

# TargetCW WebCenter Software End User License Agreement

*Effective Date: February 12, 2019*

PLEASE READ CAREFULLY: This End User License Agreement (“EULA”) is a legal agreement between you and WMBE Payrolling Inc. and its affiliates (“TargetCW,” “WebCenter,” “we,” “us” or “our”). This EULA governs your use of the TargetCW WebCenter (“WebCenter”) and any integrated third-party software that may be distributed therewith (collectively the “Software”). WebCenter agrees to license the Software to you (personally and/or on behalf of your employer) (collectively “you” or “your”) only if you accept all the terms contained in this EULA. By using, copying, or distributing all or any portion of the Software, you accept and agree to be bound by all of the terms and conditions of this EULA. IF YOU DO NOT AGREE WITH ANY OF THE TERMS OF THIS EULA, DO NOT USE THE SOFTWARE.

Your use of the Software is also subject to your separate agreements with us concerning your use of the <https://webcenter.targetcw.com> website (the “Site”) and the services provided through that Site. This EULA hereby incorporates by reference all terms, conditions rules, policies and guidelines on the Site, including the WebCenter Terms of Service. Please also see the WebCenter Privacy Policy at <https://www.tcwprivacy.com>.

## 1. CONDITIONAL LICENSE.

### 1.1. License Grant:

Subject to your compliance with the terms and conditions of this EULA, WebCenter grants you a revocable, non-exclusive, non-transferable right to use the executable code version of the Software for your use solely in connection with work you perform on or information you enter through the Site. This right to use shall be strictly in accordance with the terms & conditions of the license, usage rules, and any service agreement associated with the granting of this license.

### 1.2. Restrictions on Use:

You shall use the Software strictly in accordance with the terms of the related agreements and shall not: (a) create duplicate accounts and/or share your account with anyone, (b) modify, display, adapt, translate, loan, distribute, prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code from the Software; (c) publish, redistribute, sublicense or sell the Software or any information or material associated with the Software; (d) violate any applicable laws, rules, or regulations in connection with your access or use of the Software, including but not limited to copyright, intellectual property, and privacy laws; (e) remove, obscure, or alter any copyright notice, trademarks or other proprietary rights notices contained within or accessed in conjunction with or through the Software; (f) use the Software for creating a product, service or software that is, directly or indirectly, competitive with or in any way a substitute for the Software offered by us; (g) rent, lease or otherwise transfer your rights to the Software; (h) use the Software in any manner that could damage, disable, overburden, impair, or interfere with any other parties ability to utilize the Software and/or Site; (i) perform or release the results of any testing of the Software to any third party without the prior written consent of TargetCW; or (j) use any proprietary information, interfaces, or intellectual property of TargetCW in the design, development, manufacture, licensing, or distributing of any applications, accessories, or software to be used with this Software without the express written consent of TargetCW.

You are solely responsible for all activity that occurs under your account.

### 1.3. Intellectual Property Rights:

The Software is licensed, not sold, to you for use pursuant to the terms of this EULA. All rights not expressly granted to you are reserved to TargetCW, its licensors, and/or third-party providers. You acknowledge that TargetCW and/or its licensors and/or third-party providers own all rights, title and interest, including without limitation all Intellectual Property Rights, in and to the Software, portions thereof, or any information or material provided through or in conjunction with the Software. Your rights to use the Software shall be limited to those expressly granted in this Section 1. All rights not expressly granted to you are reserved by TargetCW, its licensors and/or third-party providers. "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all other proprietary rights, and all applications, registrations, renewals, extensions and restorations thereof, now or hereafter in force and effect worldwide.

### 1.4. Copyright Infringement Claims:

Unauthorized copying, distribution, modification, public display, or public performance of copyrighted works is an infringement of the copyright holder's rights. You agree that you will not use our Site or Software to infringe anyone's intellectual property rights. If a claim of infringement arises due to your possession or your use of the Software, you will be responsible for the investigation, defense, settlement, and discharge of any such claim of intellectual property infringement. We will investigate copyright infringement claims if they are reported to us to [privacy@targetcw.com](mailto:privacy@targetcw.com).

