

## **Rocket Software Master Terms and Conditions**

Rocket Software, Inc. or its subsidiary designated on an Order Form (“Rocket”) provides software Products and related Services according to these Software License and Services Terms (“Terms”). By executing an Order Form dated on or after the date of these Terms, Customer agrees, for itself and its majority owned subsidiaries, these Terms apply to the first Order Form Customer executes (together, the “Agreement”) each Order Form thereafter, Customer’s rights and obligations, and previously purchased Products and Services. Each Order Form is a separate contract incorporating these Terms and are the entire terms governing Customer’s purchase of Products and/or Services. The parties agree that they may do business electronically, including contract formation, order placement and acceptance. An order Customer places and Rocket accepts on any Rocket website will create fully enforceable obligations subject to these Terms.

### **A. GENERAL TERMS**

#### **1. INTELLECTUAL PROPERTY OWNERSHIP**

Rocket, its affiliates or licensors own and retain all right, title and interest in all Intellectual Property in Products, Services, Deliverables, Documentation, (except as otherwise specified herein), developments, research data, designs, layout, methodologies, processes and procedures, models, formulae, documents, drawings, plans, specifications and other Rocket information, proprietary materials and all derivative works. To the extent that any right, title or interest in or to any Rocket’s Intellectual Property may not automatically vest in Rocket by operation of law, Customer irrevocably transfers, assigns and conveys all right, title, and interest therein to Rocket. At Rocket’s request and expense Customer will promptly take any action and execute any documents necessary to vest full title in Rocket or its licensor.

#### **2. CONFIDENTIALITY**

**(a) Confidential Information.** Whether or not disclosed orally or marked as confidential, Confidential Information includes the Agreement; Order Forms, Products, Deliverables, and Services; either party’s non-public data or personally identifiable information regarding employees or customer(s) residing on the party’s computer systems; Intellectual Property, and Rocket’s proposals, specifications, manuals, product roadmaps, financial data, pricing, and results of benchmark tests. Confidential Information does not include information that is (i) publicly available without breach of the Agreement; (ii) reasonably shown to Disclosing Party’s satisfaction to have been known by Receiving Party prior to disclosure or independently developed by Receiving Party subsequent to disclosure without breach of these Terms; or (iii) obtained by Receiving Party from a third party without confidentiality obligation. Products are not deemed to be placed in the public domain by Rocket. Receiving Party will promptly notify Disclosing Party if it is compelled by a court or legal process to disclose Confidential Information and will take any reasonable action requested by Disclosing Party to maintain the confidentiality of the Confidential Information.

**(b) Non-disclosure.** Customer will use best efforts to prevent disclosure to Rocket of any personally identifiable information (PII) regarding Customer’s employees or customer(s). Customer is solely responsible for complying with any requirements regarding PII disclosed to Rocket, other than Rocket’s confidentiality obligations hereunder. Receiving Party will use Disclosing Party’s Confidential Information solely to perform its obligations under the Agreement. Receiving Party will take commercially reasonable steps to safeguard Disclosing Party’s Confidential Information, including no less than the steps taken to protect its own Confidential Information. Receiving Party must not disclose Disclosing Party’s Confidential Information except to its employees bound by written confidentiality obligations, or Affiliates under a duty of confidentiality, no less restrictive than these Terms. Receiving Party must promptly notify Disclosing Party in writing of unauthorized use or disclosure of Confidential Information. Receiving Party, at its expense, must take all reasonable action to recover Confidential Information and prevent further unauthorized use or disclosure, including action for seizure and injunctive relief. If Receiving Party fails to do so in a timely manner, Disclosing Party may take reasonable action to do so at Receiving Party’s expense, and Receiving Party must reasonably cooperate.

### 3. INTELLECTUAL PROPERTY INDEMNIFICATION

#### (a) By Rocket.

(i) Rocket will defend, at its expense, a third party legal action, suit or proceeding against Customer (“Claim”) to the extent that a Product, or a Deliverable that is a Product proprietary derivative work, as delivered by Rocket to Customer (“Indemnified Product”) directly infringes a valid U.S. patent or copyright. Rocket will indemnify Customer for any judgment finally awarded against Customer or settlement agreed by Rocket for such Claim to the extent of the Indemnified Product’s infringement, provided (1) Customer notifies Rocket promptly in writing of the Claim, (2) Rocket has sole control over the defense or settlement, and (3) Customer fully cooperates with Rocket, providing all documents and information in Customer’s possession relevant to the Claim, and Customer makes personnel available to testify or consult with Rocket.

(ii) If an Indemnified Product becomes, or in Rocket’s opinion is likely to become subject to a Claim, Rocket may, at its option and expense, (1) acquire the right for Customer to continue using the Indemnified Product, (2) replace or modify the Indemnified Product or create a workaround so that the Indemnified Product is functionally equivalent and non-infringing, or (3) terminate the License for the Indemnified Product and give Customer a credit for the Product Fee paid by Customer for the infringing part of the Indemnified Product, less a reasonable allowance for the time Customer used the Indemnified Product.

