

## LIMITED USE SOFTWARE LICENSE AGREEMENT

### FOR CLOUD / SAAS

#### RESOURCE SCHEDULER, MEETING ROOM MANAGER, WORK SPACE MANAGER, MEETING MAKER, SCHEDULER PLUS, GEOPUNCH, ASUREFORCE™, ASURESPACE™, NETSIMPLICITY™, IEMPLOYEE™, ADI® AND ADI TIME® PRODUCTS

This Limited Use License Agreement applies to the above online hosted software services provided by Asure Software, Inc. (“Licensor”) subscribed to and used by an end user (“Licensee”). **BY ACCEPTING THIS AGREEMENT, EITHER BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT OR ACCESSING AND/OR USING ANY OF THE SERVICES (AS DEFINED BELOW), LICENSEE AGREES TO BE BOUND BY ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. THIS AGREEMENT WAS LAST UPDATED ON APRIL 3, 2017 AND IS EFFECTIVE AS OF THE DATE OF ACCEPTANCE BY LICENSEE.**

1. **Definitions.** As used in this Agreement, the following definitions shall apply:

1.1 **"Agreement"** means this Limited Use License Agreement, any Order Form (as defined below), and any materials available on Licensor’s website specifically incorporated herein by reference, as such may be updated by Licensor from time to time in its sole discretion.

1.2 **“Customer Data”** means any data, information or material relating to Licensee and its Users submitted or provided by Licensee to Licensor through the use of the Services excluding data and information of third parties.

1.3 **"Effective Date"** means the earlier of either Licensor’s invoice or the date the Services are available for use by Licensee.

1.4 **“Licensed Program”** means all of Licensor’s proprietary technology and documentation (including software, hardware, processes, user interfaces, algorithms, know-how, techniques, and other tangible or intangible technical material or information, and specifications describing the features, functionality or operation of the Services,) made available to Licensee by Licensor in providing the Services to Licensee.

1.5 **“Services(s)”** means the online hosting, maintenance and support services and any other services or products provided by Licensor to Licensee as set forth on an Order Form.

1.6 **“Service Fees”** has the meaning set forth in Section 5.

1.7 **“Order Form(s)”** means Licensor’s quote, invoice or proposal evidencing a subscription for the Services specifying the Services and the applicable Service Fees, each such

Order Form is incorporated herein by reference (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail).

**1.8 “Users”** mean Licensee’s employees, representatives, consultants, contractors or agents who are authorized to use the Services on behalf of Licensee and have been issued user identifications and passwords for the Services.

**2. Services.** Subject to the terms and conditions of this Agreement, including the payment of all applicable Service Fees, Licensor agrees to use commercially reasonable efforts to (a) provide Licensee with the Services, (b) to make the Services available for use in accordance with the Services Level Agreement set forth on **Schedule A** attached hereto, and (c) provide commercially reasonable levels of security for the Services in accordance with the Hosting Infrastructure set forth on **Schedule B** attached hereto. Licensee expressly understands and agrees that Licensee is contracting solely with Asure Software, Inc. for the use of the Services and the Licensed Programs and not with any subsidiary or other affiliated entity of Asure Software, Inc. and all obligations of Licensor hereunder are solely of Asure Software, Inc.

### **3. Grant of License; Title to Intellectual Property.**

**3.1 Grant of License.** Subject to the terms and conditions of this Agreement, Licensor hereby grants Licensee a nonexclusive, non-transferable, non-sublicensable limited subscription based license (the “**License**”) to access and use the Licensed Program for the number and type of Licenses set forth on an Order Form accepted by Licensor. Additional Licenses may be subscribed by Licensee pursuant to additional Order Forms. The use of the Licensed Program and Services are for the exclusive use of Licensee and its Users and do not extend to third parties. Licensee is responsible for the use of the Licensed Program and Services by Licensee’s Users.

**3.2 License Use Restrictions.** Licensee agrees to (a) use the Licensed Program solely for its own internal business purposes and agrees not to rent, lease, sublicense, time-share, or otherwise distribute the Licensed Program for resale, or to host applications to provide service bureau, time-sharing, or other computer services to third parties, or otherwise make available the Licensed Program to any third parties, (b) not to reverse-engineer, decompile, disassemble, modify, create derivative works of, or copy all or any part of the Licensed Program, and (c) to take appropriate actions to protect the Licensed Program and all parts thereof from unauthorized copying, modification, or disclosure by its Users and other third parties. Licensee may not use the Licensed Program or access the Services if Licensee is a direct competitor of Licensor or for purposes of monitoring the availability, performance or functionality of the Services, or for any other benchmarking or competitive purposes.

**3.3 Title to Intellectual Property.** Licensee hereby acknowledges that all right, title and interest in and to the Licensed Program and all intellectual property rights therein, including patent, unpatented inventions, copyright, trademark, trade secret, proprietary information and technology used in or comprising the Licensed Program and the Services and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Licensee to Licensor relating to the Services or the Licensed Program (collectively, the “**Licensor Intellectual Property**”) are owned by, and are vested in, Licensor (or its applicable licensors/suppliers). Other than as expressly set forth in this Agreement, no license or other rights

in the Licensor Intellectual Property are granted to Licensee and all such rights are hereby expressly reserved by Licensor. Licensor Intellectual Property does not include any Customer Data.