## 2. DISCLAIMER OF WARRANTIES.

### 2.1. "As Is"; No Warranty:

THIS SOFTWARE IS PROVIDED BY TARGETCW AND ANY OF OUR LICENSORS AND/OR OUR THIRD-PARTY SERVICE PROVIDERS "AS IS" AND ON AN "AS AVAILABLE" BASIS. YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF OR RELIANCE UPON THE SOFTWARE, ANY THIRD-PARTY CONTENT, AND/OR SERVICES ACCESSED THEREBY IS AT YOUR SOLE RISK AND DISCRETION. THIS SOFTWARE IS BEING PROVIDED WITHOUT SUPPORT OR WARRANTIES OF ANY KIND. TARGETCW EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT PERMITTED BY LAW, ALL EXPRESS, IMPLIED, AND STATUTORY WARRANTIES, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT OF PROPRIETARY RIGHTS. FURTHERMORE, TARGETCW AND ITS AFFILIATES, PARTNERS, SUPPLIERS AND LICENSORS MAKE NO WARRANTY THAT (I) THE SOFTWARE OR THIRD-PARTY CONTENT, QUALITY, AND SERVICES WILL MEET YOUR REQUIREMENTS AND/OR EXPECTATIONS; (II) THE SOFTWARE, CONTENT, OR SERVICES WILL BE UNINTERRUPTED, ACCURATE, RELIABLE, TIMELY, SECURE OR ERROR-FREE; (III) ANY ERRORS IN THE SOFTWARE OR THIRD-PARTY CONTENT WILL BE CORRECTED.

## 2.2. Privacy Disclaimer:

You acknowledge receipt of and agree to the terms of TargetCW's privacy policy ("Privacy Policy"), a link to which is contained at <http://www.tcwprivacy.com>. We reserve our right to change the provisions of the Privacy Policy at any time, and from time to time, at our sole discretion. Use of TargetCW following posting of such changes to the Privacy Policy will constitute your acceptance of such changes.

## 2.3. Jurisdictional Limitations:

SOME STATES OR OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. IN JURISDICTIONS WHICH DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DATE OF DELIVERY OF THE SOFTWARE OR TO THE MINIMUM PRESCRIBED BY LAW. YOU MAY ALSO HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE AND JURISDICTION TO JURISDICTION.

## 2.4. Survival of Disclaimer:

The provisions of this Section 2 and of Section 3 shall survive the termination of this EULA, but this shall not imply or create any continued right to use the Software after termination of this EULA.

# 3. LIMITATION OF LIABILITY.

## 3.1. Limitation of Liability:

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER BASED IN EQUITY, CONTRACT, NEGLIGENCE, OR OTHER TORT ACTION, STRICT LIABILITY, WARRANTY, OR OTHERWISE) SHALL TARGETCW, OUR LICENSORS, OR OUR THIRD-PARTY SERVICE PROVIDERS BE LIABLE FOR ANY LOSS OR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, LOSS OF REVENUE, LOSS OF ANTICIPATED PROFITS, GOODWILL, DIMINUTION OF VALUE, BUSINESS INTERRUPTION COSTS, OR EXEMPLARY AND/OR PUNITIVE DAMAGES ARISING OUT OF A USER'S ACCESS, USE, MISUSE, RELIANCE ON, PERFORMANCE OR MISPERFORMANCE, INTERRUPTION, SUSPENSION, TERMINATION OR INABILITY TO ACCESS THE SOFTWARE. SUCH LIMITATION SHALL APPLY REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE FORESEABLE OR WHETHER OR NOT TARGETCW WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUCH LIMITATION SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

TO THE MAXIMUM EXTENT PERMITTED BY THE LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, SHALL TARGETCW, ITS AFFILIATES, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR SUBSIDIARIES BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, LOSS OF REVENUE, LOSS OF ANTICIPATED PROFITS, GOODWILL, DIMINUTION OF VALUE, BUSINESS INTERRUPTION COSTS, EXEMPLARY AND/OR PUNITIVE DAMAGES ARISING OUT OF, RELATED TO, CAUSED BY, OR RESULTING IN ANY WAY FROM (1) USE OF THE SOFTWARE; (2) THE INABILITY TO USE THE SOFTWARE; (3) MODIFICATION OF OR REMOVAL OF ANY PART OR CONTENT IN THE SOFTWARE; (4) THE TERMS OF USE; (5) THE ACCURACY, TIMELINESS, PERFORMANCE, COMPLETENESS, OR SUITABILITY OF ANY CONTENT OR THE SERVICES FOR ANY

