



## TERM OF SALE

Unless otherwise agreed to by A la carte Information System Services inc. ("ALCiT") in writing, the Terms of Sale apply to all purchasers of ALCiT hardware, software and services. By placing your order, you accept and are bound to the Commercial Terms of Sale below:

### 1. Your Relationship with ALCiT.

A. Introduction ALCiT's sale of Products, Software, and Services, as well as its performance of Services and your use of the Software are subject to the terms of this agreement between you, the customer ("you" or "Customer") and ALCiT (the "Agreement"). "ALCiT" means A la carte Information System Services inc. ("on behalf of itself and its suppliers and licensors, or the entity identified on your order confirmation, invoice, or other form of purchase document entered into by you at the time you purchased the Products, Software, or Services. Unless there is a separate agreement in place with, between or among your affiliates or our affiliates, "Customer" shall include any of your affiliates that places an order, and "ALCiT" shall include any ALCiT affiliates with which such an order is placed. Purchases of Products, Software, or Services under this Agreement shall be solely for Customer's own internal use and not for resale purposes

B. Definitions "Products" means computer hardware and any other products provided hereunder. "Services" means any and all services provided by ALCiT as described in one or more Service Agreements. "Software" means any software, library, utility, tool, or other computer or program code, in object (binary) or source-code form, as well as the related documentation, provided by ALCiT to you. Software includes software locally installed on your systems and software accessed by you through the Internet or other remote means (such as websites, portals, and "cloud-based" solutions). "Deliverables" means the tangible and intangible materials, including reports, studies, base cases, drawings, findings, manuals, procedures, and recommendations prepared by ALCiT or its suppliers, licensors, or subcontractors in the course of performing the Services. "Materials" means all content and other items included with or as part of the Products, Services, Software, or Deliverables, such as text, graphics, logos, button icons, images, audio clips, information, data, photographs, graphs, videos, typefaces, music, sounds, and software.

C. Additional Agreements. This Agreement, together with the Service Agreements (as defined below), form a legally binding contract between you and ALCiT in relation to your purchase and use of Products and Software, and ALCiT's performance of Services. In the event of a conflict between these agreements, the terms of these documents will be interpreted in the following order of precedence: (1) Master Service Agreement; (2) Service Agreements; and (3) this Agreement.

### D. Estimates, Quotes, Ordering, and Payment.

a. Payment Terms; Orders; Estimates; Quotes; Interest. Your order is subject to acceptance or cancellation by ALCiT, in ALCiT's sole discretion. Terms of payment are within ALCiT's sole discretion, and unless otherwise agreed to by ALCiT, payment must be received by ALCiT within five (5) days of an order. Each accepted order will be interpreted as a single Agreement, independent of any other orders. Payment for Products, Software, and Services must be made by cheque automated clearing house, wire transfer, electronic funds transfer or some other prearranged payment method at the time



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of order unless credit terms have been agreed to by ALCiT. Credit card payments will not be accepted for credit term invoices. Payment to ALCiT in respect of Products, Software and Services, as applicable, shall be made to the account indicated by ALCiT (as may be amended from time to time). If Customer purchases a multi-year Software license and related support and/or maintenance, and ALCiT and the Customer (and, if applicable, the third-party licensor of the software) agree to annualize the Customer's purchase over the term of the license, Customer shall make all annual payments in full and such purchase is non-cancellable over the term of the license. Timely payment of the price and all charges is of the essence. It is the responsibility of Customer to ensure payments are authorized and approved on time to ensure receipt of payment no later than the due date; in no case shall ALCiT be responsible for ensuring such authorization or approval. Any assignment by Customer of its purchase order to a third-party financing company must be approved in advance in writing by ALCiT, and in no case shall any such approval excuse Customer from its obligations hereunder. ALCiT reserves the right to charge you a late fee of 1.5% per month (18% per annum) applied against undisputed overdue amounts, or the maximum rate permitted by law, whichever is less. Late penalties will be recalculated every 30 days thereafter based on your current outstanding balance. In addition, ALCiT, without waiving any other rights or remedies to which it may be entitled, shall have the right to suspend or terminate any or all Services and refuse additional orders for Products or Software from Customer until ALCiT's receipt of all overdue amounts. ALCiT shall have no liability to Customer for any such suspension or termination of services or for its refusal of additional orders. ALCiT further reserves the right to seek collection of all overdue amounts (including by referral to third party collectors), plus all reasonable legal fees (including reasonable attorneys fees) and costs associated with such collection. Customer shall place all orders in the country where the Products and Software are to be shipped and where Services are to be performed, and payment of the corresponding price and costs shall be made in the currency identified by ALCiT in its invoice. Additional charges will apply if Customer requests Services that are performed outside of contracted hours or are beyond the normal coverage for the particular Service, such as customized invoicing, consolidated invoicing, and statements. ALCiT reserves the right to change the method of delivery of all documentation, and any additional changes requested by Customer may be subject to additional charges.