**3.4 Aggregated Data Use.** Licensor shall own all rights in the de-identified aggregated and statistical data derived from the operation of the Services, including, without limitation, the number of records, the number and types of transactions, configurations, and reports processed using the Services and the performance results of the Services (the “**Aggregated Data**”). Nothing herein shall be construed as prohibiting Licensor from collecting, utilizing, transferring or sharing the Aggregated Data for purposes of Licensor’s businesses, provided that such use of Aggregated Data will not reveal the identity, or contents, whether directly or indirectly, of any Customer Data of Licensee. In no event will the Aggregated Data include any personally identifiable information.

#### **4. Licensee Obligations.**

**4.1 Access and Security Guidelines.** Use of the Services is conditioned on Licensee obtaining and maintaining access to the internet, and all equipment necessary for proper operation of the Services. Licensee is required to maintain and use secure user names and passwords issued by Licensor as set forth on **Schedule B** for the access and use of the Services. Licensee shall be responsible for ensuring the security and confidentiality of such user names and passwords. Licensee shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services and shall notify Licensor immediately of any such unauthorized use or other known breach of security. Licensee is responsible for all activities that occur under Licensee's user names and passwords. Licensee shall report to Licensor immediately and use reasonable efforts to stop immediately any copying or distribution of the Licensed Programs that is known or suspected by Licensee.

**4.2 Acceptable Use.** Licensee shall abide by all applicable local, state, national and foreign laws, treaties and regulations and third party agreements in connection with Licensee’s use of the Services, including those related to data privacy, international communications and the transmission of personal data or confidential information and in accordance with Licensee obligations under this Agreement and Licensor’s Acceptable Use Policy set forth on **Schedule C** attached hereto. Licensor reserves the right to update such policy as set forth therein. Any use of the Services in violation of Licensee’s obligations under this Agreement or Licensor's Acceptable Use Policy shall be a material breach of this Agreement. Licensee agrees to defend, indemnify and hold Licensor harmless from and against any and all claims, losses, liability, costs and expenses (including but not limited to attorneys' fees) arising from Licensee’s violation of its obligation under this Agreement, applicable local, state, national or federal laws or regulations, or any third party's rights, including but not limited to infringement of any copyright, violation of any proprietary right, invasion of any privacy rights or breach of any third party confidentiality obligation. This obligation will survive the termination of the Services. Notwithstanding anything contained in this Agreement to the contrary, Licensor has no liability to Licensee or any party for the use of the Services by Licensee to transmit data containing privileged or confidential information of Licensee’s customers or clients.

**4.3 Customer Data.** Licensee will be solely responsible for providing all Customer Data required for the proper operation of the Services and agrees to not enter, submit or upload

any data or information of any party that is not Licensee or its Users or that is not required to operate the Services including without limitation data or information related to Licensee's clients, customers, or other third parties, or data voluntarily entered or submitted by Licensee or its Users in free text areas. Licensee shall have sole responsibility for the accuracy, quality, integrity, reliability, appropriateness, and intellectual property ownership of or right to use all Customer Data or other data submitted to the Services, including as outlined in this Agreement and in Licensor's Acceptable Use Policy. Licensor is under no obligation to review Customer Data or other submitted data for accuracy, acceptability or potential liability and shall not be liable or responsible for the content, accuracy or appropriateness of, or the right to use, such data to perform the Services. Licensee grants to Licensor all necessary licenses in and to such Customer Data solely as necessary for Licensor to provide the Services to Licensee.

**4.4 Notifications and Consents.** To the extent Licensee provides personal information of its Users in connection with the use of the Services, Licensee is responsible for and warrants that it will provide all necessary notifications to its Users and obtain all necessary consents from its Users in connection with the entry of such User's personal information into the Services as such notice and/or consent is required under applicable U.S. and foreign federal, national, state, and local data privacy laws. Licensee shall be responsible and warrants that its use of the Services and Licensed Program shall comply with applicable U.S. and foreign federal, national, state, and local law relating to the collection, processing, privacy, and use of personal data, including any guidance, regulations or directives issued by any relevant data protection agency or regulator.

## **5. Service Fees.**

**5.1 Service Fees.** In consideration of the Services provided, Licensee shall pay Licensor those fees itemized on any Order Form for the Services and all applicable excise, sales, use, or other taxes, fees or charges applicable to the Services (the "**Service Fees**"). Unless otherwise specified in the Order Form, Service Fees are payable in advance and are due in full upon the Effective Date. If additional Services are purchased, additional Service Fees shall be due and payable in full at once on the date the Services are available for use by Licensee. Recurring subscription Services purchased by Licensee will automatically renew on an annual basis at Licensor's then current prevailing rates without notice and shall be payable in accordance with this Section 5, unless a party sends to the other party a notice of non-renewal pursuant to Section 6.1. Licensor may suspend Services during any period in which Service Fees remain past due and/or terminate this Agreement in accordance with Section 6.2. Services may be restored at Licensor's sole discretion upon payment in full of past due amounts and applicable reconnection and other fees.

