

## Schedule A

### OPTIONSOFT™ SOFTWARE DIRECT END USER LICENSE

Agreement effective as of the \_\_\_\_\_ day of \_\_\_\_\_ 2015, by and between OptionSoft Technologies, Inc., having its principal place of business at 4 Corporate Center Drive, Clifton Park, NY 12065 ("LICENSOR"), and:

\_\_\_\_\_ ("LICENSEE") having its principal place of business at \_\_\_\_\_.

LICENSOR grants and LICENSEE accepts a non-exclusive, nontransferable right and license to use the Software Products designated on Schedule A, and related user documentation, at the location shown on Schedule A. No Source Code is provided pursuant to this License.

The terms and conditions of the License are as follows:

#### 1. Use

LICENSEE represents and warrants that the Software Products (shown on Schedule A) shall be used solely on the computers installed at the location designated on Schedule A for processing its own data only.

#### 2. Duplication and Disclosure

LICENSOR has the exclusive right to protect the Software Products as trade secrets or by patent, copyright or other property right, and distribute such material as it may see fit.

LICENSEE hereby acknowledges that the Software Products are confidential and proprietary in nature and that the entire right, title and interest therein and in all enhancements, modifications and derivatives thereof, regardless of source, shall remain with LICENSOR.

LICENSEE agrees not to remove any notices from the Software Products indicating that they are patented, copyrighted, trademarked or otherwise proprietary to LICENSOR or others and LICENSEE agrees to reproduce and affix such notice to all copies of the Software Products made by it.

Except as specifically permitted by this Agreement, LICENSEE agrees not to disclose, transfer, sell, publish, sublicense, display, or otherwise make available the Software Products, or information relating thereto, in any way to any person other than employees of LICENSEE required to have such knowledge for use of the Software Products.

LICENSEE agrees to secure and protect the Software Products in a manner consistent with the maintenance of LICENSOR'S rights therein and to take appropriate actions by instruction or agreement with its employees, agents or consultants who are permitted access to the Software Products to satisfy LICENSEE'S obligations hereunder.

LICENSEE shall not copy or reproduce, in whole or in part, any portion of the Software Products which are provided in printed form under this Agreement. Additional copies of printed materials may be acquired from the LICENSOR. Portions of Software Products which are provided in machine readable form may only be copied, reproduced or printed to the extent required for use by the LICENSEE with the designated computer or for archive purposes.

LICENSEE agrees to maintain appropriate records of the number and location of all such copies of the Software Products. The original and any copies of the Software Products,

in whole or in part, which are made by the LICENSEE shall be the property of LICENSOR.

#### 3. Changes in Software

LICENSEE agrees that it will use the Software Products only as provided by LICENSOR unless any change proposed by the LICENSEE has prior written approval of LICENSOR. LICENSEE further agrees that LICENSOR and its LICENSEES, at the sole discretion of LICENSOR, shall have the non-exclusive royalty-free right to use any changes made or suggested by the LICENSEE to the Software Products. Custom modifications of the Software Products are available from LICENSOR under separate contract.

#### 4. Access to Software by LICENSOR

LICENSOR shall have telephone access and premises access to Software Products licensed by LICENSEE, during mutually convenient business hours, for purposes of reviewing LICENSEE'S use of Software Products. LICENSEE hereby grants LICENSOR and its employees and subcontractors a general release for liability with regard to such access.

#### 5. Limited Warranty, Installation and Support Services, Limitation of Liability

LICENSEE shall have the right within the thirty (30) day period following the installation of the Software Products (i.e. loading of the Software Products on the computer by LICENSOR personnel) to return any Software Products to the LICENSOR and receive a full refund of the applicable license fee. The method of return shall be, at LICENSOR'S election, either: return all Software Products furnished hereunder, together with all copies made by LICENSEE; certify to LICENSOR that the original and all copies, in whole or in part, in any form have been destroyed; and/or allow LICENSOR access to LICENSEE'S facilities to remove or disable the Software Products. Any Software Products not returned during this 30-day period shall be deemed accepted by LICENSEE. Custom modified Software Products are not covered by the thirty (30) day refund period.

THE ABOVE WARRANTY SHALL BE THE LICENSOR'S SOLE OBLIGATION WITH RESPECT TO THE SOFTWARE PRODUCTS AND/OR ANY SERVICES PROVIDED, AND THE LICENSOR DISCLAIMS ANY AND ALL LIABILITY, INCLUDING LIABILITY FOR INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE DELIVERY, USE OR OPERATION OF THE SOFTWARE PRODUCTS OR THE PROVISION OF SERVICES. ALL

OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING ANY REGARDING ANY SERVICES PROVIDED, THE CORRECTNESS OR APPLICABILITY OF DATA OR ALGORITHMS CONTAINED IN THE SOFTWARE PRODUCTS, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARISING OUT OF OR IN CONNECTION WITH ANY SOFTWARE PRODUCT (OR THE DELIVERY, USE OR PERFORMANCE THEREOF) ARE HEREBY EXCLUDED. NO REPRESENTATIONS REGARDING THE PERFORMANCE OF THE PRODUCTS OR SERVICES SHALL BE BINDING ON LICENSOR UNLESS SET FORTH IN THE PRINTED TEXT HEREIN.