b. Invoices Other than where up-front payment in full was required prior to acceptance by ALCiT of an order, Invoices will be due and payable in accordance with section 1Da. of this Agreement within the time period noted on your invoice, or if not noted, then within 30 days, measured from the date of the invoice, subject to continuing credit approval by ALCiT, such approval may be revoked without further notice from ALCiT. ALCiT may invoice parts of an order separately or may invoice purchases of the Products, Software and Services in one invoice to Customer. ALCiT is not responsible for pricing, typographical, or other errors in any offer, and reserves the right to cancel orders arising from such errors. Customer agrees that all invoices shall be deemed accurate unless Customer advises ALCiT in writing of a bona fide, material error within fourteen (14) days of the date of such invoice. In the event that Customer advises ALCiT of a material error, (i) payment of any amounts corrected or modified by ALCiT in writing shall be due within fourteen (14) days of such correction, and (ii) all other amounts shall be paid by Customer by the invoice due date. In the event Customer withholds payment of any



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invoiced amounts upon an assertion by Customer that such amounts are erroneous, and ALCiT subsequently concludes that such invoiced amounts are accurate, Customer shall pay interest on such amounts as described above from the due date for such amounts until ALCiT's receipt of those amounts. In no case shall Customer be entitled to offset, defer or deduct any invoiced amounts that ALCiT determines are not erroneous following the notification process set forth above.

c. Shipping Charges; Title; Risk of Loss. Taxes, environmental disposal surcharges, and shipping and handling charges are not included in Product prices unless expressly indicated at the time of sale. Title to Products (except title to Software remains with the applicable licensors) passes from ALCiT to Customer upon full payment from Customer. Loss or damage that occurs during shipping by a carrier selected by ALCiT is ALCiT's responsibility. Loss or damage that occurs during shipping by a carrier selected by you is your responsibility. Shipping and delivery dates are provided as estimates only. You must notify ALCiT within 21 days of the date of your invoice or acknowledgement if you believe any part of your order is missing, wrong, or damaged.

d. Taxes Unless you provide ALCiT with a valid and accurate tax-exemption certificate applicable to your Product purchase and ship-to location, you are responsible for sales tax and any other taxes or governmental fees associated with your order. Customer may qualify for tax exemptions from time to time in which case ALCiT requests that Customer provide it with a valid certificate of exemption or other appropriate documentary proof of exemption. The charges stated in the order or any invoice shall be inclusive of all duties, levies or any similar charges and shall exclude GST, PST, HST or other VAT or equivalent sales or use tax (each, a "VAT"). Unless otherwise specified in writing by ALCiT, Customer shall pay all freight, insurance, and taxes (including but not limited to import or export duties, sales, use, value add, and excise taxes). ALCiT shall provide Customer with a valid invoice in accordance with VAT requirements or other applicable law. In the event that Customer is required by law to make a withholding or deduction in respect of the price payable to ALCiT, Customer will make the relevant payments to ALCiT net of the required withholding or deduction. Customer will supply to ALCiT evidence (e.g. official withholding tax receipts), to the reasonable satisfaction of ALCiT, that Customer has accounted to the relevant authority for the sum withheld or deducted. If such evidence is not provided to ALCiT within 60 days of remittance to the applicable tax authority, ALCiT will impose a penalty payment on Customer, and Customer will be liable for such penalty, in the amount of the withholding imposed on that particular transaction.

