### SOFTWARE LICENSE, MAINTENANCE AND SUPPORT AGREEMENT

This Agreement is entered into between Jaxis Custom Solutions, Inc. a Texas Company. **("Licensor")** and the undersigned customer **("Customer")** as of the last date set forth below (the "Effective Date").

Whereas, Licensor is an authorized reseller of certain proprietary software application(s) (defined as **“Licensed Software”**) developed and owned by Jaxis Custom Solutions, Inc. a Texas Company **(“Jaxis Custom Solutions, Inc.”)** and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Whereas, Customer desires to license the Licensed Software for use in its business operations under the terms and conditions set forth in this Agreement.

Now, therefore, in consideration of the mutual covenants contained herein, the parties indicate their acceptance of the terms and conditions of this Agreement by placing their respective signatures below.

Accepted:

Jaxis Custom Solutions, Inc. Customer

5616 FM 1960 East, Suite 272 Address

Humble, TX 77346 Address

Telephone: 832-390-0067 Telephone:

Fax: 832-644-6237 Fax:

Email Contact:

By\*: By\*:

Name: Name:

Title: Title:

Date: Date:

\* Each person signing in a representative capacity warrants and represents that (s)he is duly authorized by such party to do so.

**STANDARD TERMS & CONDITIONS**

# **DEFINITIONS**

## "Agreement" shall mean this Agreement consisting of the Standard Terms & Conditions, the Business Terms, a mutually approved FA, and any related schedules or exhibits.

## "Business Terms" shall mean all the terms, conditions and provisions set forth in the Business Terms section of the Agreement.

## "Computer Equipment" shall mean the appropriate computer hardware configuration, including associated peripheral equipment and terminals required to operate the Licensed Software and as may be more particularly described in the Business Terms.

## "Computer System" shall mean the combination of Computer Equipment, Third Party Software and Licensed Software provided to Customer under this Agreement.

## "Documentation" shall mean all Licensor official technical manuals generally made available to Licensor customers and the FA. Documentation shall not include any marketing materials in any media or any demonstration materials or tapes.

## "Error" shall mean any material verifiable and reproducible failure of the Licensed Software to conform in all material respects to features and functions as described in the Documentation (specifically excluding any nonconformity resulting from Misuse).

## "Error Correction" shall mean either a software modification or change that, when made or added to the Licensed Software corrects an Error or establishes material conformity of the Licensed Software with the Documentation.

## "FA" shall mean a Functional Analysis Report prepared by Licensor and Customer and based on the results of a discovery process that defines Customer's business requirements and identifies any necessary Modifications to the Licensed Software.

## "Licensed Software" shall mean the object code form of the software applications listed in the Business Terms that are generally made available to Licensor’s customers. Licensed Software shall also include, as applicable, any Maintenance Releases, New Releases, Error Corrections, and Modifications of such listed software applications if designated in the Business Terms as being acquired by Customer.

## “Maintenance Releases” shall mean interim builds of the Licensed Software that are intended to correct any Errors in the standard products that are made generally available to Licensor’s customers who purchase maintenance and support services as referenced in Section 5, Maintenance and Support Services, and as indicated in the Business Terms of this document.

## "Misuse" shall mean any improper or unauthorized use of the Licensed Software, modification or change of the Licensed Software without Licensor’s written consent, or combining or merging the Licensed Software with any hardware or software not supplied by Licensor or not authorized in writing by Licensor to be so combined or merged by Customer.

## "Modifications" shall mean the revisions or changes to the Licensed Software developed by Licensor to customize or modify the Licensed Software in accordance with the FA.

## "New Releases" shall mean the newest point release or full release of the Licensed Software made generally available to Licensor’s customers who purchase maintenance and support services under a separate agreement.

## "Third Party Software" shall mean software other than the Licensed Software.

## "User" shall mean a named individual with a specific logon ID to the Licensed Software.

# **LICENSE**

## Subject to the terms and conditions of this Agreement, Licensor hereby grants a perpetual, royalty-free, non-transferable, and nonexclusive license to Customer to use the Licensed Software and Documentation. This license does not include the right to sublicense or transfer the Licensed Software or Documentation to another party.