**5.2 Account Debiting for EFT/ACH Transactions.** Licensee hereby (a) agrees that all payments under this Agreement shall be made by electronic funds transfer through the Automated Clearing House network (ACH), (b) authorizes Licensor to initiate debit entries to Licensee's account ("**Licensee's Account**") at the depository financial institution ("**Depository**") identified on an authorization form to be provided by Licensor either in writing or electronically and (c) to debit Licensee's Account in such amounts and at such times as are necessary to pay Licensor (i) any fees or charges associated with the Services, including, without limitation, finance charges, and (ii) any other amount that becomes owed under this Agreement. This authorization is to remain in full force and effect until Licensor has received written notice from Licensee of its

termination in such time and such manner as to afford Licensor and Depository a reasonable opportunity to act upon it. Licensee will maintain in Licensee's Account immediately available funds sufficient to cover all transactions initiated by Licensor under this Agreement. Licensee acknowledges that the origination of ACH transactions to its account must comply with the provision of U.S. law. If Licensee does not have sufficient funds in Licensee's Account to pay amounts due under this Agreement at the time required, or if Licensee refuses to pay, Licensor shall attempt to notify Licensee electronically, by telephone or in writing, but in any event (a) may suspend or refuse to perform further Services, and/or (b) immediately terminate this Agreement. Licensor shall charge a fee of \$25.00 for each non-sufficient funds transaction. Should the Services be recommenced, Licensor may require Licensee to pre-pay for the Services and charge a reconnection service fee.

**5.3 Past Due Payments.** Past due payments will bear interest at the rate of one and one-half percent (1 1/2%) per month or the maximum rate otherwise permitted by applicable law, whichever is lower, and will be payable from the due date thereof until paid in full. Licensee will be liable for all collection costs and expenses, including reasonable attorneys' fees incurred by Licensor to collect Service Fees.

**5.4 Partial Delivery of Services.** If Services require delivery to multiple locations and Services delivery is delayed definitely or indefinitely due to circumstances beyond the immediate control of Licensor, as deemed in good faith by Licensor, Licensee shall pay such partial fees for those portions of the Services which are not so delayed. Partial delivery of Services, in this manner, shall not be deemed a material breach of this Agreement by Licensor.

## **6. Term and Termination.**

**6.1 Term.** This Agreement shall become effective on the Effective Date and shall remain in effect for the initial term designated on the initial Order Form, as amended by any subsequent Order Form (the "**Initial Term**"). This Agreement and the Services shall automatically renew without notice for successive terms equal in duration to the Initial Term (each a "**Renewal Term**") except that a party may terminate this Agreement by providing sixty (60) days written notice prior to the end of the Initial Term or a Renewal Term. Any such termination shall be effective upon the expiration of the then current term.

**6.2 Termination.** This Agreement may be terminated earlier in its entirety without liability to the terminating party as follows: (a) by Licensor upon fifteen (15) days written notice for failure to timely pay any Service Fees, (b) by either party upon thirty (30) days written notice in the event the other party materially breaches this Agreement, which breach is not cured within said thirty (30) days, or (c) by either party immediately upon notice upon the institution of any insolvency, bankruptcy or similar proceeding by or against the other party including an assignment for the benefit of creditors, the appointment of a receiver over assets, an attachment of assets lasting more than thirty (30) days, or the other party ceases to conduct its business operations in the ordinary course of business. The parties' rights and obligations under Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 15 and 16 shall survive termination of this Agreement. Licensor may suspend access to Licensee's Customer Data or use of the Services upon breach of this Agreement by Licensee prior to termination.

**6.3 Effect of Termination.** Upon termination of this Agreement for any reason, Licensee's right to access the Services (and Customer Data) and use the Licensed Programs immediately ceases. Termination of this Agreement shall not relieve Licensee of its obligation to pay all Service Fees owing under any Order Form or otherwise under this Agreement. If this Agreement is terminated by reason of Licensee's breach, Licensor shall have no obligation to maintain any Customer Data. If this Agreement is terminated other than by reason of Licensee breach, Licensor will make available to Licensee a file of the Customer Data in an appropriate format selected by Licensor, as promptly is reasonably possible after such termination and at Licensee's cost, provided Licensee has complied with this Agreement and has paid in full all amounts owed to Licensor under this Agreement, such Customer Data to be in raw form and does not show calculated values without the use of the Licensed Program. Licensee agrees that Licensor shall not be liable to Licensee or any third party for any termination of the Services.