(iii) Rocket is not obligated or liable for a Claim due to: (1) use of an Indemnified Product not according to the Agreement and Documentation, (2) modification of an Indemnified Product made by anyone other than Rocket, or modification made by Rocket for non-standard features or functionality for Customer or according to Customer’s directions, (3) any products, equipment, software, or data not supplied by Rocket, (4) use of an Indemnified Product combined with any other products, equipment, software, or data not supplied by Rocket if infringement would not occur without the combination, (5) a release of Indemnified Product other than the most current release available or Customer’s failure to install a revision, update or release that would have eliminated the infringement, (6) Customer’s designs, instructions, plans or specifications, or (7) use of an Indemnified Product combined with a Customer or third party use, process or method if infringement would not occur without the combination.

#### (b) By Customer.

(i) Customer will defend, at its expense, a third party claim against Rocket (1) that any product, information, data or material provided by Customer infringes another party’s intellectual property rights, other than a Claim for which Rocket is responsible according to Section A3(a) above, or (2) arising from Customer’s or its Affiliates’ failure to comply with the License or Confidentiality terms of the Agreement.

(ii) Customer will indemnify Rocket for any damages, or amounts agreed as settlement, for the claim, provided (1) Rocket notifies Customer promptly in writing of the claim, (2) Customer has sole control over the defense or settlement, and (3) Rocket cooperates with Customer, providing all documents and information in Rocket’s possession relevant to the claim, and Rocket makes personnel available to testify or consult with Customer as reasonably needed.

**(c) Assumption of Defense.** If a party fails to defend or settle a claim according to this Section A3 in a timely manner, the other party may assume defense of the claim at the indemnifying party’s expense, and the indemnifying party will reasonably cooperate. Neither party may make an admission of fault on behalf of the other party, or agree to the settlement of a claim binding the other party that does not contain a full release of liability for the other party, without written consent. **(d) Limitation.** THIS SECTION A3 DESCRIBES EACH PARTY’S SOLE LIABILITY AND THE OTHER PARTY’S SOLE REMEDY FOR INTELLECTUAL PROPERTY INFRINGEMENT INDEMNIFICATION.

**(d) Professional Services Indemnity.** Each party will defend, at their expense, any action brought against the other party for bodily injury, death, or tangible property damage to the extent caused by the gross negligence or willful misconduct of the defending party relating to a Professional Services engagement. The defending party will indemnify the other party for and pay damages finally awarded in such action, or agreed as a settlement by the indemnifying

party, if (a) the other party promptly notifies the indemnifying party in writing of the claim, (b) the indemnifying party has sole control over the defense or settlement, and (c) the other party cooperates in the indemnifying party's defense or settlement. If a party with an indemnification obligation fails to defend or settle a claim in a timely manner, the other party may assume the defense at the obligated party's expense, and the obligated party will reasonably cooperate. Neither party may, without the other party's written consent, agree to a settlement that: (a) binds the other party, (b) does not contain a full release of the other party, or (c) admits fault on behalf of the other party. THIS SECTION A3(d) DESCRIBES EACH PARTY'S SOLE LIABILITY AND THE OTHER PARTY'S SOLE REMEDY FOR PROFESSIONAL SERVICES INDEMNIFICATION.

#### **4. LIMITATION OF LIABILITY**

**(a)** ROCKET, ITS AFFILIATES AND LICENSORS WILL NOT BE LIABLE FOR (i) ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES, (ii) ANY INTERRUPTION OF BUSINESS OR OPERATIONS, COST OF COVER, GOODWILL, TOLL FRAUD, OR LOSS OF DATA, PROFITS, OR REVENUE, OR FAILURE OF A REMEDY TO ACHIEVE ITS ESSENTIAL PURPOSE.

**(b)** EXCEPT FOR A CLAIM FOR INFRINGEMENT UNDER SECTION A3, DEATH OR BODILY INJURY CLAIMS, TANGIBLE PROPERTY DAMAGE, WILLFUL MISCONDUCT, OR FRAUD, ROCKET, ITS AFFILIATES AND LICENSORS WILL NOT BE LIABLE FOR ANY DAMAGES THAT EXCEED THE AMOUNT CUSTOMER PAID IN THE PRECEDING 12 MONTHS FOR THE PRODUCT OR SERVICE THAT GAVE RISE TO THE CLAIM.

**(c)** THE LIMITATIONS IN THIS SECTION A4 WILL APPLY TO ANY DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT, MISREPRESENTATION, NEGLIGENCE, THE USE OR PERFORMANCE OF A PRODUCT OR SERVICE, OR OTHERWISE, AND REGARDLESS OF WHETHER THE DAMAGES WERE FORESEEABLE OR UNFORSEEABLE. ROCKET WILL NOT BE LIABLE FOR ANY CLAIM BROUGHT MORE THAN 12 MONTHS AFTER CUSTOMER BECAME AWARE OF THE ISSUE GIVING RISE TO THE CLAIM. ROCKET'S FAILURE TO EXERCISE A RIGHT OR REMEDY IS NOT A WAIVER.