## All right, title and interest in and to the Licensed Software and Documentation shall remain in Licensor, as applicable.

## The Licensor will from time to time make modifications to the core product. All right, title and interest in and to these Licensed Software and Documentation modifications shall remain in Licensor, as applicable.

## The number of Users, location of the site(s) and the maximum total square footage of the site(s) set forth in the Business Terms may not be modified by Customer without the prior written consent of Licensor, which cannot be unreasonably withheld or delayed, provided Customer makes timely payment of additional license fees required thereby.

## Customer shall receive one copy of the Documentation for the Licensed Software. Customer shall have the right to make a reasonable number of copies of the Documentation to be used internally for purposes consistent with this Agreement. All copies must contain proprietary markings or legends appearing on or contained within the Documentation.

## Customer expressly acknowledges that operation of the Licensed Software requires that Customer have or obtain, at Customer's sole cost and expense, appropriate Computer Equipment and certain database management systems, operating systems, environments and other Third Party Software. Except as otherwise set forth in the Business Terms, this Agreement does not grant any license in or to any Third Party Software and Customer is responsible for procuring all necessary licenses and Computer Equipment.

# **USE AND PROTECTION OF LICENSED SOFTWARE**

## The Licensed Software shall only be used by Customer in accordance with the license grant as indicated in the Business Terms. The Licensed Software may only be used for the internal business needs of Customer and only by Customer’s authorized employees, consultants and agents (but excluding Competitors as defined below) who have a need to access and use the Licensed Software, provided that such employees and consultants agree to be bound by the terms of this Agreement. Except as expressly permitted by Licensor, Customer may not permit access to the Licensed Software to a Competitor of Licensor. Competitor shall mean any third party that makes commercially available supply chain execution software application products similar to those offered by Licensor or provides related services in connection with such supply chain execution software applications.

## Except as expressly stated in this Agreement, Customer shall not make or allow others to make copies or reproductions of the Licensed Software or Documentation in any form. Distribution or disclosure of the Licensed Software or Documentation, including derivative works, modifications or adaptations is expressly prohibited.

## Customer may not alter, modify or adapt the Licensed Software or Documentation, including, but not limited to translating, reverse engineering, decompiling, disassembling, or creating derivative works, and may not take any other steps intended to produce a source language statement of the Licensed Software or any part thereof without Licensor’s prior express written consent, which can be withheld for any reason.

## Customer is authorized to make one non-productive use copy of the Licensed Software solely for backup, archival and disaster recovery purposes provided that such copy shall be subject to the terms of this Agreement and shall contain all proprietary markings and notices contained in the Licensed Software. The Licensed Software may be used on a backup server whenever the designated server is temporarily inoperable, until such server is restored to operation. The Licensed Software may be used on a backup server concurrently for up to one (1) month per year for disaster recovery testing and for any period for actual disaster recovery.

## During the term of this Agreement, upon reasonable advance notice to Customer, Licensor shall have the right to conduct an annual audit to confirm Customer's compliance with this Agreement. Customer agrees to fully cooperate with any such audit. To the extent that an audit reveals unauthorized use of the Licensed Software or Third Party Software, Customer shall be responsible for procuring from Licensor additional licenses to remedy such unauthorized use.

# **COMPUTER EQUIPMENT AND THIRD PARTY SOFTWARE**

## Unless otherwise specified, the Customer is responsible for providing the Third Party Software and Computer Equipment necessary to properly operate the Licensed Software for Customer's intended purposes. Licensor shall procure, at Customer's expense, the Computer Equipment and/or Third Party Software specified in the Business Terms. All Third Party Software and Computer Equipment procured by Licensor for Customer shall be subject to the applicable third party vendors’ product terms and conditions. Pricing for such Third Party Software and Computer Equipment is subject to vendor pricing adjustments as of the date of such order by Customer.

## Customer shall be responsible for all site preparation at its facility, including, but not limited to, climate control, foundation mounting, provision of adequate utilities, wiring for all PC and RF devices and shall bear sole liability for any expenses incurred thereby. If Computer Equipment is procured through Licensor, Licensor may provide Customer with specifications for such site preparation prior to delivery of the Computer Equipment.