**6.4 No Warranties.** LICENSOR MAKES NO WARRANTIES REGARDING THE SERVICES OR THE LICENSED PROGRAM PROVIDED HEREUNDER. LICENSEE ACKNOWLEDGES THAT LICENSOR'S SOLE OBLIGATION IS TO PROVIDE THE SERVICES IN ACCORDANCE WITH SECTION 2 AND THE SCHEDULES REFERENCED THEREIN. THEREFORE, THE SERVICES AND LICENSED PROGRAM ARE PROVIDED AND ACCEPTED BY LICENSEE "AS IS," WITHOUT ANY WARRANTY WHATSOEVER. ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE SPECIFICALLY EXCLUDED AND DISCLAIMED. LICENSOR DOES NOT WARRANT THAT THE SERVICES OR THE LICENSED PROGRAM WILL MEET LICENSEE'S REQUIREMENTS, WILL OPERATE WITHOUT INTERRUPTION, WILL BE ERROR-FREE, COMPLETELY SECURE, OR THAT ALL FAILURES OF THE LICENSED PROGRAMS WILL BE CORRECTED.

**7. Quality and Accuracy of Available Information.** Licensee acknowledges that the information available from the use of the Services, Licensor's systems and/or through the interconnecting networks may not be accurate. Licensor makes no representation or warranty of any kind, either express or implied, regarding the quality, accuracy or validity of the data and/or information available from or through use of the Services and such systems and networks. Use of information obtained from or through Licensor's system and networks and the use of the Services are at Licensee's sole and absolute risk. LICENSOR SPECIFICALLY DISCLAIMS AND DENIES ANY RESPONSIBILITY FOR THE COMPLETENESS, ACCURACY OR QUALITY OF THE SERVICES PROVIDED BY IT UNDER THE TERMS OF THIS AGREEMENT.

**8. Infringement Indemnity.** Licensor will defend, indemnify and hold Licensee harmless from all damages, awards, and costs (including reasonable attorneys' fees) to the extent resulting from or arising out of any claim or action that alleges the Licensed Program directly infringes a United States patent or copyright, or constitutes misappropriation of a third party trade secret; provided, however, that Licensee promptly notifies Licensor in writing of such claim or action, reasonably cooperates with Licensor in its defense or settlement, and Licensor has sole control of the defense and all related settlement negotiations. In the event the Licensed Program becomes, or in Licensor's opinion are likely to become, the subject of any claim or action, then Licensor will use commercially reasonable efforts at its sole option and expense, to (a) procure the right for

Licensee to continue using the Licensed Program, (b) replace or modify the Licensed Program so it becomes non-infringing while remaining functionally equivalent, or (c) if option (a) or (b) is not reasonably available in Licensor's judgment, Licensor may terminate the Services and Licensor will issue a refund of all fees paid by Licensee for the remaining unused balance of the Services period at the time of termination. Licensor will have no liability for any claim or action based upon (a) the combination, operation, or use of the Licensed Program with hardware, software, or other items not supplied by Licensor, (b) any alteration of the Licensed Program by Licensee or a third party, or (c) any modification of the Licensed Program made by Licensor pursuant to specifications, requirements, or designs provided by Licensee.

**9. Limitation of Liability.** LICENSOR SHALL NOT BE LIABLE TO LICENSEE, ITS USERS, OR ANY THIRD PARTIES FOR ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, ANY LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFIT, LOSS OR CORRUPTION OF DATA, INTERRUPTION OF BUSINESS, LOSS OF GOODWILL OR ANY AND ALL OTHER SIMILAR DAMAGES OR LOSS WHETHER IN CONTRACT, TORT, PRODUCT LIABILITY, OR OTHERWISE IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE USE OF THE SERVICES OR THE LICENSED PROGRAM EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL LICENSOR'S LIABILITY HEREUNDER TO LICENSEE OR A THIRD PARTY, FROM ANY CAUSE OF ACTION WHETHER IN CONTRACT, TORT, INDEMNITY OR OTHERWISE, EXCEED IN THE AGGREGATE THE AMOUNTS PAID TO LICENSOR FOR THE SERVICES HEREUNDER IN THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE CLAIM. ALL CLAIMS INCLUDING SUBSEQUENT CLAIMS SHALL BE AGGREGATED TO SATISFY THIS LIMIT AND MULTIPLE CLAIMS WILL NOT ENLARGE THIS LIMIT. THIS IS LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR A BREACH OF THIS AGREEMENT BY LICENSOR. Licensor shall not be liable for any loss resulting from a cause over which Licensor does not have direct control, including but not limited to failure of electronic or mechanical equipment or communication lines; telephone or other interconnect problems; bugs, errors, configuration problems or incompatibility of computer hardware or software; failure or unavailability of Internet access; problems with Internet service providers or other equipment or services relating to Licensee's computer; problems with intermediate computer or communications networks or facilities; problems with data transmission facilities, telephone or telephone service; or unauthorized access, theft, operator errors, severe weather, earthquakes or labor disputes. Licensor is not responsible for any damage to Licensee's computer, software, modem, telephone or other property resulting from Licensee's use of the Services.