e. Prices The prices charged for Products, Software, and Services purchased under this Agreement shall be the amounts set forth on ALCiT's website or other quotation, or as provided by the applicable invoice or Service Agreements relating to such Software or Services. Quoted prices will remain in effect only until the expiration date of the quote or ALCiT's acceptance of your order, and such prices are subject to shortages in materials or resources, increases in the cost of manufacturing, or other factors.

f. Changed or Discontinued Products, Software, or Services. ALCiT's policy is one of ongoing update and revision. ALCiT may revise or discontinue Product, Software, or Services offerings at any time without prior notice to Customer. A change in a Product, Software, or Service may occur after a Customer places an order but before ALCiT ships the Product or Software or performs the Service. As



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a result, Products, Software, or Services Customer receives might display minor differences from the Products, Software, or Services Customer orders. Parts used in repairing or servicing Products may be new, equivalent-to-new, or reconditioned.

g. Returns and Exchanges. All sales are final, on an exception basis, ALCiT may, at its sole discretion, allow some products to be returned. Before returning or exchanging a Product, you must contact us directly to obtain an authorization number to include with your return. You must return Products to us in their unopened original packaging, and you are responsible for risk of loss, as well as shipping and handling fees. Additional fees, including a 15% restocking fee, may apply. If you fail to follow the return or exchange instructions provided by ALCiT, ALCiT will not be responsible for any loss, damage, or modification of a Product, or processing of a Product for disposal or resale. Credit for partial returns may be less than invoice or individual component prices due to bundled or promotional pricing associated with your original purchase.

2. Service Agreements. ALCiT may provide Services, Software, or Deliverables to you in accordance with one or more "Service Agreements". "Service Agreements" are service contracts including "Master Service Agreement", "Statements of Work," and any other such mutually agreed upon documents. Each Service Agreement will be interpreted as a single agreement, independent of any other Service Agreement, so that all of the provisions are given as full effect as possible.

3. Term; Auto-Renewal; Termination.

A. Term; Auto-Renewal. This Agreement commences on the date you place your order and continues until all Services and Software licenses and applicable Product warranties have expired or been terminated. Each Service and license to Software will continue for the term stated in the Service Agreement or the Software license, unless otherwise terminated. ALCiT may, at its option, propose to renew the Service and the Software license by sending you an invoice or, subject to prior notification, continuing to perform the Service or make the Software available to you. You may (where permitted by law) agree to such renewal of the Service and Software license by paying such invoice by its due date or by continuing to order Services or use the Software.

B. Termination of Services and Software License Either party may terminate an individual Service Agreement if the other party commits a material breach of such agreement and the breach is not cured within 90 days of receipt of written notice from the injured party except ALCiT may immediately terminate a Service Agreement if you fail to make payment for the Services when due. Termination of any or all Service Agreements will not terminate this Agreement. Unless renewed in accordance with this Agreement, this Agreement will terminate automatically upon the expiration of the agreed term of Services and Software license. ALCiT may terminate this Agreement immediately, including prior to the expiration of the term of Services or Software license, if (1) you fail to make any payment when due; (2) you are acquired by or merge with a competitor of ALCiT; (3) you declare bankruptcy or are adjudicated bankrupt; or (4) a receiver or trustee is appointed for you or substantially all of your assets. Upon termination of this Agreement, all rights and obligations of the parties under this Agreement will automatically terminate except for rights of action accruing prior to termination, payment obligations, and any obligations that expressly or by implication are intended to survive termination.