## All Computer Equipment will be delivered FOB shipping point. Licensor shall schedule and provide for shipping of the Computer Equipment through such commercial carrier and under such shipment terms as Customer may specify. Customer shall reimburse Licensor for freight and insurance charges incurred in connection with shipment of the Computer Equipment.

# **MAINTENANCE AND SUPPORT SERVICES**

## If so indicated in the Business Terms, Licensor shall render Maintenance and Support Services during the Support Period subject to Customer's timely payment of the Maintenance and Support Services fees. Licensor will support the most current version and the next previous version of the standard product version of the Licensed Software along with Maintenance Releases. Licensor will be responsible for using all reasonable diligence in correcting Errors when reported to Licensor in accordance with Licensor’s standard reporting procedures and subject to Licensor's published priority escalation process.

## Licensor may from time to time issue Maintenance Releases and New Releases. If Customer has purchased Maintenance and Support Services, Licensor will make available to Customer a copy of each Maintenance Release and/or New Release. Licensor will make reasonable efforts to inform Customer of a pending New Release no less than thirty (30) days from the expected date of general release. Customer may be required by Licensor to install all Maintenance Releases and/or New Releases in sequential order, which will be at the sole discretion of Licensor. Licensor cannot assure that a Maintenance Release and/or New Release will be compatible with the version of the Licensed Software installed at Customer's site. Upon Customer’s request, Licensor will issue instructions with the Maintenance Release/New Release that will itemize the necessary steps to upgrade from the previous non-customized version to the new non-customized version. All services requested by Customer to install Maintenance Releases and New Releases will be considered Additional Support Services and will be payable by Customer according to the rates set forth in the Business Terms. At Customer’s request, Licensor will provide an estimate of the Services necessary to upgrade the Licensed Software.

## Customers who purchase Maintenance and Support Services will receive priority concerning the resolution of any problem over those Customers who choose not to purchase such Maintenance and Support Services.

## In the event that Customer allows Maintenance and Support Services to lapse, Licensor may allow Customer to reinstate such services subject to applicable reinstatement fees and any other reasonable conditions established by Licensor at the time of such reinstatement. Reinstatement fees shall include the support fees accruing between the date in which the prior Support Period expired and the effective date of reinstatement, and applicable recertification fees.

## Conditions & Covenants.

### Licensor will perform all Maintenance and Support Services on Licensor premises whenever possible. If Licensor must perform Maintenance and Support Services at Customer’s facility, Customer will provide reasonable office space, system access commensurate with Customer's system administration staff and travel and living costs.

### Customer will make reasonable efforts to resolve any support question with Customer's personnel before contacting Licensor. Customer shall provide an internal "help desk" at each Customer site where the Licensed Software is installed. Each site shall be staffed by Customer with an appropriate number of qualified "super users" who have completed the highest training level available for users of the Licensed Software and are capable of answering routine and technical questions from Customer's users.

### Customer shall be responsible for maintaining support agreements with Third Party Software and Computer Equipment vendors.

# **ADDITIONAL SUPPORT SERVICES**

## In the event that Customer purchases Third Party Software or Computer Equipment from a vendor other than the Licensor, the related support services for such third party products provided by Licensor shall be billed at the rates specified in the Business Terms.

## If Licensor determines that an Error resulted from Misuse, such efforts will be deemed Additional Support Services and will be payable by Customer according to the rates set forth in the Business Terms.

## Upon Customer's written request, Licensor may provide services outside the scope of Maintenance and Support Services, such as those services listed below, provided that Licensor agrees, in writing, to provide such services. Such services will be billed as Additional Support Services at the rates specified in the Business Terms.

### Personal computer problems:

#### User errors such as problems caused by incorrect setup, host data, user actions in conflict with documentation, failure to perform required administrative duties (backups, purges, modifying data).