**10. Confidentiality.** Each party shall have access to information that is confidential to the other party ("Confidential Information") including but not limited to with respect to Licensor, the Licensed Program and the Services, and with respect to Licensee, the Customer Data, and any other information which is not otherwise readily available in the public domain and specifically including all information marked "confidential", and the pricing terms of this Agreement. The parties agree (i) not to make each other's Confidential Information available to any third party, (ii) not to use each other's Confidential Information except to perform this Agreement, (iii) to hold each other's Confidential Information in confidence during the term of this Agreement and

thereafter, and (iv) no adequate remedy at law exists for breach of this Section 11 and any such breach would cause irreparable harm to the non-breaching party whom shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it has at law or otherwise. Either party may make such disclosures as may be necessary by reason of legal, accounting or regulatory requirements beyond either party's reasonable control provided the disclosing party first provides the other party with sufficient notice of such required disclosure so the other party has a reasonable amount of time to obtain a protective order. Confidential Information shall not include information that (i) is in the public domain through no act or omission of the other party, (ii) was in the other party's lawful possession prior to the disclosure, (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure, (iv) is independently developed by the other party, or (iv) is not Customer Data required to operate the Services.

**11. Title to Equipment.** Unless otherwise specified on any Order Form, and in such case only after payment in full of applicable fees as set forth in that Order Form, Licensor or its suppliers shall retain the title to any and all equipment or other facilities utilized in connection with delivery of the Services (collectively the "Equipment"), and this Agreement shall not, and shall not be deemed to, convey title to the Equipment to Licensee. LICENSEE ACKNOWLEDGES THAT THE PRODUCTS ARE NOT MANUFACTURED BY LICENSOR. LICENSOR WILL EITHER DELIVER THE MANUFACTURER'S WARRANTY DIRECTLY TO LICENSEE OR PASS THROUGH THE MANUFACTURER'S WARRANTY TO LICENSEE DEPENDING UPON THE APPLICABLE MANUFACTURER'S POLICY.

**12. Force Majeure.** If Licensor's performance of any obligation under this Agreement is prevented, restricted or interfered with by causes including failure or malfunction of Licensee-supplied equipment, disruptions of Internet protocol ("IP") service through intermediate carriers other than Licensor, acts of God, explosions, vandalism, cable cut, storms, fires, floods or other catastrophes, power failure, national emergencies, insurrections, riots, wars, strike, lockouts, boycotts, work stoppages or other labor difficulties, or any law, order, regulation or other actions of any governmental authority, agency, instrumentality, or of any civil or military authority, then Licensor shall be excused from such performance on a day-to-day basis during such restriction or interference.

**13. Notices.** All notices required or permitted to be given hereunder shall be in writing and deemed given (a) when personally delivered, (b) one (1) day after delivered to an overnight courier guarantying next day delivery, or (c) three (3) days after deposited in the United States mail, postage prepaid, sent certified or registered. All notices shall be addressed to the parties at the addresses specified above or to such other address as hereafter designated in writing by the applicable party in the manner provided in this Section 14 for the giving of notices.

**14. Arbitration.** Any dispute arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in accordance with the rules of the American Arbitration Association as the exclusive method of dispute resolution. Any arbitration may, but need not be, administered by the American Arbitration Association. The arbitration panel shall consist of three arbitrators, one to be appointed by each party, and the third to be appointed by the first two arbitrators so selected. The arbitration shall take place in Austin, Texas and shall be English. The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. No arbitrator will



have the authority to award any relief or remedy in excess of or contrary to what is provided in this Agreement. The arbitrator's decision and award will be final and binding, and judgment on the award rendered by the arbitrator may be entered into any court having jurisdiction. The cost of arbitration shall be paid for as determined by the arbitrator. Licensee agrees that any arbitration will be conducted on an individual basis and not a consolidated, class-wide, or representative basis and the arbitrator shall have no authority to proceed with arbitration on a class or representative basis. If for any reason the arbitration clause set forth in this Agreement is deemed inapplicable or invalid, Licensee hereby waives, to the fullest extent allowed by law, any right to pursue or to participate as a plaintiff or as a class member in any claim on a class or consolidated basis or in a representative capacity, and also waives rights to a jury trial.

## **15. General Provisions.**

**15.1 Entire Agreement.** This Agreement, together with the attached Schedules, constitutes the entire understanding and agreement between Licensee and Licensor with respect to the subject matter hereof and supersedes all proposals and prior agreements and understandings, oral or written, and any other communications between the parties regarding this subject matter. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties hereto (and their respective successors, legal representatives and permitted assigns) any rights, remedies, liabilities or obligations under or by reason of this Agreement.

**15.2 Assignment; Subcontract.** No part of this Agreement may be assigned without the prior written consent of the other party except either party may assign this Agreement without prior written consent in the event of a merger, a reorganization, a sale of all or substantially all of its assets or a similar event. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors, legal representatives and permitted assigns.

**15.3 No Amendment or Waiver.** No provision of this Agreement will be deemed waived, amended or modified unless made in writing and signed by both parties. No waiver of rights shall constitute a subsequent waiver of any rights whatsoever. The failure of either party to enforce any provision hereof shall not constitute the permanent waiver of such provision.