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4. **Proprietary Rights.** All right, title, and interest in the intellectual property (including all copyrights, patents, trademarks, trade secrets, and trade dress) embodied in the Software, Products and Materials, as well as the methods by which the Services are performed and the processes that make up the Services, shall belong solely and exclusively to ALCiT or the applicable suppliers or licensors, and you shall have no rights whatsoever in any of the above, except as expressly granted in this Agreement. The Software, Products and Materials are protected pursuant to copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. You may not modify, remove, delete, augment, add to, publish, transmit, adapt, translate, participate in the transfer or sale of, create derivative works from, or in any way exploit any of the Software and Materials, in whole or in part.

5. **Deliverables.** ALCiT and its applicable suppliers or licensors will retain exclusive ownership of all Deliverables, and will own all intellectual property rights, title, and interest in any ideas, concepts, know-how, documentation, and techniques associated with such Deliverables. Subject to payment in full for the applicable Services, ALCiT grants you a non-exclusive, non-transferable, royalty-free right to use the Deliverables solely in the country or countries in which you do business, solely for your internal use, and solely as necessary for you to enjoy the benefit of the Services as stated in the applicable Service Agreements.

6. **Suspension or Modification of Software or Services.** ALCiT may suspend, terminate, withdraw, or discontinue all or part of the Services or your access or one or more users' access to the Software (and third-party software) upon receipt of a subpoena or law-enforcement request, or when ALCiT believes, in its sole discretion, that you (or your users) have breached any term of this Agreement or an applicable Service Agreement, or are involved in any fraudulent, misleading, or illegal activities.

With respect to Software provided or otherwise made available to you by ALCiT in connection with Services, it may be necessary for ALCiT to perform scheduled or unscheduled repairs or maintenance, or remotely patch or upgrade the software, which may temporarily degrade the quality of the Services or result in a partial or complete outage of the Software. ALCiT provides no assurance that you will receive advance notification of such activities or that the Software or Services will be uninterrupted or error-free. Unless otherwise agreed to in writing between you and ALCiT, any degradation or interruption in the Software or Services shall not give rise to a refund or credit of any fees paid by you.

YOU AGREE THAT THE OPERATION AND AVAILABILITY OF THE SYSTEMS USED FOR ACCESSING AND INTERACTING WITH THE SOFTWARE, INCLUDING TELEPHONE, COMPUTER NETWORKS, AND THE INTERNET, OR TO TRANSMIT INFORMATION, CAN BE UNPREDICTABLE AND MAY, FROM TIME TO TIME, INTERFERE WITH OR PREVENT ACCESS TO OR USE OR OPERATION OF THE SOFTWARE. ALCiT SHALL NOT BE LIABLE FOR ANY SUCH INTERFERENCE WITH OR PREVENTION OF YOUR ACCESS TO OR USE OF THE SOFTWARE.

7. **Support Services.**

A. **Your Responsibilities.** Unless otherwise expressly provided in a Service Agreement, Services do not include repair of any system or system component. Support and warranty will be provided directly to Customer by the system/hardware/software manufacturer.



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B. Customer Authorization for Provision of Services. Some warranties or service-contracts for Third-Party Products may become void if ALCiT or anyone other than an authorized service provider provides services for or works on such hardware or software (such as providing maintenance or repair services for the Third-Party Products). ALCiT DOES NOT TAKE RESPONSIBILITY FOR ANY EFFECT THAT THE ALCiT SERVICES MAY HAVE ON THOSE WARRANTIES OR SERVICE CONTRACTS.

You authorize ALCiT to use or otherwise access any and all Customer-provided Third-Party Products as necessary or as requested by Customer in ALCiT's performance of the Services, including copying, storing, and reinstalling a backup system or data. You shall defend, indemnify, and hold ALCiT harmless from any third-party claim or action arising out of your failure to provide such authorization (such as obtain appropriate licenses, intellectual-property rights, or any other permissions, regulatory certifications, or approvals associated with technology, software, or other components).

