

## **ACCENTURE SOFTWARE LICENSE AND MAINTENANCE SERVICES AGREEMENT**

**IMPORTANT, READ CAREFULLY:** THE LICENSE AND USE OF ACCENTURE SOFTWARE TO BUSINESS, GOVERNMENTAL, AND OTHER LEGAL ENTITIES IS SUBJECT TO THE FOLLOWING GENERAL TERMS AND CONDITIONS. ACCENTURE SOFTWARE IS NOT AVAILABLE FOR PERSONAL USE, HOME USE, AND/OR CONSUMER USE.

**ACCENTURE LLP** ("Accenture") will provide the software to Company ("Company") as specified in a separately signed order form ("Order Form") under the following terms and conditions (collectively the "Agreement").

**1. SOFTWARE LICENSE TERMS.** Subject to Company's payment of the license fee and compliance with the terms of this Agreement, Accenture grants Company a non-exclusive, limited license for the license term defined in the Order Form to use and install the object code version of the Accenture software listed in the applicable license ("Software") and its documentation. All rights to the Software not expressly granted to Company under this Agreement are reserved to Accenture. Accenture will make the Software available to Company by electronic download. Company may make a reasonable number of copies of the Software for back-up and test purposes provided Company reproduces all ownership notices. Company may permit third parties to use the Software (a) solely as required for Company's own benefit and internal business purposes and (b) in compliance with the terms of this Agreement. Company is liable for all users' compliance with the terms of this Agreement. Company may not (a) use, distribute, copy, or modify the Software except as expressly permitted by this Agreement; (b) translate or attempt to reverse engineer, decompile, or make derivative works of the Software; or (c) sublicense, lease, or otherwise permit use of the Software for the benefit of a third party. Company will use the Software in compliance with its documentation, including any operating or security procedures and the hardware, software or networking requirements set forth therein.

**2. MAINTENANCE SERVICES.** Subject to Company's timely payment of the applicable maintenance fees, Accenture will make available the following maintenance services ("Maintenance Services"):

**2.1 Technical Support.** Technical support consists of (i) access to Accenture's support help desk for Error reporting; (ii) attempted diagnosis of reported issues in supported Software and (iii) reasonable commercial efforts to resolve reported Errors in supported Software that is implemented in accordance with the technical documentation. An "Error" is a verifiable failure of the unaltered Software to materially conform to the technical documentation. Technical support is limited to one production and one non-production instance of the Software.

**2.2 Updates.** Accenture will make available to Company any Updates. An "Update" means a subsequent Software release created at Accenture's discretion which Accenture generally makes available to active Maintenance Service customers for no additional license fee. Company is responsible for downloading and implementing any Update (including security Updates) and for making changes to their technical environment as necessary to use the Update.

**3. FEES AND PAYMENT.** Company will pay the applicable fees for the Software as set forth on the AWS Marketplace site. For any change orders or other modifications, Accenture will invoice Company for fees specified in the applicable Order Form. Should any invoice (excluding disputed amounts) become overdue by more than thirty (30) days, interest will be charged at a rate of 1% per month or the highest rate allowed by law, whichever is less from the original invoice due date, until the overdue balance is settled. Any taxes arising out of this Agreement other than those on Accenture's net income will be Company's responsibility. Accenture will pay any taxes remitted to it by Company to the applicable taxing authority when due. The Parties agree to cooperate to help enable each party to accurately determine and reduce its own tax liability and to minimize any potential liability to the extent legally permissible.

**4. INTELLECTUAL PROPERTY.** Accenture and its licensors, where applicable, own all right, title and interest, unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, know-how and other trade secret rights, and all other intellectual property rights, including derivatives, modifications, and enhancements thereof in all forms anywhere in the world ("Intellectual Property Rights"), in and to the Accenture Software and Maintenance Services and any suggestions, enhancement requests, feedback, or recommendations provided by Company or any other party relating thereto. The Software may also contain third-party open source components separately licensed under an open source license made available to Company with the Software. This Agreement does not convey to Company any rights in or related to the Software or the Maintenance Services or the Intellectual Property Rights owned by Accenture except as explicitly provided in this Agreement.