PARTICULAR PURPOSE; (6) DEFECTS IN THE CONTENT, THE SERVICES, AND/OR SOFTWARE; (7) ERRORS, INACCURACIES, OR OMISSIONS IN THE CONTENT OR THE SERVICE; (8) DAMAGE FROM ANY SECURITY BREACH OR ANY OTHER SECURITY INTRUSION, OR ANY VIRUS, BUGS, OTHER MALICIOUS SOFTWARE OR HARMFUL COMPONENTS, TAMPERING, INTERRUPTION, DELAY IN OPERATION OR TRANSMISSION, COMPUTER LINE OR NETWORK FAILURE, OR ANY OTHER TECHNICAL OR OTHER MALFUNCTION; (9) TERMINATION OF YOUR SERVICES OR ACCESS TO THE SOFTWARE; AND/OR (10) THE USE OF ANY THIRD-PARTY WEBSITE REFERENCED OR LINKED FROM TARGETCW. TARGETCW, ITS AFFILIATES, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR SUBSIDIARIES SHALL NOT BE LIABLE FOR ANY DAMAGE TO YOUR COMPUTER, DEVICE, HARDWARE, SOFTWARE OR OTHER PROPERTY ARISING OUT OF, RELATED TO, CAUSED BY, OR RESULTING FROM ACCESS TO OR USE OF TARGETCW.

SOME STATES OR OTHER JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU. IN THESE JURISDICTIONS, TARGETCW LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW. NO CLAIM, SUIT, OR ACTION MAY BE BROUGHT AGAINST US AFTER SIX MONTHS FROM THE UNDERLYING CAUSE OF ACTION.

### 3.2. Damages Cap:

EXCEPT AS LIMITED BY APPLICABLE LAW, REGARDLESS OF THE BASIS FOR YOUR CLAIM, TARGETCW'S, LICENSORS' AND THIRD-PARTY PROVIDERS' TOTAL LIABILITY UNDER THIS EULA FOR ANY CAUSE OF ACTION YOU TAKE AGAINST US SHALL BE LIMITED TO DIRECT DAMAGES NO MORE THAN TWENTY-FIVE DOLLARS (\$25.00). YOU CANNOT RECOVER ANY OTHER DAMAGES OR LOSSES, INCLUDING DIRECT, CONSEQUENTIAL, LOST PROFITS, SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. THE FOREGOING PROVISIONS SHALL CONSTITUTE THE SOLE AND EXCLUSIVE REMEDY FOR MONETARY DAMAGES IN RESPECT OF ANY BREACH OF OR DEFAULT UNDER THIS AGREEMENT BY TARGETCW. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THESE LIMITATIONS AND EXCLUSIONS APPLY TO ANYTHING OR ANY CLAIM RELATED TO THE TERMS, SERVICES, OR SOFTWARE.

## 4. INDEMNIFICATION.

To the maximum extent permitted by applicable law, you agree to indemnify and hold harmless TargetCW and its subsidiaries, affiliates, joint ventures, suppliers, officers, directors, shareholders, employees and agents, from any claim or demand made by any third party due to or arising directly or indirectly out of your conduct or in connection with your use of the Software or its features, any alleged violation of these terms, or any alleged violation of any applicable law or regulation. TargetCW reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you but doing so shall not excuse your indemnity obligations.

## 5. PRIVACY AND SECURITY.

TargetCW shall implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk in respect to any personal data in accordance with our Privacy Policy. Each party agrees to comply with its obligations under relevant applicable data protection laws, principles, and agreements. You call insure the personal data, which is supplied or disclosed through the software, has been obtained fairly and lawfully. For more information on privacy and security please visit [www.tcwprivacy.com](http://www.tcwprivacy.com).

## 6. NO NOTICE OF UPDATES.

TargetCW WebCenter reserves the right to update, modify, revise, supplement or change this EULA from time to time without notice to You. The latest version will be available on the Site. The effective date of the latest updates is at the top of this page. Such updates, revisions, supplements, modifications, and additional rules, policies, terms and conditions, will be effective as of that date and incorporated into this agreement. TargetCW also may update or modify the Software from time to time at its discretion. Your election to continue use of the Software after the date of posting of these modifications to the EULA or to the Software constitutes acceptance of those modifications. If you do not agree with the modifications, do not use the Software.

## 7. EXPORT CONTROLS.

You are responsible for complying with trade regulations and both foreign and domestic laws. You acknowledge that the Software or its underlying technology may not be downloaded to or exported or re-exported: (a) into (or to a resident or national of) Cuba, Iraq, Iran, Libya, North Korea, Syria or any other country subject to United States embargo; (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or on the U.S. Commerce Department's Denied Party or Entity List; and (c) you will not export or re-export the Software to any prohibited country, person, end-user or entity specified by U.S. Export Laws.