#### **5. DISPUTE RESOLUTION**

The parties will attempt in good faith to resolve any controversy or claim promptly through business discussions and will, upon written request, escalate a dispute to executive management for resolution. If the parties fail to resolve the dispute within 30 days of written request, or any longer period agreed in writing, the parties may pursue the remedies to which they are entitled. This clause will not restrict either party's right to seek injunctive relief.

#### **6. INJUNCTIVE RELIEF**

Customer's failure to comply with the License or Confidentiality terms of the Agreement would result in irreparable harm to Rocket that may be intangible but real and is incapable of complete remedy by award of damages. Customer agrees (a) Rocket has the right to an injunction or other court order and may proceed directly to court to specifically enforce Customer's obligations, (b) no finding of irreparable harm or other condition to injunctive relief is required, (c) an order may be entered to compel Customer to act or refrain from acting or threatened action, and (d) if an injunction is granted, Customer will pay Rocket's reasonable expenses and attorney fees, in addition to any other relief granted. Rocket shall have the right to pursue all remedies at law and in equity for such a breach.

#### **7. MISCELLANEOUS**

**(a) Agreement.** The Agreement supersedes all other oral or written terms, proposals or representations in effect between the parties regarding Rocket Products and Services. Any terms in a subsequent or contemporaneous Order Form that are inconsistent with these Terms will control for that Order Form only, and the General Terms may only be modified by a written amendment signed by both parties. Inconsistent terms of Customer's purchase order are excluded regardless of Rocket accepting the purchase order for payment purposes. If any Agreement term is illegal, invalid, or unenforceable, the other terms remain in full force and effect and any term that is intended to survive the Agreement termination will survive.

**(b) Assignment.** Customer may not assign the Agreement, an Order Form, or any of its obligations, rights or remedies, in whole or in part, without Rocket's prior written approval in its sole discretion.

**(c) Force Majeure.** Neither party is liable for delay or failing to perform its obligations due to a cause beyond its reasonable control and without fault or negligence, except Customer's failure to perform its payment obligations.

**(d) Governing Law, Jurisdiction and Region-Specific Terms** Massachusetts laws govern the Agreement, the parties' performance, rights and obligations, excluding conflict of law principles that would apply the law of any other jurisdiction. Each party waives the right to jury trial for a claim in law or equity. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act, as adopted, do not apply. US, North and South America, and Rest of World. For customers located in the United States, North and South America, and any other jurisdiction not covered by the region-specific terms below (Rest of World), the following terms apply:

**Governing Law;** This Agreement is governed by the laws of the Commonwealth of Massachusetts and the United States, without regard to choice or conflict of law rules thereof.

**U.S. Government Use.** The Rocket Services are based upon commercial computer software. If the user or licensee of an Rocket Service is an agency, department or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure or transfer of the Rocket Service, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by this Agreement in accordance with Federal Acquisition Regulations 12.211 (Technical Data) and 12.212 (Computer Software) for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). The Rocket Services were developed fully at private expense. All other use is prohibited. If greater rights are needed, a mutually acceptable written amendment specifically conveying these rights must be included as part of this Agreement.

**General.** The Uniform Computer Information Transactions Act (UCITA) do not apply to this Agreement regardless of when or where adopted.

**UK, IE, Middle East, Africa, Russia, and India.** For customers located in the Republic of Ireland, the United Kingdom, British Crown Dependencies, British Overseas Territories, Middle East, Africa, Russia, and India the following terms apply:

**Governing Law; Jurisdiction and Venue.** This Agreement is governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction and venue of courts located in England.

**Germany, Austria, and Switzerland ("DACH").** For customers located in DACH, the following terms apply:

**Governing Law; Jurisdiction and Venue.** This Agreement is governed by the laws of Germany and the parties submit to the exclusive jurisdiction and venue of courts located in Germany.

**Clarification on Liability Cap under Section A.4(Limitation of Liability).** THE PARTIES AGREE THAT THE LIABILITY CAP AT SECTION A.4 APPLIES FOR SLIGHTLY NEGLIGENT INFRINGEMENT OF A MATERIAL CONTRACTUAL OBLIGATION, WHOSE FULFILLMENT IS ESSENTIAL IN ACCOMPLISHING THE CONTRACT AND ON WHOSE FULFILLMENT THE OTHER PARTY CAN REGULARLY DEPEND ("CARDINAL DUTY"/ "KARDINALPFLICHT"). THE PARTIES SPECIFICALLY AGREE THAT THE TYPICAL FORESEEABLE DAMAGE AND BREACHES OF A CARDINAL DUTY WILL NOT EXCEED IN AGGREGATE THE LIABILITY CAP SET OUT IN SECTION A.4.