#### Network problems including routers, segments, hubs, switches.

#### Installing additional users – including setting up PC’s, configuring RF devices, installing printers.

#### Hardware failures – including power outages, componentry failure.

#### Changes made to the system, data or software without the involvement of Licensor personnel.

#### Installation of patches provided by third party vendors (database, operating system).

#### Installation of patches to Licensor products outside the performance warranty. and

#### Repetitive questions that are the result of inaccurate or incomplete training.

# **WARRANTIES**

### Licensor warrants that the Licensed Software will perform substantially in accordance with the Documentation for a period of ninety (90) days following the Effective Date (the “Warranty Period”). Licensor will use reasonable diligence to fix any Errors in the Licensed Software so long as Customer provides notice of such Errors to Licensor within the Warranty Period. Customer's exclusive remedy for damage or loss arising from breach of this warranty shall be, at Licensor option:

#### The replacement of the Licensed Software at no cost to Customer.

#### A workaround to address the Error in a manner that provides Customer with reasonably equivalent functionality as provided in the Documentation, at no cost to Customer.

#### Or, a refund of the License Fee plus a pro rata portion of any unused Maintenance and Support Services fee paid by Customer. Licensor shall have no liability or responsibility for problems in the Licensed Software caused by Misuse, the alteration or modification by Customer, or for problems arising out of the malfunction of Customer's Computer Equipment or any Third Party Software.

### Subject to Section 10.4, Customer shall have the benefit of any third party warranties, service agreements and infringement indemnities available to end users of the Third Party Software and Computer Equipment acquired from Licensor.

# **CUSTOMER OBLIGATIONS**

## Customer shall prepare a suitable installation environment for the Licensed Software to conform with the written specifications furnished by Licensor.

## Customer shall bear sole responsibility for the supervision, management, and control of the operation of the Computer System, including:

## Assuring proper machine environment, audit controls, and operating methods.

## Establishing adequate backup plans to apply in the event of a program or equipment malfunction. and

## Implementing sufficient procedures to satisfy the requirements for security and accuracy of input and output as well as restart and recovery to apply in the event of a program or equipment malfunction. Licensor may advise Customer as to the feasibility of such procedures but shall not be responsible for their implementation or execution or integration of Computer System components with the Licensed Software unless specifically provided in this Agreement.

# **PAYMENT**

## License fees are set forth in the Business Terms. Except as otherwise provided in the Business Terms, all invoices are due and payable within thirty (30) days from the date of invoice. All fees are invoiced and payable in U.S. Dollars.

## The fees and rates set forth in the Business Terms are exclusive of expenses, including travel, living and meal expenses incurred by Licensor in furtherance of this Agreement. Licensor shall make supporting documentation of all travel and living expenses available to Customer upon written request. Customer shall pay expenses within thirty (30) days of the date of invoice.

## Customer shall pay interest at one and one-half percent (1.5%) per month on any invoiced amount Customer fails to pay within thirty (30) days from the date of invoice, calculated from the invoice date.

## Customer shall pay to Licensor all shipping, insurance and taxes (including, without limitation, those for sales, use, property, excise, value added, and gross receipts) levied on this Agreement or the Licensed Software, except taxes based on Licensor’s net income or corporate franchise. Customer may provide a tax exemption number or affidavit of exemption, but Customer agrees to indemnify Licensor for taxes, penalties and interest arising from claimed exemptions, which are disallowed by the government. Customer shall provide the tax information requested on the Customer Tax Information worksheet attached hereto as Appendix 1.

# **CONFIDENTIALITY OBLIGATIONS**

## For purposes of this Agreement, “Confidential Information” means the Licensed Software, Documentation, the terms and conditions of this Agreement, and any financial, statistical, business, technical, copyrightable, and/or confidential or proprietary information relating to each other’s business which is submitted by either Licensor or Customer in order to carry out this Agreement and is not generally known or available publicly.

## Any prior obligations or agreements with respect to the Confidential Information shall continue and shall supplement the terms of this Agreement. These confidentiality obligations, as well any additional obligations in this Agreement, shall survive the termination of this Agreement.

## Except as otherwise provided herein, each party agrees that it shall not use or disclose to any third party any Confidential Information of the other party. Each party shall instruct its personnel to keep such information confidential by using the same care and discretion that it uses for its own Confidential Information. Each party may disclose Confidential Information to its third party consultants or service providers who have been specifically retained to perform services in connection with this Agreement, provided that all such third parties are informed and agree to be bound by confidentiality terms consistent with this Agreement.