### 8. Software.

A. Accompanying License. Software is subject to the separate software license agreements accompanying the software, along with any product guides, operating manuals, or other documentation included with the software media packaging or presented to Customer during the installation or use of the Software. Customer agrees that Customer will be bound by such license agreement.

B. Software License from ALCiT. With respect to Software provided or otherwise made available to you by ALCiT in connection with the Services, if no license terms accompany the Software, then subject to your compliance with the terms set forth in this Agreement, ALCiT hereby grants Customer a personal, non-exclusive license to access and use such Software only during the term of the Services and solely as necessary for Customer to enjoy the benefit of the Services as stated in the applicable Service Agreements.

a. Restrictions. Customer may not copy, modify, adapt, translate or create a derivative work, collective work, or compilation of the Software, and may not reverse engineer, decompile or otherwise attempt to extract the code of the Software or any part thereof. Customer may not license, sell, assign, sublicense, or otherwise transfer or encumber the Software; may not use the Software in a managed-services arrangement; and may not use the Software in excess of the authorized number of licensed seats for concurrent users, sites, or other criteria specified in the applicable Service Agreements. In addition, Customer may not access the Software to monitor its availability, performance, or functionality, or for any other benchmarking or competitive purpose.

b. Customer is further prohibited from (1) attempting to use or gain unauthorized access to ALCiT or to any third party's networks or equipment; (2) permitting other individuals or entities to use the Software or copy the Software or Services; (3) attempting to probe, scan, or test the vulnerability of Software or a system, account, or network of ALCiT or any of its customers or suppliers; (4) interfering or attempting to interfere with service to any user, host, or network; (5) engaging in fraudulent activity of any nature; (6) transmitting unsolicited bulk or commercial messages; (7) restricting, inhibiting, or otherwise interfering with the ability of any other person, regardless of intent, purpose, or knowledge, to use or enjoy the Software (except for tools with safety and security functions); or (8) restricting, inhibiting,



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interfering with, or otherwise disrupting or causing a performance degradation to any ALCiT (or ALCiT Service supplier) facilities used to deliver the Services.

c. Audit. You hereby grant ALCiT, or an agent designated by ALCiT, the right to perform an audit of your use of the Software during normal business hours; you agree to cooperate with ALCiT in such audit; and you agree to provide ALCiT with all records reasonably related to your use of the Software. The audit will be limited to verification of your compliance with the terms of this Agreement.

d. Open Source Software. A portion of the Software may contain or consist of open source software, which you may use under the terms and conditions of the specific license under which the open source software is distributed.

THIS OPEN SOURCE SOFTWARE IS DISTRIBUTED IN THE HOPE THAT IT WILL BE USEFUL, BUT IS PROVIDED "AS IS" WITHOUT ANY WARRANTY OR CONDITION, EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY REGARDING TITLE OR AGAINST INFRINGEMENT. IN NO EVENT SHALL ALCiT, THE COPYRIGHT HOLDERS, OR THE CONTRIBUTORS BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; LOSS OF USE, DATA, OR PROFITS; OR BUSINESS INTERRUPTION) HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THIS OPEN SOURCE SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE

9. Privacy. For information about ALCiT's privacy practices, please read ALCiT's global and country-specific privacy policies at <https://alcit.com/privacy>. These policies explain how ALCiT treats your personal information and protects your privacy.

10. Customer & System Data. In ALCiT's performance of the Services or in connection with your use of the Service-related Software, it may be necessary for ALCiT to obtain, receive, or collect data or information, including system-specific data (collectively, the "Data"). In such cases, you grant ALCiT a non-exclusive, worldwide, royalty-free, perpetual, non-revocable license to use, compile, distribute, display, store, process, reproduce, or create derivative works of the Data solely for those purposes. In addition, you grant ALCiT a license to aggregate and use the Data in an anonymous manner in support of ALCiT's marketing and sales activities. You also grant ALCiT the right to copy and maintain such material and content on ALCiT's servers (or the servers of its suppliers) during the term of this Agreement. You represent and warrant that you have obtained all rights, permissions, and consents necessary to use and transfer the Data within and outside of the country in which you are located in conjunction with ALCiT's performance of the Services or your use of the Service-related Software (including providing adequate disclosures and obtaining legally sufficient consent from your employees, agents, and contractors).