**Additional Exceptions on Liability under Section A.4** NONE OF THE LIMITATIONS IN SECTION A.4 EXCLUDES EITHER PARTY'S LIABILITY FOR DAMAGES DIRECTLY RESULTING FROM: (I) INTENT; (II) GROSS NEGLIGENCE; (III) CULPABLE INJURY TO LIFE, BODY AND HEALTH; (IV) IN CASE OF A

BREACH OF GUARANTEE, WHICH MUST BE EXPLICITLY NAMED A “GUARANTEE”; OR (V) MANDATORY LIABILITIES UNDER THE PRODUCT LIABILITY ACT.

**Netherlands and Rest of Europe.** For customers located in the Netherlands and European countries not covered by other region-specific terms above, the following terms apply:

**Governing Law; Jurisdiction and Venue.** This Agreement is governed by the laws of the Netherlands and the parties submit to the exclusive jurisdiction and venue of court located in Rotterdam. Any court proceedings will be conducted in English, to the extent available.

**Additional Exceptions on Liability under Section A.4(Limitation on Liability).** NONE OF THE LIMITATIONS IN SECTION A.4 EXCLUDES EITHER PARTY’S LIABILITY FOR EITHER PARTY’S LIABILITY FOR INTENT OR GROSS NEGLIGENCE (OPZET OF BEWUSTE ROEKELOOSHEID) OF THAT PARTY OR ITS MANAGERIAL STAFF.

**Australia, Zealand And Asia Pacific.** For customers located in Australia and New Zealand and Asia Pacific the following terms apply:

**Governing Law; Jurisdiction and Venue.** This Agreement is governed by the laws of Australia and New South Wales and the parties submit to the exclusive jurisdiction and venue of courts located in Sydney.

**(e) Compliance with Laws; Export.** Customer will comply with U.S., foreign, and international laws and regulations, including without limitation the U.S. Foreign Corrupt Practices Act, U.K. Bribery Act, other anti-corruption laws, U.S. Export Administration and Treasury Department's Office of Foreign Assets Control regulations, and other anti-boycott and import regulations. Customer agrees: (i) that the export, re-export, transfer, re-transfer, sale, supply, access to, or use of the Products, Deliverables or Services to or in a country other than the country in which the Product, Deliverables or Services were first provided to Customer, or to, by, or for a different end user or end use may require a U.S. or other government license or other authorization; and (ii) not to, directly or indirectly, export, re-export, transfer, re-transfer, sell, supply, or allow access to or use of the Products, Deliverables or Services to, in, by, or for sanctioned, embargoed, or prohibited countries, persons, or end uses under U.S. or other applicable law (collectively, “Prohibited Uses”). Customer is responsible for screening for Prohibited Uses and obtaining any required licenses or other authorizations and shall indemnify Rocket for any violation by Customer of any applicable export controls and/or economic sanctions laws and regulations. Rocket may terminate the Agreement and Licenses immediately if Rocket determines, in its sole discretion, that Customer has breached, intends to breach, or insists upon breaching any of the provisions in this clause.

**(f) Language.** The parties agree that the Agreement and all related documents are in English.

**(g) No Agency.** Each party is an independent contractor and may not commit the other party without written authorization. The Agreement does not create an employment, joint venture, partner, or agency relationship.

**(h) Non-Solicitation.** For the Agreement term and 1 year after the termination date, without Rocket’s written consent, Customer will not, directly or indirectly, hire or solicit any Rocket employee, former employee, or contractor (except as a result of a generally advertised recruiting solicitation), or attempt to or interfere with Rocket’s business.

**(i) Notice.** Notice or approval must be in writing signed by a party’s authorized representative, sent to the address on the Order Form or otherwise specified in writing by a party. Notice must be sent by mail or overnight courier with return receipt, and is effective 1 business day after being sent by overnight courier or 3 business days after being sent by mail.

**(j) Publicity.** Rocket may use Customer’s name in press releases, product brochures, and other marketing materials to indicate they are Rocket’s customer. Rocket will use Customer’s trademarks, service marks, logos or branding, according to Customer’s branding guidelines, which Customer will make available to Rocket.

**(k) Taxes.** Product and Service Fees do not include taxes. Customer will pay all sales, use, property, customs, excise, value added and other taxes (“Tax”) imposed upon the purchase, sale, license, or use of Products and/or Services, regardless whether the Tax is included in the invoice Rocket sends to Customer, except taxes on Rocket’s net income. Fees payable by Customer will not be reduced by any Tax and Customer will pay invoiced Fees and Tax, or Customer will provide a tax exemption certificate or tax payment receipt prior to Rocket’s Delivery of Products or performance of Services, or proof of payment for Tax within 30 days from invoice date.