## The obligations set forth in this Confidentiality Obligations Section shall not apply to any information which (a) is published or otherwise becomes available to the general public through no fault of the receiving party. (b) has been obtained by the receiving party from another party that the receiving party reasonably believed had the right to disclose it. (c) was in the receiving party’s possession without proprietary restrictions prior to the date of disclosure. (d) the receiving party establishes was developed without reference to the Confidential Information. or (e) is required to be disclosed pursuant to applicable law, provided that the receiving party shall, if feasible, give to the disclosing party prior notice of such proposed disclosure and a reasonable opportunity to contest such disclosure. For purposes of this Section, the “disclosing party” means the party that owns or possesses the Confidential Information and the “receiving party” means the party to which the Confidential Information is disclosed.

## Each party acknowledges that monetary damages may not be a sufficient remedy or protection for the aggrieved party in the event of a breach of these confidentiality obligations, and the aggrieved party shall be entitled to injunction or other equitable relief as may be deemed proper or necessary by a court of competent jurisdiction.

# **INTELLECTUAL PROPERTY INDEMNITY**

## Licensor shall indemnify, defend and hold harmless Customer from and against any third-party claim asserted against Customer that the Licensed Software (when properly used) directly infringes or misappropriates a patent, trademark, trade dress, trade secret, copyright or other intellectual property right of such claimant (an "IP Claim"), and Licensor will pay those costs and damages finally awarded or settled (upon terms acceptable to Licensor) against the Customer based on such IP Claim, provided that: a) the Customer promptly notifies Licensor in writing of such IP Claim. b) Licensor has sole control of and the Customer reasonably cooperates in all respects in the defense of each such IP Claim and all related settlement negotiations and Customer does not make any admission or disclosure or otherwise take any action prejudicial to Licensor . and c) such IP Claim does not relate to any act of the Customer, including (without limitation) a change in the Licensed Software, a combination of the Licensed Software with or the addition of the Licensed Software to products or other software which has not been developed and supplied by Licensor, or any breach of this Agreement by Customer.

## If a final judgment is entered against Customer on any such IP Claim, or if in Licensor’s reasonable opinion Customer is likely to become subject to a successful IP Claim, then Customer shall permit Licensor, at Licensor’s option and expense, either: i) to procure for the Customer the right to continue using the Licensed Software. ii) to replace or modify the same so that it becomes non-infringing, with functionality essentially being equal. or iii) a pro rata refund of the License Fees paid by Customer to Licensor pursuant to this Agreement (amortized over thirty-six months), and provided further that Licensor shall have no authority to compromise or settle any IP Claim on terms that would obligate Customer to make any payment or would have a material adverse effect on Customer, without Customer’s prior written consent, which shall not be unreasonably withheld or delayed.

## The foregoing provisions of this Section set forth the entire and exclusive liability of Licensor with respect to any claimed infringement or misappropriation by the Licensed Software of any patent, trademark, trade dress, trade secret, copyright or other intellectual property rights of any third party.

# **DISCLAIMERS AND LIABILITY LIMITATIONS**

## Except as set forth in the Documentation and as provided in this Agreement, Licensor does not warrant that (i) the Licensed Software will be bug free or meet Customer's requirements. or (ii) the Licensed Software will operate in combination with other hardware, software, systems or data not provided by Licensor.

## OTHER THAN AS PROVIDED IN THIS AGREEMENT, THE LICENSED SOFTWARE, THIRD PARTY SOFTWARE AND ANY COMPUTER EQUIPMENT PROVIDED BY LICENSOR ARE PROVIDED “AS IS” AND LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CUSTOM OR USAGE IN TRADE). LICENSOR FURTHER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING, WITHOUT LIMITATION, THE SECURITY, INTEGRITY, EFFICIENCY OR CAPABILITIES OF THE LICENSED SOFTWARE.

## NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOOD WILL, WORK STOPPAGE, DATA LOSS, LOST PROFIT OR COMPUTER FAILURE, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER THEORY AT LAW OR IN EQUITY. NEITHER PARTY’S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY FOR BREACH OF THIS AGREEMENT SHALL EXCEED THE AMOUNTS PAID FOR THE LICENSE.