**15.4 Severability.** The provisions of this Agreement are severable and any provision determined to be void or unenforceable shall be ineffective to the extent of such invalidity only, without in any way affecting the remaining parts of this Agreement and such invalid provision shall be replaced with an enforceable provision which achieves to the greatest extent possible the parties' original intent.

**15.5 Remedies.** No remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

**15.6 Execution and Counterparts.** This Agreement may be executed in writing in counterparts or the terms and conditions accepted electronically by the parties in counterparts, , which in either case taken together shall constitute one legal instrument.

**15.7 Governing Law.** This Agreement shall be governed by the State of Texas without regard to conflicts of law principles.

**15.8 Publicity.** Licensee hereby authorizes and permits Licensor to use Licensee's name in customer lists and other promotional materials naming Licensee as a customer of Licensor and a user of the Services.

**Schedule A**

**Services Level Agreement and Support Terms**

This Schedule is part of the “Limited Use License Agreement” (the “Agreement”) entered into by and between Licensor and Licensee as such terms are defined in the Agreement. Licensor reserves the right to make reasonable modifications to this policy at any time by emailing a new version of this document to Licensee or by posting it on Licensor’s website at <http://www.asuresoftware.com/contracts>. Revisions are effective immediately.

Licensor’s Services Level Agreement (“SLA”) is to provide the Licensee with uninterrupted access to the purchased Services 99.9% of the time. In the event that the Monthly Uptime of the Licensed Program is less than 99.9%, Licensee will be eligible for a Services Credit against its prorated Services subscription fee for that month in the amount set forth in this table:

Monthly Uptime	Credit
90.0% - 99.8%	10%
85.0% - 89.9%	20%
84.9% or less	30%

**Services Credits:** Services Credits are limited to the prorated subscription fee of the Services corresponding to the calendar month in which the Monthly Uptime is less than 99.9%. In order to receive a Services Credit, the Licensee must notify Licensor by opening a Trouble Ticket within 24 hours of an outage, and Licensor must verify that the outage was a result of Unscheduled Downtime. Further, the Licensee must submit an e-mail request for a credit, including the trouble ticket number, to Licensor within ten (10) days of opening the Trouble Ticket. Should the Licensee not claim the credit during this period, the Licensee will be deemed to have waived the credit.

**Monthly Uptime:** Monthly Uptime means the percentage calculated as 100% less the ratio of total Unscheduled Downtime in a given calendar month to the total number of hours in that month, rounded to the nearest one-tenth percent (0.1%). For example, if total Unscheduled Downtime is 1.5 hours during a given calendar month, and total number of hours in that month is 744, the Monthly Uptime would be 99.8% (100% - (1.5 / 744)).

**Unscheduled Downtime:** Unscheduled Downtime is defined as a period of time where the Services are unavailable to the Licensee. Unscheduled Downtime does not include periods where the Services is unavailable to the Licensee as a result of: (a) Scheduled Maintenance, (b) interruptions caused by the negligence, error or omission of Licensee or others authorized by Licensee to use or modify the Services, (c) Licensee’s applications, equipment, or facilities including Licensee premise wiring, (d) acts or omissions of Licensee, or any use of the Services authorized by Licensee, (e) reasons of Force Majeure (as defined in the Agreement), (f) interruptions from Licensee’s use of Services in violation of the Licensor’s Acceptable Use Policy (Schedule C), (g) interruptions resulting from a Licensor disconnect for non-payment, (h)

problems in the Licensed Program application that do not preclude use of primary application functions, (i) interruptions during any period when Licensee has released Services to Licensor for maintenance or rearrangement purpose, or for the installation of a Licensee service order; and/or (j) interruptions during any period when Licensee elects not to release the Services(s) for testing and/or repair and continues to use the Services on an impaired basis. Unscheduled Downtime is measure from the time Services unavailability is reported to Licensor to the time that Services availability is restored.

**Scheduled Maintenance:** Scheduled Maintenance shall mean any maintenance performed by Licensor or its Partners (a) for which Licensee is notified 48 hours in advance, or (b) that is performed during a standard maintenance window outside North American standard business hours (Mondays-Fridays 6AM – 8PM US Central Standard Time). Notice of Scheduled Maintenance will be provided to Licensee's designated point of contact by email. Licensee agrees that it is Licensee's obligation to make sure Licensor has correct contact information for Scheduled Maintenance notification purposes.

### **Support Terms:**

Licensor will respond as described below to Error reports that Licensee submits to Licensor during Business Hours via the online Support Portal at <http://www.asuresoftware.com/support> or telephone in the US at 800-282-7319. The specific contact mechanisms or phone number may change as Licensor may designate from time to time. "Error" means (a) a material failure of Licensee supported Services to function in accordance with its documentation, or (b) any other alleged material defect in or malfunctioning of Licensee supported Services. "Business Hours" and "Business Day" mean 8AM to 8PM Eastern Standard Time weekdays, exclusive of Licensor's holidays.