## 8. TERM AND TERMINATION.

### 8.1. Termination:

This EULA is effective as soon as you use or distribute the Software and shall continue until it is terminated by TargetCW or you, as provided for under the terms of this Section. Unless otherwise agreed to in writing with us, either you or we may terminate the contractual agreement represented by this EULA at any time upon notice to the other party. This EULA, including without limitation your right to the Software as specified in Section 1, terminates immediately and without notice from TargetCW if you fail to comply with any of its provisions. Upon termination you shall immediately discontinue use of Software and attempts to use under other accounts or aliases. We shall not be liable for damages due to termination.

### 8.2. Survival of Termination:

Sections 1.3, 2, 3, 4, 7, 8.2 and 9 of these terms will survive any termination of this EULA. The termination of this EULA does not limit TargetCW's other rights it may have by law.

## 9. MISCELLANEOUS PROVISIONS.

### 9.1. Severance. Waiver:

If for any reason a court of competent jurisdiction finds any provision or portion of this EULA to be unenforceable, it shall be enforced to the maximum extent permissible, and the remaining provisions shall remain in full force. Enforcement of this EULA is solely in our discretion, and failure to enforce the EULA in some instances does not constitute a waiver of our right to enforce it in other instances.

### 9.2. Audit:

You agree that, on TargetCW's request, you will certify in writing your compliance with the terms of this EULA.

### 9.3. Assignment:

You may not assign this EULA or sublicense, assign, transfer or delegate any right or duty hereunder, without the prior written consent of TargetCW, at our sole discretion. Notwithstanding the foregoing, TargetCW may assign or transfer this EULA or any rights granted hereunder without your prior consent. This EULA is binding on and will inure to the benefit of the parties' successors and permitted assigns.

### 9.4. Entire Agreement:

This EULA and the terms expressly incorporated by reference herein, constitute the entire agreement between the parties with respect to the subject matter hereof and supersede and replace all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter.

### 9.5. Governing Law & Jurisdiction:

This EULA and any action related thereto will be governed by the laws of California. Any controversy or claim arising out of or relating to this EULA, or the breach thereof, shall be settled by courts located in San Diego, CA. You herein waive any right to trial by jury.

### 9.6. Attorney's Fees

Should TARGETCW or its affiliates employ counsel or incur any costs in enforcement of any rights arising out of or relating to this EULA, it shall be entitled to recover such reasonable costs and legal fees related to such enforcement.

### 9.7. Remedies for Breach of This EULA:

We may take any action that we deem necessary or appropriate if we believe that any user violates this EULA, infringes any intellectual property right, privacy right or confidentiality principles, threatens anybody's personal safety or uses offensive language. We may: (i) disclose user's identity to law enforcement agencies, to any third party claiming violation of their intellectual property or privacy right, (ii) block user's IP address, notify user's Internet Service Provider, (iii) suspend or terminate

any account on our Software and Site (iv) moderate any content submitted to us, (v) take any other action provided for in this EULA or available under equity or law.

## 9.8. Electronic Communications:

You agree that all notices or other communications regarding your account and/or your use of the Site or Software ("Communications"), may be provided to you electronically and you agree to receive all Communications from us in electronic form. You may print a copy of any Communications and retain it for your records. All electronic Communications provided to You will be considered just as legally binding as if they were in paper form. You may revoke your consent to receive Communications electronically, but if you revoke your consent to receive Communications electronically, we reserve the right to terminate your right to use our Software.

## 9.9. Relationship of the Parties:

**We are independent contractors to each other. There is no joint venture, employment or similar relationship created through utilizing TargetCW WebCenter.**

## 9.10. Hyperlinks:

You may link to our Site, as long as this is done in a fair way that does not negatively affect our reputation or business and does not suggest any form of association where there is none. We reserve the right to request that you withdraw any link and you agree to cooperate with us in causing any unauthorized framing or linking to terminate immediately.

## 9.11. Prevailing Language:

In the event of any discrepancy between the English original version of this EULA and any foreign language translation, the English version prevails.

## 9.12 Acknowledgement

You hereby accept the terms of this EULA and acknowledge the terms herein. By utilizing the Software, you acknowledge you have read, understand, and agree to all the terms, conditions, obligations, and limitations of this EULA.

## 9.13. Contact Us

Please submit your inquiries to [privacy@targetcw.com](mailto:privacy@targetcw.com)