# **TERMINATION**

## In the event of a material breach of any of the terms of this Agreement which would be susceptible to cure, the non-breaching party shall have the right to terminate this Agreement upon thirty (30) days prior written notice specifying the breach to the other, provided that such breach has not been cured within said thirty (30) day period. An unauthorized disclosure or distribution of Licensed Software or Confidential Information by Customer constitutes a material non-curable breach of this Agreement.

## This Agreement may be terminated by either party upon ten (10) days written notice to the other if any of the following events occur: (i) the adjudication of either party to be bankrupt or insolvent. (ii) the filing by either party of a petition in bankruptcy or insolvency. (iii) the filing by either party of a petition or answer seeking reorganization or readjustment under any law relating to insolvency or bankruptcy. (iv) the appointment of a receiver with respect to all or substantially all of the property of either party. (v) any assignment by either party of its assets for the benefit of creditors. and (vi) the institution by either party of any proceedings for liquidation or the winding up of its business other than for purposes of reorganization, consolidation or merger.

## In the event of termination of this Agreement by Licensor for Customer’s uncured material breach, Customer shall, upon the effective date of such termination, cease using the Licensed Software and, at Licensor’s discretion, immediately return to Licensor or destroy the Licensed Software and Documentation, and all copies thereof. In the event of destruction, Customer shall provide Licensor with an affidavit of destruction in a form acceptable to Licensor certifying that it has destroyed all copies of the Licensed Software and Documentation.

## Following termination or a breach of this Agreement by Customer, Licensor shall promptly invoice Customer for all accrued fees and charges and all reimbursable expenses, and Customer shall pay the invoiced amount within ten (10) days from the date of such invoice. In the event of a breach by Customer, no refunds or credits will be due.

# **MISCELLANEOUS TERMS**

## THIS AGREEMENT AND ANY ATTACHMENTS AND ADDENDA CONSTITUTE THE ENTIRE UNDERSTANDING BETWEEN THE PARTIES WITH RESPECT TO THE SUBJECT MATTER HEREOF. THERE ARE NO REPRESENTATIONS, PROMISES, WARRANTIES OR UNDERSTANDINGS RELIED UPON BY CUSTOMER THAT ARE NOT CONTAINED HEREIN. This Agreement may be modified only in writing issued by the party against whom enforcement is sought. Customer purchase orders may be submitted concurrently or later for funding and administrative purposes but terms and conditions contained therein shall have no force and effect. If there is a conflict between the terms and conditions of this Agreement and a purchase order, the terms and conditions of this Agreement control. The failure by either party to insist upon strict enforcement of any terms and conditions of this Agreement shall not be construed as a waiver or relinquishment of the right to assert or rely upon any such terms on any future occasion.

## Each party shall be excused from delays in performing or its failure to perform hereunder (other than payment of monetary obligations) to the extent that such delays or failures result from causes beyond the reasonable direct control of such party, provided that, in order to avail itself of such excuse, such party must provide written notice to the other party within ten (10) days after such party first acquires knowledge of the occurrence of such event and act diligently to remedy the cause of, or to mitigate or overcome such delay or failure. Neither party shall be relieved of any of its obligations hereunder solely by reason of that party's financial inability to perform.

## Customer agrees that Licensor may use its name in press releases, product brochures, financial reports and other promotional materials in any media indicating that Customer is a customer of Licensor.

## Neither this Agreement nor any rights granted hereunder may be sold, leased, assigned or otherwise transferred in whole or in part by Customer, and any such attempted assignment shall be void and of no effect without the advance written consent of Licensor.

## This Agreement shall be governed by, and interpreted under, the internal laws of the State of Texas. If any provision of this Agreement is held to be unenforceable, such decision shall not affect the validity or enforceability of any or all of the remaining provisions, and any provision deemed unenforceable shall automatically be revised with the least changes necessary to effect, to the fullest extent permitted by law, the intent of the parties as set forth in this Agreement.

## If a dispute should arise, the parties agree to first attempt to resolve the dispute during a meeting between both parties’ Project Managers. If this meeting does not resolve the dispute, then the dispute will be submitted to the respective senior executive for the functional department of each party. The senior executives shall meet within ten (10) business days from the date the dispute was submitted to them. If the dispute remains unresolved after this meeting, either party shall have the right to commence any legal proceeding as permitted by law. Any legal proceeding arising out of this Agreement shall be subject to the exclusive jurisdiction of the Nevada Court, exclusive of its conflict of laws provisions.