1. Contact with Licensor support must be channeled through named contact representatives who have been trained at Licensee's expense in the use of the software being used. When reporting an Error, the named contact must describe the Error in reasonable detail, indicate the severity of the Error using the terminology set forth in the chart below, and specify any and all error messages observed. Licensor will use commercially reasonable efforts to respond to Licensee Error reports within the times indicated below:

Priority	Failure Description	Standard Support	Premium Support (if purchased)
1	Critical (no useful work can be done)	4 business hours	2 hours (24x7)
2	High - Severe Impact (functionality disabled): errors which result in a lack of application functionality or cause intermittent system failure	1 business day	2 business hours
3	Medium - Degraded Operations: errors causing malfunction of non critical functions	1 business day	4 business hours
4	Low - Minimal Impact: attributes and/or options to utility programs do not operate as stated	Future release, on business justifiable basis	Future release, on business justifiable basis
	Enhancement Request	As needed	As needed

2. Licensor's acknowledgements of Error reports will contain either a resolution of the Error or a support plan describing the steps being taken by Licensor, and any steps to be taken by Licensee, to correct the Error. If Licensor requests further information about an Error, Licensee must promptly provide the requested information. Information requested by Licensor may include, by way of example and not limitation, manuals related to Licensee hardware, network, or third party software; examples of software output; or configuration information, including .ini files and database files. Licensor will use commercially reasonable efforts to correct, within a commercially reasonable period of time, any substantiated Error in the unaltered software reported by Licensee as specified above. Licensor will determine the form of any Error correction, which may include, by way of example and not limitation, an individual patch, a work around, or a maintenance release provided in the normal course of Licensor's maintenance release schedule.

3. Licensor provides support only for the most current major release of software and the immediately preceding major release. Licensor will have no obligation to attempt to correct reported Errors that (a) cannot be reproduced or verified or (b) result from (i) misuse of software by Licensee or others; (ii) modifications to software rendering it non-standard, regardless of who performed the modifications; (iii) failure or interruption of electrical power; (iv) obsolescence of software due to changes in Licensee network, hardware, or third party software; or (v) an accident or other cause external to the software, including, but not limited to, problems or malfunctions related to Licensee network, hardware, or third party software. Licensor does not guarantee that all Errors will be corrected. Licensor will have no obligation to implement Licensee requests for changes or enhancements.

4. If Licensor responds to a reported Error and the Error is determined to be outside the scope of Licensor's support obligations, Licensor may charge for its time and reasonable expenses responding to the reported Error and Licensee must pay the charges. Licensor's time will be billed at its standard daily consulting rate in effect for such services at the time the services are rendered.

Licensor's support services do not include Professional Software Service. These services are available for additional fees.

### **Problem Escalation Process**

The issue enters the Problem Escalation process when it is reported to Licensor and recorded in its on-line Support Portal. Licensee may report the issue directly via the Support Portal, or a Client Services Engineer or Client Services Support Engineer may enter the issue into the system on behalf of Licensee. It is essential that the issue be recorded in the system including adequate detail and steps to reproduce. The issue receives a tracking case number, such as Case 0012345.

Licensor is responsible for reproducing the issue reported in Case 0012345 in their lab. If it is determined to be a defect, the details and any additional information about the issue are recorded and entered into the Engineering Defect Tracking System (DTS). The issue then receives an additional tracking number, such as DTS-1234.

DTS items are reviewed in a weekly triage meeting. Quality Assurance, Development, Product Management, and Client Services all participate in the triage meeting to ensure priority items receive appropriate attention. During the meeting, the plan for resolution is discussed and the DTS is categorized according to the following criteria:

**Showstopper:** items have received management attention and reviewed for possible workarounds or fixes, and where possible, are targeted for the next release.

**High:** items are assigned resources in relation to the theme or goal of a particular release, often being made available in the next release or two.

**Medium:** items are opportunistically assigned resources when working in the related product area on higher priority items.

**Low:** items are tracked in the system but at this time there is no intention to add the request to a release.

Licensee may track the progress of a particular issue within the Support Portal at any time. Once an issue has been reproduced, assigned a DTS number, and accepted by Engineering, the issue case will be closed. This is intended to reflect that the issue has progressed from the Support queue in to the Engineering queue for resolution. Licensee may track the progress of the DTS within the Support Portal as it becomes targeted for a particular release, and once it is resolved and available in a release.

**NOTE:** In the event of a critical, show stopper problem involving a down system, the Escalation Coordinator may call an emergency meeting to review the situation in advance of the triage meeting and establish a more urgent action plan for resolution.

## **Schedule B**

### **Hosting Infrastructure**

This Schedule is part of the “Limited Use License Agreement” (the “Agreement”) entered into by and between Licensor and Licensee as such terms are defined in the Agreement. Licensor reserves the right to update the hosting infrastructure at any time. Licensor or its partners will deliver Services via the Licensor hosting infrastructure, which is designed to provide commercially reasonable levels of security and availability. This infrastructure includes:

#### Physical Infrastructure

1. Bunker-type fire-proof facility features 24-hour manned security, biometric access control, video surveillance and physical locks.
2. Power supplied by redundant grids, with redundant UPS and backup generators.

