries and affiliates undertake to treat as confidential and keep secret Licensee's data and information ("Licensee Confidential Information") maintained on Normanne's servers under Normanne's control and possession.

7.5 Normanne shall not without the prior written consent of Licensee divulge any part of Licensee Confidential Information to any person except:

(a) Normanne's own employees and vendors, and then only to those employees and vendors who need to know the same;

(b) Otherwise as required by law; and

(c) Any person or entity who is from time to time appointed by Normanne to maintain any equipment or server upon which the Software is being used (in accordance with the terms of the License) and then only to the extent necessary to enable such person or entity to properly maintain such equipment.

7.6 Normanne undertakes to ensure that any employee to whom the Licensee Confidential Information is disclosed does not use it or disclose it except as permitted by this Agreement, and Normanne shall indemnify Licensee against all losses, costs, expenses, claims, actions, liabilities or damages which Licensee may sustain or incur as a result of a breach of this obligation.

## 8. Indemnification

8.1 Licensee agrees to defend, indemnify, and hold harmless Normanne and its subsidiaries, affiliated companies, and their directors, officers, employees, agents and members, against all

actions, proceedings, losses, costs, damages, expenses, claims and demands, including, but not limited to, any and all reasonable attorneys' fees actually incurred and costs, arising from any breach of this Agreement by Licensee or by any of Licensee's agents or employees, or in connection with the use of the Software by Licensee or any of its agents or employees.

8.2 Normanne agrees to defend, indemnify, and hold harmless Licensee and its subsidiaries, affiliated companies, and their directors, officers, employees, agents and members, against any damages awarded against, and costs payable by, including, but not limited to, any and all reasonable attorneys' fees actually incurred and costs, Licensee in connection with any claim or settlement that the normal use or possession of the Materials or the Source Materials (other than any Licensee Modifications or the Source Materials relating thereto) infringes the Intellectual Property Rights of any third party; provided that Normanne is given prompt notice of such claim, that Licensee does not materially prejudice Normanne's defense of such claim, that Licensee gives Normanne reasonable assistance with the defense of such claim, at Normanne's expense. Normanne shall have the right to replace or change all or any part of the Materials in order to avoid any infringement.

## 9. Termination

9.1 Licensee may terminate this Agreement and the License herein at any time by giving at least thirty (30) days' prior written notice to Normanne.

9.2 In addition to termination of the License as permitted by Section 9.1, Normanne may terminate the License forthwith on giving notice in writing to Licensee if:

(a) Licensee shall fail to pay when or before due any sum of money coming due to be paid to Normanne hereunder, whether such sum be any installment of the License Fee herein reserved or treated as other fees hereunder and shall not cure such failure within five (5) days after written notice thereof to Licensee;

(b) Licensee commits any breach of any non-monetary term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within thirty (30) days after written notice thereof to Licensee to remedy the breach;

(c) Licensee permanently discontinues the use of the Material; or

(d) Licensee shall have a receiver or administrative receiver appointed of it or over any part of its undertaking or assets or shall pass a resolution for winding up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction shall make an order to that effect or if Licensee shall enter into any voluntary arrangement with its creditors or shall become subject to an administration order or shall cease to carry on business.

9.3 Forthwith upon the termination or expiration of the License, Licensee shall return to Normanne the Documentation including all copies of the whole or any part thereof or, if requested by Normanne, shall destroy the same (in the case of any digital information by erasing them from the Media on which they are stored) and certify in writing to Normanne that they have been destroyed.

9.4 Any termination of the License or this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

9.5 All enhancements, suggestions and modifications (“Improvements”) made by Licensee or third parties to improve or modify the Software in any manner are the sole property of Normanne. Neither Licensee nor third parties shall have any interest in any Software Improvements or any expectation of compensation for such Software Improvements.

## 10. Limitation of Liability

10.1 NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY IN THIS AGREEMENT, THE LIABILITY OF NORMANNE, ITS SUBSIDIARIES AND AFFILIATES, TO LICENSEE FOR ANY ACTION IN CONTRACT OR IN TORT, INCLUDING WITHOUT LIMITATION, NEGLIGENCE OR STRICT LIABILITY, FOR ANY LOSS OR INJURY ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM THE PERFORMANCE OR BREACH OF THIS AGREEMENT OR THE USE, PERFORMANCE OR NONPERFORMANCE OF THE SOFTWARE SHALL NOT EXCEED THE AMOUNT OF THE FEES ACTUALLY PAID TO NORMANNE HEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE LOSS OR INJURY.

10.2 IN NO EVENT SHALL NORMANNE OR LICENSEE BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, COVER, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING FROM THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR THE USE, PERFORMANCE, OR NONPERFORMANCE OF THE SOFTWARE INCLUDING, BUT NOT LIMITED TO, LOSS RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, POWER OUTAGES, CORRUPTION, SECURITY, VIRUSES, SPYWARE, LOSS OF BUSINESS OR ECONOMIC OPPORTUNITY, LOSS OF PROFITS, REVENUE, INVESTMENT, LOSS OR THEFT OF DATA, ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF LICENSEE’S CONTENT OR OTHER DATA, OR LOSS OF GOODWILL. THE ABOVE LIMITATIONS APPLY EVEN IF NORMANNE AND ITS AFFILIATES AND VENDORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.3 The parties’ respective obligations under this Agreement are the sole and exclusive remedies for any breach or default under this

Agreement and for any other claims related to the Software. The parties hereto each agree and understand that the exclusive remedies provided in this Agreement allocate risks of the Software's nonconformity between the parties as authorized by the Uniform Commercial Code and other applicable law. The license fees hereunder reflect this allocation of risk and the limitation on liability, including the exclusion of consequential damages from this Agreement.

10.4 Normanne, its subsidiaries and affiliates will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond our reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts of orders of government, acts of terrorism, or war.

## **11. Miscellaneous**

11.1 Licensee shall not be entitled to assign, sublicense or otherwise transfer the License whether in whole or in part, without the prior written consent of Normanne.

11.2 Notwithstanding anything else contained in this Agreement, neither party shall be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by any act or omission of the other party).

11.3 No forbearance, delay or indulgence by either party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power or remedy shall be cumulative.

11.4 This Agreement supersedes all prior agreements, arrangements and understandings

between the parties and constitutes the entire agreement between the parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties.

11.5 Notwithstanding that the whole or any part of any provision of this Agreement may prove to be illegal or unenforceable the other provisions of this Agreement and the remainder of the provision in question shall remain in full force and effect.

11.6 All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with the provisions of this Section. Any such notice may be delivered personally, by certified first class mail, postage prepaid, return receipt requested, or overnight delivery by a nationally recognized courier and shall be deemed to have been served if by hand when delivered, if by certified first class mail forty-eight (48) hours after posting, and if by overnight national courier forty-eight (48) hours after delivery to the custody of such courier.

11.7 Attached hereto and incorporated by reference is Schedule "A" setting forth additional terms and conditions.

11.8 This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina without regard to its conflicts of laws principles.

(Signatures on following page)

Executed on March \_\_\_\_\_, 2016.

**Signed for and on behalf of:**

**Licensee:**

**Temple of the High Country, Inc.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: President  
Date: March \_\_\_\_\_, 2016  
Address:  
\_\_\_\_\_  
\_\_\_\_\_

**Signed for and on behalf of:**

**Normanne Solutions, LLC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: March \_\_\_\_, 2016  
Address:  
8015 Maxwelton Drive  
Huntersville, NC 28078