**(l) Payment.** Unless specified otherwise by Rocket in writing, Customer’s payment is due within 30 days from date of invoice. Late payment is a material breach of Customer’s obligation, upon which Rocket may suspend Product Delivery and Service performance. Customer will pay to Rocket all reasonable costs and expenses for collection of overdue amounts, including legal fees. Rocket may review Customer’s financial condition, payment and credit history and notify Customer of any additional payment or credit requirements. Customer must notify Rocket in writing of any disputed invoice within 15 days of invoice receipt or its right to dispute the invoice will be deemed waived. Customer will pay Fees as invoiced regardless of any warranty claim.

## 9. DEFINITIONS

**(a) Affiliate** means a legal entity that is controlled by Customer through ownership of 51% or more of its outstanding equity that may order Products and Services by executing an Order Form as a customer under these Terms, subject to Rocket’s written approval.

**(b) Concurrent User** means a User authorized to use a Product or Service concurrently with other Concurrent Users, limited by a maximum number of Concurrent Users at any one time.

**(c) Confidential Information** means any material, data, or information, in any form or media, that is proprietary or confidential to a party and is marked as confidential, or not marked but by its nature or treatment by its owner should reasonably be considered to be confidential.

**(d) Customer** means the legal entity executing the initial Order Form.

**(e) Day** means calendar day unless specified as business day.

**(f) Deliverable** means materials or work product specified as a “deliverable” in an Order Form that Rocket provides or creates with Professional Services, including without limitation software programming, application program interfaces, information, documents, reports, technical and non-technical data, specifications and other material, including derivative works. Deliverables do not include Products.

**(g) Deliver(y)** means Rocket has provided, and Customer is deemed to have accepted, a Product through electronic access.

**(h) Disclosing Party** means a party whose Confidential Information is disclosed to the other party.

**(i) Documentation** means Rocket’s user manuals and training materials provided to Customer electronically or physically.

**(j) Enterprise License** means a Measured License limited to the use required within a certain business unit or corporate entity specified in the Order Form measured as of the Order Form date.

**(k) Fee** means Rocket’s price for a Product or Service specified in an Order Form.

**(l) Intellectual Property** means all intellectual property, including without limitation, inventions, patents, copyrights, trademarks, service marks, trade names, trade secrets, know-how, moral rights, licenses, and any other intangible proprietary or property rights, registered or not, under statute and/or common law.

**(m) License** means Customer's non-exclusive, non-transferable right to use the licensed Products, Services, Deliverables or materials for its own internal business operations, according to the Documentation, and subject to the Agreement's restrictions.

**(n) Measured License** means a License for the time period, number and type of Users, transactions, copies, seats, instructions per second (MIPS) or other quantity or measure specified for each Product listed in an Order Form.

**(o) Named User** means an individual identified User authorized to use a Product or Service. A new Named User may replace a prior Named User.

**(p) Order Form** means a quote, SOW, or registration form provided by Rocket to Customer that includes the Products, Services, Fees and a unique Rocket reference number for each Order Form.

**(q) Products** means Rocket proprietary software products.

**(r) Product Warranty** means Rocket's limited warranty for Products.

**(s) Professional Services** means the professional consulting services, standard installation, integration and configuration services, and time and materials services Rocket provides as an independent contractor.

**(t) Receiving Party** means a party receiving the other party's Confidential Information.

**(u) Service(s)** means Support Services and/or Professional Services.

**(v) Service Warranty** means Rocket's limited warranty specified for Support Services or Professional Services.

**(w) SOW** means a statement of work that documents materials and services for a project that Rocket provides, generally for Professional Services engagements, including a project plan, resources and actions provided by each party and a payment schedule.

**(x) Support Period** means a time period defined in an Order Form during which Rocket will provide Support Services.

**(y) Support Service(s)** means Rocket's current standard maintenance and support services, policies and procedures for Products.

**(z) User** means a Named User or Concurrent User employed by and authorized by Customer to use a Product or Service for Customer's internal business purposes.

## **B. PRODUCT PURCHASE/LICENSE/MAINTENANCE SUPPORT TERMS**

### **1. ORDERS**

Rocket will provide an Order Form to Customer that includes the Products, Support Services, Fees, other Services, and Rocket reference number for each order. Customer will place a binding order, subject to Rocket's acceptance, by sending Rocket a signed Order Form.

### **2. LICENSE**

**(a) Grant.** Rocket grants to Customer a Measured License for each Product listed in the Order Form, in object code form, and related Documentation. Customer may make one copy of the Product for non-production backup purposes. Customer's right to use the Product as an Enterprise License or a type of Measured License is specified in the Order Form. Customer's actual use will not decrease (but may increase) the scope of the License granted and the Fees due.