#### Network Level

1. Highly scalable and redundant online infrastructure with failover capabilities.
2. Real-time monitoring of all network, server and application stability and security.
3. Best-of-class firewall and router technology, and a Network Intrusion Detection System that monitors and proactively blocks worms, hackers, and other undesirable access.
4. All log files retained and analyzed to proactively monitor network activity.

#### Server Infrastructure

1. State-of-the-art Server technology.
2. Storage area network with mirrored data storage assures consistent availability.
3. Servers run carrier-class network operating systems and are updated to latest patch levels. Servers are hardened by removing all unnecessary software and services.

#### Application Level

1. Each user is assigned a unique user name and password that must be entered at each login.
2. Licensee identifies an internal administrator to manage users and login accounts. Licensor will not provide access or passwords to any person other than Licensee’s designated internal administrator.
3. After authentication at the login level, user identity accompanies every request to strictly enforce segregation of customer data.

4. Session "cookies" only record encrypted authentication information for the duration of a specific session. The session "cookie" does not include username or password.
5. The Application does not use "cookies" to store other confidential information, but instead implements advanced security methods based on dynamic data and encoded session IDs.

#### Data Security

1. Application security ensures complete segregation and privacy of customer data.
2. Licensee owns their data; Licensor will provide Microsoft SQL Server formatted backups upon request for a nominal fee.
3. Incremental daily, weekly and monthly backups are made of all production systems and databases.



## Schedule C

### Acceptable Use Policy

This Schedule is part of the “Limited Use License Agreement” (the “Agreement”) entered into by and between Licensor and Licensee as such terms are defined in the Agreement.

This Acceptable Use Policy ("Policy") outlines unacceptable uses of the Services. Licensor may make reasonable modifications to this Policy from time to time by posting a new version of this document on the Licensor’s web site at <http://www.asuresoftware.com/contracts>. Revisions are effective immediately upon posting. Questions about this Policy (e.g., whether any contemplated use is permitted) and reports of violations of this Policy should be directed to [jkarbowski@asuresoftware.com](mailto:jkarbowski@asuresoftware.com)

#### The Policy:

Licensee agrees to use the Services in accordance with all applicable local, state and federal laws, and this Policy which shall specifically include, as determined by Licensor in its reasonable judgment, NOT using the Services to:

- (i) conduct any business or activity or solicit the performance of any activity that is prohibited by law, tortuous, or interferes upon the use of Licensor’s system by other licensees and customers.
- (ii) disseminate, display, send, transmit or receive any material that, to a reasonable person may be abusive, obscene, pornographic, defamatory, harassing, grossly offensive, vulgar, threatening, malicious, or violent, regardless of whether the material or its dissemination is unlawful;
- (iii) disseminate or transmit unsolicited messages, chain letters or unsolicited commercial email including unintended sending of unsolicited commercial email due to unauthorized access to Licensee’s use of the Services, whether or not the recipient wishes to receive such mailings;
- (iv) access, send, receive, display, disclose, or store any content in violation of any copyright, right of publicity, patent, trademark, service mark, trade name, trade secret or other intellectual property right or in violation of any applicable agreement, or without authorization;
- (v) create a false identity or to otherwise attempt to mislead any person as to the identity, source or origin of any communication;
- (vi) export, re-export or permit downloading of any message or content in violation of any export or import law, regulation or restriction of the United States and its agencies or authorities, or without all required approvals, licenses and/or exemptions;

- (vii) interfere, disrupt or attempt to gain unauthorized access to any computer system, server, network or account for which Licensee does not have authorization to access or at a level exceeding Licensee's authorization;
- (viii) disseminate or transmit any virus, worms, trojan horse or other malicious, harmful or disabling data, work, code or program;
- (ix) engage in any other activity deemed by Licensor to be in conflict with the spirit or intent of the Agreement or any Licensor policy as examples listed in this Policy are not exhaustive.

### **Failure to Comply:**

Failure to comply with this Policy in Licensor's reasonable judgment may result in the immediate termination of Services, responding to law enforcement requests, or any other action deemed necessary by Licensor in order to protect its network, customer relationships, and commitment to the highest possible quality of service. Licensor will cooperate with law enforcement in cases where the Services are being used for any suspected illegal activity.

### **Reporting Violations:**

Violations of this Policy are unethical and may be deemed criminal offenses. Licensee shall report to Licensor any information Licensee may have concerning instances in which this Policy has been or is being violated. Licensor may at any time initiate an investigation of any use of the Services for compliance with this Policy and Licensee agrees to cooperate.

### **Malicious Activity:**

**Intended:** Attempts to exploit other devices or services on and off of Licensor's hosted service without the permission or implied permission of that party are not permitted. Violations of system or network security may result in criminal and civil liability. Licensor will cooperate with law enforcement if a criminal violation is suspected. Licensor will limit any traffic from the offending device or network immediately.

**Unintended:** Licensor will notify customers of an exploited device being used for potential malicious activity. If the activity is causing severe damage or strain to other devices or networks, Licensor will limit traffic to and from that device immediately. Otherwise Licensor will notify the customer and give a reasonable amount of time to secure the device before limiting traffic to and from that device.