5. **CONFIDENTIALITY.** Each party may have access to information (in any form) that relates to the other party's past, present, and future activities including research, development, business activities, products, services, processes, and technical knowledge, which is identified by the disclosing party as confidential or reasonably understood to be confidential ("Information"). Information may only be used by the receiving party consistent with the rights and obligations of this Agreement. Information includes the Software and any related documentation made available to Company. The receiving party agrees to protect the Information of the disclosing party in the same manner that it protects its own similar confidential information, but in no event using less than a reasonable standard of care. Access to the Information will be restricted to Accenture and Company personnel (including such personnel employed by their affiliates) and subcontractors with a need to use such Information pursuant to the parties' rights and obligations under this Agreement, provided such parties are bound by substantially similar obligations of confidentiality and are not listed as a competitor in the applicable Order Form. Accenture may retain and use Information relevant to its business purposes (including to provide or enhance its services) so long as its use of such Information is in an aggregated and anonymized or pseudonymized manner. Nothing in this Agreement will prohibit or limit either party's use of Information (i) previously known to it without an obligation not to disclose such information, (ii) independently developed by or for it without use of Information, (iii) acquired by it from a third party which was not, to the receiver's knowledge, under an obligation not to disclose such information, or (iv) which is or becomes publicly available through no breach of this Agreement.

## 6. **LIMITED WARRANTY**

6.1 **Limited Warranty.** Accenture warrants (i) that for a period of sixty (60) days from commencement of the initial license term defined in the Order Form ("**Warranty Period**") the Software as delivered will materially conform to Accenture's technical documentation made available for download or provided with the Software; and (ii) the Maintenance Services will be performed in a good and workmanlike manner. The warranties set forth in this Section are contingent upon Company's use of the Software in compliance with this Agreement and Company notifying Accenture of any such non-conformance during the applicable Warranty Period.

6.2 **Remedy.** Accenture will use commercially reasonable efforts to correct any non-conformance of the Software with the above warranty, If Accenture is unable to correct non-conformance of the Software as provided in Section 6.1(i) above, Company will have the option as its exclusive remedy to: (a) continue to use the Software pursuant to the terms of this Agreement or (b) terminate the applicable Order Form and receive a refund of the license fee paid thereunder. As Company's exclusive remedy for any breach of the limited Maintenance Services warranty set forth in Section 6.1(ii) above, Accenture will re-perform the Maintenance Service not in compliance with such limited warranty brought to Accenture's attention within thirty (30) days of Accenture's performance of such service.

6.3 **No Other Warranties.** THE WARRANTIES SET FORTH IN THIS SECTION 6 ARE THE ONLY WARRANTIES CONCERNING THE MAINTENANCE SERVICES, ANY SOFTWARE OR MATERIALS, OR THIS AGREEMENT, AND ARE MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, INFORMATIONAL CONTENT, SYSTEMS INTEGRATION, NON-INFRINGEMENT, INTERFERENCE WITH ENJOYMENT OR OTHERWISE. NO WARRANTY IS MADE THAT USE OF THE SOFTWARE WILL BE UNINTERRUPTED, ERROR FREE, OR THAT ANY ERRORS OR DEFECTS IN THE SOFTWARE WILL BE CORRECTED, OR THAT THE SOFTWARE'S FUNCTIONALITY WILL MEET COMPANY'S REQUIREMENTS. COMPANY ACCEPTS RESPONSIBILITY FOR ITS DATA AND THE SELECTION OF THE SOFTWARE TO ACHIEVE ITS INTENDED RESULTS.

7. **INDEMNITY.** Accenture will defend the Company, its parents, subsidiaries, affiliates, successors, and their directors, officers, employees, agents and representatives (collectively the "Indemnified Parties"), from and against any and all third party claims, demands, lawsuits, judgments, fines, and penalties (including interest thereon and court costs) caused by a claim that the Software maintained pursuant to the Maintenance Services ("Indemnified Claims") (i) infringes a third party's copyright, trademark or US patent existing as of the date of delivery of such Software or (ii) misappropriates a third-party's trade secrets Accenture will have no liability, however, to any Indemnified Party to the extent the alleged infringement or misappropriation was caused by: (I) modifications to the Software; (II) use of the Software in combination with any hardware or software not delivered by Accenture under this Agreement or specified in the technical documentation for the Software; (III) the failure of an Indemnified Party to implement corrections or enhancements to the Software made available by Accenture; (IV) use of the Software not explicitly authorized under this Agreement. If any Software is, or in Accenture's opinion is likely to be, held to be infringing, Accenture will at its expense and option either: (i) procure the right for Company to continue using it, (ii) replace it with a non-infringing equivalent, (iii) modify it to make it non-infringing, or (iv) direct the return of the Software and refund to Company the license fees paid for such reduced on a pro-rated basis by 20% of the original license fee amount for each year since the Order Form execution date. This section sets forth the sole and exclusive remedies for Indemnified Claims. To receive