LICENSEE AGREES TO INDEMNIFY AND HOLD LICENSOR HARMLESS FOR ANY THIRD PARTY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF OR CONNECTED WITH THE LICENSEE'S USE OF A SOFTWARE PRODUCT OR WITH THE PROVISION OF SERVICES BY LICENSOR. LICENSEE FURTHER AGREES THAT LICENSOR WILL NOT BE LIABLE FOR ANY LOST PROFIT OR REVENUE OF LICENSEE OR FOR ANY CLAIM OR DEMAND AGAINST LICENSEE BY ANY OTHER PARTY, INCLUDING WITHOUT LIMITATION ANY CLAIM OR DEMAND AGAINST LICENSEE BY A CUSTOMER, CLIENT OR EMPLOYEE OF LICENSEE. IN NO EVENT, SHALL LICENSOR'S TOTAL LIABILITY TO LICENSEE ARISING OUT OF OR RELATING TO THE SOFTWARE PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT EXCEED THE TOTAL CHARGES PAID THEREFOR BY LICENSEE TO LICENSOR UNDER THIS AGREEMENT.

LICENSEE is responsible for the selection of specific Software Products and determination that the selected Software Products meets its requirements. LICENSOR shall be responsible for delivery and installation of the Software Products and for provision of a complete set of documentation manuals. Support for released standard Software Products, enumerated on Schedule A of the License Agreement, is available by means of a separate "Annual Software Support Agreement" between the "LICENSOR and the LICENSEE."

## 6. Term of Agreement

This Agreement shall remain in effect until terminated by the LICENSEE or by LICENSOR. This Agreement may be discontinued by the LICENSEE at any time. LICENSOR may discontinue or terminate this Agreement if the LICENSEE fails to comply with any of the terms and conditions hereof. Termination of this agreement will be effective upon thirty (30) days notice in writing.

## 7. Termination

Upon termination of this Agreement, LICENSEE shall, at LICENSOR'S election, either: return all Software Products furnished hereunder, together with all copies made by LICENSEE; certify to LICENSOR that the original and all copies, in whole or in part, in any form have been destroyed; and/or allow LICENSOR access to LICENSEE'S facilities to remove or disable the Software Products. Upon prior written authorization from LICENSOR, the LICENSEE may retain a copy of the Software Products for archive purposes. Upon termination of this Agreement, as provided in section 6 hereof, LICENSEE

agrees not to thereafter use the Software Products. LICENSEE further agrees that the provisions set forth in section 2 hereof shall survive expiration or termination of this agreement.

## 8. Taxes

All sales and use taxes upon products and services provided hereunder shall be the responsibility of the LICENSEE.

## 9. Benefit and Assignability

This Agreement shall be binding upon LICENSOR and inure to its benefit and the benefit of its successors and assigns, and shall be binding upon LICENSEE and inure to its benefit, but shall not be transferable by LICENSEE to its successors, assigns or others, without LICENSOR'S prior written consent which will not be unreasonably withheld.

## 10. Notices

All notices, statements and other communications hereunder shall be made in writing addressed to the party at its address as set forth herein. Should a party change its address, prompt written notice thereof shall be given to the other party and communications will thereafter be sent to the new address.

## 11. Amendments

This Agreement embodies the entire understanding of the parties and replaces any earlier End User License between the parties hereto with respect to the Software Products listed in Schedule A. No amendments or supplements to this Agreement shall be effective unless in writing and signed by LICENSOR and LICENSEE.

## 12. Arbitration

Any dispute or controversy arising out of or with respect to this Agreement, excluding claims relating to the validity or infringement of copyrights, patents or trademarks, and claims covering unfair competition or misappropriation of trade secrets, shall be arbitrated in the County of Albany, State of New York under the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award may be entered in any court having jurisdiction thereof. The arbitrator shall have the power to order, among other things, specific performance, injunctive relief and protective orders. Each party shall bear its own costs and shall equally divide the costs incident to arbitration.

## 13. Governing Law and Forum Selection

This Agreement shall be governed by the laws of the State of New York, excluding those issues covered exclusively under federal law, and excepting New York State's choice of law rules if application of those rules would result in the law of another jurisdiction being applied.

Any dispute excluded in Section 12 herein arising out of or with respect to the Agreement shall be adjudicated solely by the

Competent Federal or State court situated in Albany County, Albany, New York. Each of the parties consents to the venue and jurisdiction of such court for purposes of any such dispute.

**14. Severability**

If any of the provisions hereof are invalidated by any applicable law or rule of law, they shall be deemed omitted and the remaining provisions shall continue in full force and effect.

**15. Headings**

The headings in this Agreement are intended for the convenience of reference only and shall not affect the provisions hereof.

ACCEPTED BY LICENSOR:

\_\_\_\_\_  
LICENSOR

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
TELEPHONE NO.

**16. Acknowledgment**

The LICENSEE acknowledges that it has read this agreement, understands it and agrees to be bound by its terms, and further agrees that it is the complete and exclusive statement of the Agreement between the parties, which supersedes all proposals, oral or written and all other communication between the LICENSOR and itself relating to the subject matter of this Agreement.

**17. Payments**

For the rights and privileges granted herein, LICENSEE shall pay to LICENSOR a non-refundable fee as specified in the annexed payment Schedule B. LICENSEE shall remain current on all payments to LICENSOR, including but not limited to payments under this AGREEMENT, all software support agreements, or any other agreement between LICENSEE and LICENSOR, either written or oral for services, products or reimbursements. Failure to be current under any such agreements shall be grounds for LICENSOR to terminate this and/or all other agreements.

ACCEPTED BY LICENSEE:

\_\_\_\_\_  
LICENSEE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
ADDRESS LINE 1

\_\_\_\_\_  
ADDRESS LINE 2

\_\_\_\_\_  
CITY, STATE, ZIP

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TELEPHONE NO.

SCHEDULE A

SOFTWARE PRODUCT NAME	LICENSEE BUSINESS LOCATION

SCHEDULE B

SOFTWARE PRODUCT NAME	LICENSEE BUSINESS LOCATION	MONTHLY PAYMENT Due on first of Month