**(b) Restrictions.** Customer will not:

- (i) Rent, lease, or sublicense a Product, or use a Product as a service bureau or for hosting as an application service provider;
- (ii) Permit any third party to access or use a Product or Documentation, except for Customer's Affiliates using a Product or Documentation for Customer's internal business operations, provided Customer (a) ensures its Affiliates comply with the terms of the Agreement and (b) is liable for their acts and omissions;
- (iii) Transfer or use a Product or Documentation to or in a country other than that to which Rocket first provides it;
- (iv) Use a Product except as specified in the Documentation;
- (v) Translate, modify or make derivative works of a Product or Documentation;
- (vi) Reverse engineer, , decompile or disassemble a Product, except as permitted by law after Customer has disclosed its intended activities in writing to Rocket;
- (vii) Exceed the time period for the License, or use a Product in excess of the Measured License or Enterprise License, which Customer purchased;
- (viii) Use a Product in production if provided under a testing, evaluation, development or other non-production License;
- (ix) Alter a Product's copyright or other intellectual property rights notices;
- (x) Infringe or misappropriate Rocket's or its licensors' Intellectual Property.

**(c) Verification.** Customer will keep accurate records measuring its use of the Products according to its License. Rocket has the right to audit Customer's records and operations to verify Customer's Product use according to the License and the Agreement. Audits will be scheduled at a mutually agreed date and time during Customer's usual business hours. If Rocket determines that Customer's Product use exceeds the License Customer purchased, Customer will immediately pay Rocket the current Fees for the additional Product use, including reasonably estimated arrears for Support Service Fees, and reimburse Rocket's reasonable expenses to perform the audit. THE LIMITATION OF LIABILITY SET FORTH IN SECTION A4 DOES NOT APPLY TO CUSTOMER'S PRODUCT USE EXCEEDING ITS LICENSE OR MISAPPROPRIATION OF A PRODUCT.

**(d) Termination.** Rocket may terminate a License by written notice (i) immediately, if Customer infringes or misappropriates Rocket's or its licensors' Intellectual Property or fails to comply with the License Terms; (ii) as specified in the Warranty Terms; and (iii) if Customer materially breaches the Agreement, subject to any specified cure period. Upon termination Customer will immediately return or destroy all Product and, upon Rocket's request, provide written certification of such destruction.

### **3. SUPPORT SERVICES**

**(a) Support Services.** Rocket will provide Support Services purchased by Customer according to Rocket's current standard policies and procedures as revised from time to time. Rocket's standard Support Services generally include (i) commercially reasonable efforts to resolve problems or bugs in the Product which substantially impair the functionality described in Rocket's published technical specifications; (ii) revisions and updates for Products containing code fixes, improvements or enhancements to existing functionality as available; (iii) access to online problem reporting, tracking, and self-help tools; and (iv) telephone support for trained Customer personnel during purchased support hours. Support Services do not include onsite support which may be purchased if available.



**(b) Support Period; Termination.** Support Service is available for a minimum 12 month Support Period, unless a longer period is specified in an Order Form, and the initial Support Period begins on the Product Delivery date. The Support Period will renew automatically for subsequent Support Periods equal to the initial Support Period unless either party provides written notice of termination at least 60 days prior to the end of the current Support Period. Rocket may suspend or terminate Support Service upon written notice if Customer breaches its obligations including timely payment for any Support Period. Upon termination Customer will, at Rocket's direction, return or destroy any Rocket materials, Confidential Information and Documentation, and Customer will immediately pay Rocket all fees due for the remainder of the Support Period and any other fees accrued as of the termination date.

#### **4. PRODUCT DELIVERY**

All Products provided to Customer by Rocket are subject to these Terms. Risk of loss for Products passes to Customer upon Delivery. Customer is responsible for customs clearance, documents, and paying any customs duties and import fees.

#### **5. FEES AND PAYMENT**

**(a) Product Fees.** Customer will pay to Rocket the Product Fees according to an Order Form, along with shipping, handling, taxes and any similar fees.

**(b) Support Service Fees.** Support Service Fees for the initial Support Period are included in the Product Order Form. Rocket will provide an Order Form or invoice for each renewal Support Period at Rocket's current list price, and Customer will pay the Support Service Fees when due, according to the Order Form or invoice. Rocket may not provide renewal Support Services if Customer does not pay the renewal Fees to Rocket prior to the end of the current Support Period. If Customer's Support Services lapse at any time, renewal will be subject to Rocket's re-instatement policies and fees. Payment that is invoiced in arrears for any Support Period is due and payable on invoice date.

#### **6. WARRANTIES**

**(a) Products.** Rocket warrants that Product will perform substantially according to Rocket's current published technical specifications on the Product Delivery date, when used according to the Documentation. Customer must provide a written Product Warranty claim to Rocket within 90 days of the Delivery date. Customer must provide remote or local access to the Product if required by Rocket to perform Product Warranty service. Rocket will repair or replace a Product not conforming to the Product Warranty, or, at its option, refund the part of the Product Fees paid for the Product that does not conform, and the Product License terminates. Upon License termination, Customer will cease using and destroy the Product.