the benefits of this provision, the Indemnified Party must promptly notify the Indemnifying Party in writing of any eligible claim or demand and provide the Indemnifying Party reasonable cooperation and full authority to defend or settle same provided that such settlement does not impose any obligation (monetary or otherwise) on the Indemnified Party without its consent.

**8. LIMITATION OF LIABILITY.** EXCEPT FOR A BREACH BY EITHER PARTY OF: (A) THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (B) ITS INDEMNIFICATION OBLIGATIONS; OR (C) ITS PAYMENT OBLIGATIONS, EACH PARTY'S SOLE LIABILITY TO THE OTHER FOR ANY AND ALL CLAIMS RELATING TO (i) AN ORDER FORM SHALL BE LIMITED IN THE AGGREGATE TO THE LICENSE FEES PAID BY COMPANY UNDER THAT ORDER FORM, AND (ii) MAINTENANCE SERVICES UNDER AN ORDER FORM SHALL BE LIMITED IN THE AGGREGATE TO THE MAINTENANCE SERVICES FEES PAID BY COMPANY THEREUNDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE ON WHICH THE FIRST EVENT OCCURRED ALLEGEDLY GIVING RISE TO DAMAGES. EXCEPT FOR A BREACH BY A PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO BUSINESS INTERRUPTION OR LOST PROFITS OR SAVINGS.

**9. TERM AND TERMINATION.** This Agreement will commence upon the Effective Date as set forth in an applicable Order Form and, unless terminated earlier, will continue until the expiration or termination of the last Order Form still in effect. The term of each license and set of Maintenance Services are set forth in the corresponding Order Form. In addition to any termination rights of the parties set forth in a Order Form, either party may (i) terminate the Agreement for material breach upon thirty (30) days written notice identifying specifically the basis for such notice unless the party receiving the notice cures such breach within the thirty (30) day period; or (ii) upon written notice to terminate if the other party enters bankruptcy proceedings, becomes insolvent, or otherwise becomes unable to meet its obligations under this Agreement. In addition to other available remedies, Accenture may suspend Maintenance Services to Company if the Maintenance Services fees are more than thirty (30) days overdue. In the event this Agreement is terminated, both parties will destroy or return all Information of the other party (except as required for its internal recordkeeping requirements or as permitted by Section 5). Company shall immediately cease all activities authorized hereunder, pay all sums due, and certify in writing destruction or return of all copies of the Software. All provisions of this Agreement related to confidentiality, indemnities, intellectual property ownership and protection, limits of liability, or which are by their nature intended to survive the expiration or termination of this Agreement will survive such expiration or termination.

## **10. GENERAL**

**10.1 Assignment.** Company may not assign or transfer this Agreement or any of its rights or obligations hereunder, including by operation of law, without the prior written consent of Accenture, and any attempt to do so shall be null and void.

**10.2 Compliance with Laws.** Each party will retain responsibility for compliance with all laws and regulations applicable to their respective businesses. Each party will comply with applicable export control and sanctions laws with respect to the export or re-export of goods, software and technical data, or the direct product of the same, which includes abiding by all such regulations in respect of all information supplied by or on behalf of the other party. Prior to providing Accenture any goods, software or technical data subject to export controls, Company will provide written notice to Accenture specifying the nature of the controls and any relevant export control classification numbers. Company shall be solely responsible for its use of the Software and documentation and shall ensure that Company complies with any data protection laws applicable to data involved in its business including, without limitation, personal data. Company is responsible for determining if the receipt and use of the Maintenance Services and Software comply with applicable laws, regulations, or industry standards. Company agrees that the Software and documentation are not designed to achieve or contribute to Company's compliance with these or other laws or regulations of any jurisdiction, including the specified territory.

**10.3 Data Protection.** The parties agree that Accenture is not required for the purposes of this Agreement to access or process any data that identifies or directly relates to natural persons ("Personal Data") and Company agrees not to make any such data available to Accenture. If Company inadvertently provides Accenture with access to Company Personal Data, Accenture shall use reasonable measures to protect such Company Personal Data in its possession until it can be returned or destroyed.