## Customer agrees that it will comply with all laws and regulations of the United States governing the use, access or export of the Licensed Software or any part thereof. Without limitation, the Licensed Software or any part thereof may not be used or accessed within or by, or otherwise exported to, (a) any United States embargoed country. or (b) anyone on the United States Treasury Department's list of Specially Designated Nations, the United States Department of Commerce's Table of Denial Orders, or other similar list.

## All notices required to be given pursuant to the terms of this Agreement shall be in writing and shall be deemed effective when (a) received by the party at the address shown on the first page of this Agreement in the event of service by certified mail, return receipt requested, or overnight courier. or (b) when sent via facsimile transmission (with a written copy sent simultaneously by United States mail) to the party at the facsimile number shown on the first page of this Agreement. Either party may change its address or person to be notified by giving written notice to the other party in a manner prescribed above.

## Licensor and Customer are independent contractors and this Agreement shall not establish any fiduciary relationship or other relationship of partnership, joint venture, employment, franchise or agency between them. Neither party will have the authority to bind the other or incur obligations on the other’s behalf without the other’s prior written consent.

## Each party acknowledges that the other party’s employees are critical to servicing its customers. Therefore, each party agrees not to solicit, employ or otherwise engage the other party’s employees without that other party’s written consent for a period of eighteen (18) months following the employee’s last day of employment with his/her respective employer. Should either party violate this provision, the violating party agrees to pay the other party the greater of one-half of the former employee’s annual salary or fifty thousand dollars ($50,000). The parties further agree that in the event of any actual or threatened breach of this provision, the non-breaching party shall be entitled (in addition to any and all other rights and remedies at law or in equity for damages or otherwise) to specific performance or injunctive relief to prevent such breach or contemplated breach.

**END OF STANDARD TERMS & CONDITIONS.**

**BUSINESS TERMS**

1. **LICENSED SOFTWARE**

Product Scope of License Grant

Beverage Monitor

Jaxis Engine

Beverage Plugins

Beer Monitor Plugins

2. **LICENSE FEES**

Product License Fee

Beverage Monitor $750.00

Jaxis Engine $500.00

Beverage Plugins $250.00

Beer Monitor Plugins $250.00

Total License Fee: $1,500.00

License Payment Terms: Due In Full Upon Effective Date of this Agreement.

3. **MAINTENANCE AND SUPPORT PACKAGE (Select one)**

Product Coverage Pricing

Silver 8am – 5pm 20% of Software License,

Monday – Friday Hardware costs and

Customization charges.

Gold 24 x 7 x 365 27% of Software License,

Hardware costs and

Customization charges.

**END OF BUSINESS TERMS**

APPENDIX 1

CUSTOMER TAX INFORMATION

Please provide the following information:

Billing Information (As it should appear on the Invoice):

|  |  |
| --- | --- |
| Company Name: |  |
| Attn: |  |
| Address 1: |  |
| Address 2: |  |
| City/State/Zip: |  |
| Country: |  |

Software Media Shipping Information:

|  |  |
| --- | --- |
| Company Name: |  |
| Attn: |  |
| Address 1: |  |
| Address 2: |  |
| City/State/Zip: |  |
| Country: |  |
| Delivery via FTP: |  |
| Delivery via Overnight  Air Mail: |  |
| Delivery via Second Day  Air Mail: |  |

Software Installation Address(es): Provide separate sheet for additional installation addresses.

|  |  |
| --- | --- |
| Site No. \_\_: |  |
| Address 1: |  |
| Address 2: |  |
| City/State/Zip: |  |
| Country: |  |

|  |  |
| --- | --- |
| Site No. \_\_: |  |
| Address 1: |  |
| Address 2: |  |
| City/State/Zip: |  |
| Country: |  |

Sales Tax Information:

|  |  |
| --- | --- |
| Purchaser’s State (where Media is to be delivered if different from Billing State): |  |
| Direct Pay Number: |  |
| Tax Exempt Code: |  |