**(b) Support Services.** Rocket warrants that Support Services will be performed in a commercially reasonable manner consistent with general industry standards that apply to similar services. Customer must provide a written Service Warranty claim to Rocket within 15 days after the date Rocket provided the Service. Rocket, at its option, will re-perform Service not complying with the Service Warranty at no additional charge, or refund the part of the Fee, if paid, for the Service which does not comply with the Service Warranty.

**(c) Disclaimer.** Product Warranty or Support Service Warranty does not cover problems caused by (i) abuse, misuse, alteration, neglect, accident, unauthorized repair or installation, or acts or omissions of any party other than Rocket; (ii) electrical systems, fire or water damage, Customer's hardware, software, networks, or systems; or (iii) Customer not using Product according to Rocket's current published technical specifications. EXCEPT AS SET FORTH IN SECTIONS 6(a) AND (b) ABOVE, ROCKET, ITS AFFILIATES AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTEES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, FOR PRODUCTS OR SERVICES, THEIR USE, SUFFICIENCY, ACCURACY, RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, OR COMPLETENESS, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, (i) MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR (ii) THAT SUPPORT SERVICES OR OPERATION OF PRODUCTS WILL BE UNINTERRUPTED OR ERROR FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE,

SOFTWARE, SYSTEM, OR DATA; (iii) ERRORS OR DEFECTS WILL BE CORRECTED. THIS SECTION B6 DESCRIBES ROCKET'S SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY FOR A PRODUCT OR SUPPORT SERVICE WARRANTY CLAIM.

## **7. MV Specific Terms**

A. You agree to follow the program processes and procedures as specified in the MV Handbook which Rocket provides to you. You agree to allow Rocket to use your company name in any marketing or advertising campaign.

B. Except as expressly authorized under this Agreement, you, and your Subsidiaries are prohibited from copying or distributing Programs and Products.

C. Unless otherwise stated, you may obtain Standby licenses for a Program, as defined in the MV Handbook, to be used as part of the Solution for disaster recovery purposes. Standby licenses, as well as Maintenance Renewal and Maintenance Reinstatement for such licenses, are available starting at a base price of 75% off the SRP of the full license for a Program. A Standby license can mirror data, update files, and synchronize programs, data, or other resources from the primary server. A Standby license can be used for development and testing (including failover testing). A Standby license may also be used for these read-only activities: reporting, dashboards, replication, and extraction. It may not be used for production or other operational uses. Please refer to the MV Handbook for additional details.

D You may request temporary no-charge evaluation copies of the Program. Evaluation copies may be used for up to 60 days. Programs used for evaluation purposes are provided without technical support and on an "as is" basis without warranty of any kind. Please refer to the MV Handbook for details.

E. All code provided to you as part of a technical support case is provided as is, with no warranty. Subject to any statutory warranties which cannot be excluded Rocket makes no warranties or conditions either express or implied, including but not limited to, the implied warranties or conditions of merchantability, fitness for a particular purpose, and non-infringement, regarding the program or technical support, if any.

## **C. PROFESSIONAL SERVICES**

### **1. PROFESSIONAL SERVICES ORDER**

Customer will order the Professional Services it requires as specified in Section B(1) above, which Rocket may perform remotely or on site as appropriate. The Order Form will describe the Professional Services and any of the following that apply: project plan, resources and actions provided by each party, Deliverables, Fees, expenses, and payment schedule.

### **2. PROFESSIONAL SERVICES FEES AND PAYMENT**

Customer will pay to Rocket, according to each Order Form: (a) Fees for time and Deliverables; (b) Rocket's expenses incurred with the Professional Services; and (c) any additional fees and expenses incurred by Rocket due to changes in the scope of Services to be provided, Customer's failure to fulfill its obligations in a timely manner, or reassignment of personnel or rescheduling without Rocket's fault. Professional Services Fees are due and invoiced as Services are performed. Customer will pay Fees and expenses for all Professional Services and Deliverables provided until the end of each Service engagement. Rocket will itemize invoices for expenses and provide receipts if Customer requests. All Professional Services Rocket provides are billable, regardless of whether the Professional Services are requested by Customer to assist with a warranty or maintenance issue, which will be addressed by Rocket's Support Services organization. Support for third party products is provided by the third party supplier.

### 3. DELIVERABLES

#### (a) Ownership.

(i) Rocket may designate in writing Deliverables as “Type I Deliverables,” “Type II Deliverables,” or otherwise as agreed. If not specified in writing, Deliverables are Type II Deliverables. Customer’s data and Confidential Information are Customer’s exclusive property in which Customer retains all right, title and interest, and are not Deliverables even if included with Deliverables provided by Rocket, such as in a report or dashboard. Rocket Products are governed by separate license terms.