**10.4 Dispute Resolution.** The parties will make good faith efforts to first resolve internally within 30 days any dispute, including over an invoice, relating to this Agreement by escalating it to higher levels of management. If Company withholds an amount more than sixty days Accenture will be permitted to suspend performance until such time as the matter in dispute is resolved. This Agreement shall be governed by and construed in accordance with the laws of the State of New York without

regard to its conflict with laws provisions; any litigation relating to this Agreement must be filed in either the state or federal courts of New York.

**10.5 Force Majeure.** Except for payment obligations, neither party will be liable for any delays or failures to perform due to causes beyond that party's reasonable control (including a force majeure event).

**10.6 Notices.** Any notice or other communication provided under this Agreement will be in writing, addressed to such party at the address set forth herein, or upon electronic delivery by confirmed means.

**10.7 Relationship of the Parties.** Nothing in this Agreement is to be construed as creating an agency, partnership, or joint venture relationship between the parties hereto.

**10.8 Audit Rights.** Upon request by Accenture, Company shall audit and certify to Accenture that its use of the Software and documentation complies with the Agreement. Accenture reserves the right once every twelve months, upon reasonable prior notice and during normal business hours, to audit usage of the Software and documentation to verify Company's compliance with this Agreement. Accenture may repeat the audit if non-compliance is found.

**10.9 Construction of the Agreement.** This Agreement, including its Order Forms sets forth the entire understanding between two sophisticated business entities with legal counsel as to its subject and supersedes all prior agreements, conditions, warranties, representations, arrangements and communications, whether oral or written, and whether with or by Accenture, any of its affiliates, or any of their employees, officers, directors, agents or shareholders. Each party acknowledges that it entered into this Agreement solely based on the agreements and representations contained herein, and has not relied upon any representations, warranties, promises, or inducements of any kind, whether oral or written, and from any source. If a court of competent jurisdiction finds any term of this Agreement to be invalid, illegal or otherwise unenforceable, such term or provision will not affect the other terms of this Agreement and will be deemed modified to the extent necessary, in the court's opinion, to render such term enforceable while preserving to the fullest extent permissible the intent and agreements of the parties set forth in this Agreement. No waiver or modification of any provision of this Agreement, including any underlying Order Form, will be effective unless it is in writing and signed by the party against which it is sought to be enforced. The delay or failure by either party to exercise or enforce any of its rights under this Agreement is not a waiver of that party's right to later enforce those rights, nor will any single or partial exercise of any such right preclude any other or further exercise of these rights or any other right. There are no third-party beneficiaries to this Agreement. In the event of a conflict between this Agreement and a Order Form, the Order Form controls for purposes of that Order Form only. This Agreement may include one or more Exhibits at the time of execution which shall be listed and considered part of the Agreement.

**10.10 Reference Materials.** Following execution of a Order Form, Accenture may prepare and distribute (i) a press release announcing the commitment Company has made to the Software; and (ii) a COMPANY story discussing business success Company has achieved with the Software. Company will provide Accenture with an executive quote detailing why Company chose the Software which Accenture may include in Software marketing materials (the press release, COMPANY story and quote collectively the "Reference Materials"). Content of the Reference Materials will be jointly agreed upon prior to public distribution. Accenture may republish Reference Materials in Accenture Software marketing mediums including, but not limited to Accenture websites, collateral, and newsletters for 1 year following joint approval of such Reference Material content. Company grants to Accenture for the term of this Agreement a limited non-exclusive right to use Company's name and trademarks (collectively, "Company Marks") in promotional materials (including Reference Materials and Accenture's website) to identify Company as an authorized licensee of the Software.

**10.11 Federal Use.** The Software licensed under this Agreement is "commercial computer software" as that term is defined in 48 CFR 2.101. All U.S. government end users acquire the Software with only those rights set forth in this Agreement, in accordance with 48 CFR 12.212(b) and/ or 48 CFR 227.7202-1(a) and 48 CFR 227.7202-4, as applicable.

**10.12 Other Services.** Accenture may provide training, on-site support, implementation, integration, configuration, customization and other services not explicitly set forth in this Agreement provided the parties have executed a separate mutually agreed professional services agreement which shall exclusively govern such services.