(ii) Type I Deliverables are Deliverables created solely for Customer during the Professional Service performance period in which Customer will have all right, title, and interest, including copyright. Rocket will retain a copy of Type I Deliverables. Rocket’s Intellectual Property and Confidential Information, in which Rocket retains all right, title and interest, are excluded from Type I Deliverables.

(iii) Type II Deliverables are Deliverables provided or created during the Professional Services performance period, including without limitation all preexisting materials, in which Rocket or its affiliates have all right, title, and interest, including copyright. Rocket will provide one copy of Type II Deliverables to Customer.

#### (b) License and Use.

(i) Rocket grants Customer a License to use and reproduce a reasonable number of copies, and distribute internally, Type II Deliverables’ object code for its own internal business operations only, according to the Order Form. Customer will not reverse engineer, sell, rent, sublicense or permit a third party to use or access Type II Deliverables. Customer’s ownership of Type I Deliverables and License for Type II Deliverables are contingent upon full payment of all fees and expenses for Professional Services.

(ii) Customer grants Rocket (1) a nonexclusive, worldwide, royalty-free right to use and copy Customer systems, Confidential Information and data, and use any Customer proprietary and third party products, services and materials under Customer’s license, as necessary to provide the Professional Services, and (2) an irrevocable, nonexclusive, royalty-free right to use, reproduce, create derivative works, sublicense and distribute, internally and to other parties, Type I Deliverables, excluding Customer Confidential Information and Customer data, which is Customer’s exclusive property. Customer represents and warrants that Customer information, data and third party products, services and materials provided to Rocket will not violate any law or third party rights.

(iii) Each party will reproduce the copyright notice or other legend on any copies made under the license and use rights granted.

(c) **Support.** Rocket does not provide Support Services for Deliverables unless Rocket, at its option, has incorporated the Deliverables in a generally available Product, or Rocket agrees to provide Support Services for the Deliverable in the SOW, and Customer pays fees for the Support Services.

(d) **Termination.** Rocket may terminate a License by written notice (i) immediately, if Customer infringes Rocket’s or its licensors’ Intellectual Property or fails to comply with the License Terms; or (ii) if Customer materially breaches the Agreement, subject to any specified cure period. Upon License termination Customer must immediately destroy licensed Deliverables and, upon Rocket’s request, and so certify in writing.

### 4. PERSONNEL

On Customer premises, Rocket personnel will comply with Customer's reasonable rules and policies provided to Rocket in writing for such matters as working hours, holidays and Customer security measures. Rocket will determine its personnel to perform Professional Services in its sole discretion. The parties will resolve any Professional Services issues in good faith. If the resolution involves reassigning personnel, Rocket will do so as soon as practical and

commercially reasonable, according to local law. Customer agrees that reassignment may delay Professional Services or allow Rocket to terminate Professional Services without Rocket liability.

## 5. PROFESSIONAL SERVICES WARRANTY

**(a) Warranty.** Rocket warrants that Professional Services will be performed in a commercially reasonable manner consistent with industry standards. Customer must provide a written Professional Services Warranty claim to Rocket within 15 days after the date Rocket performs Professional Services. Rocket, at its option, will re-perform Professional Services that do not comply with the Professional Services Warranty at no additional charge, or if not practical and solely at Rocket's option, credit the part of the Professional Services Fee, if paid, for the Professional Services that do not comply with the Professional Services Warranty.

**(b) Disclaimer.** This Professional Services Warranty does not cover problems caused by (i) abuse, misuse, alteration, enhancements, neglect, accident, unauthorized repair or installation, or acts or omissions of, or delay by, any party other than Rocket; or (ii) electrical systems, fire or water damage, Customer's hardware, software, networks, or systems. DELIVERABLES ARE PROVIDED ON AN "AS-IS" BASIS, WITHOUT WARRANTY OF ANY KIND. ROCKET, ITS AFFILIATES AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, REPRESENTATIONS AND GUARANTEES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, FOR PROFESSIONAL SERVICES AND DELIVERABLES, THEIR USE, SUFFICIENCY, OR ACCURACY, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, OR THAT PROFESSIONAL SERVICES OR DELIVERABLES WILL BE UNINTERRUPTED OR ERROR FREE.

**(c) Limitation.** THE WARRANTY DESCRIBED IN THIS SECTION C5 IS ROCKET'S SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR A PROFESSIONAL SERVICES OR DELIVERABLES CLAIM.

## 6. TERMINATION

Either party may terminate a Professional Services engagement, in whole or in part, with 30 days prior written notice, effective on the date specified in the notice, however, these Terms apply for all Services and Deliverables provided regardless of the termination date, including any Services provided for transition or termination assistance. Rocket is not responsible for the resulting condition of Services or Deliverables upon early termination. These Terms govern all Order Forms until Professional Services are terminated or completed.

**IN WITNESS WHEREOF**, the parties have caused these Terms to be executed by their duly authorized representatives.

**Customer:** \_\_\_\_\_

**Rocket Software, Inc.:**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_