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11. High-Risk Disclaimer. Products, Software and Services sold are not fault-tolerant and are not designed or intended for use in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, life-support machines, or any other application in which the failure of the products, software, or services could lead directly to death, personal injury, or severe physical or property damage (collectively, "High-Risk Activities"). ALCiT expressly disclaims any express or implied warranty of fitness for High-Risk Activities.

12. Important Additional Information.

NOTHING IN THIS SECTION SHALL EXCLUDE OR LIMIT ALCiT'S WARRANTY OR LIABILITY FOR LOSSES THAT MAY NOT BE LAWFULLY EXCLUDED OR LIMITED BY APPLICABLE LAW.

A. Limited Warranty.

ALL SYSTEM/PRODUCT/HARDWARE/SOFTWARE WARRANTIES ARE PROVIDED BY THEIR ORIGINAL MANUFACTURER UNLESS A SERVICE AGREEMENT EXPLICITLY TRANSFERS THAT RESPONSIBILITY TO ALCiT.

b. WARRANTIES DO NOT COVER DAMAGE DUE TO EXTERNAL CAUSES, SUCH AS ACCIDENT, ABUSE, MISUSE, PROBLEMS WITH ELECTRICAL POWER, SERVICE NOT PERFORMED OR AUTHORIZED BY ALCiT (INCLUDING INSTALLATION OR DE-INSTALLATION), USAGE NOT IN ACCORDANCE WITH PRODUCT OR SOFTWARE INSTRUCTIONS, NORMAL WEAR AND TEAR, OR USE OF PARTS AND COMPONENTS NOT SUPPLIED OR INTENDED FOR USE WITH THE PRODUCTS, SOFTWARE, OR SERVICES. THESE WARRANTIES DO NOT APPLY TO THIRD-PARTY PRODUCTS. ANY WARRANTY ON A THIRD-PARTY PRODUCT IS PROVIDED BY THE PUBLISHER, PROVIDER, OR ORIGINAL MANUFACTURER. ALL THIRD-PARTY PRODUCTS ARE PROVIDED "AS IS."

c. WITH RESPECT TO YOUR USE OF THE SOFTWARE (1) NEITHER ALCiT NOR ANY OF THE ALCiT PARTIES MAKES ANY EXPRESS OR IMPLIED WARRANTY OR CONDITION THAT SOFTWARE PROVIDED TO YOU IN CONNECTION WITH THIS AGREEMENT IS OR WILL BE SECURE, ACCURATE, COMPLETE, UNINTERRUPTED, WITHOUT ERROR, OR FREE OF VIRUSES, WORMS, OTHER HARMFUL COMPONENTS, OR OTHER PROGRAM LIMITATIONS; OR THAT ANY ERRORS IN THE SOFTWARE WILL BE CORRECTED; (2) YOU ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION OF PROBLEMS CAUSED BY VIRUSES OR OTHER HARMFUL COMPONENTS, UNLESS SUCH ERRORS OR VIRUSES ARE THE DIRECT RESULT OF ALCiT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; (3) ALCiT AND THE ALCiT PARTIES, JOINTLY AND SEVERALLY, DISCLAIM AND MAKE NO WARRANTIES, REPRESENTATIONS OR CONDITIONS AS TO THE ACCURACY, QUALITY, RELIABILITY, SUITABILITY, COMPLETENESS, TRUTHFULNESS, USEFULNESS, OR EFFECTIVENESS OF ANY REPORTS, DATA, RESULTS, OR OTHER INFORMATION OBTAINED OR GENERATED BY YOU RELATED TO YOUR USE OF THE SOFTWARE; AND (4) USE OF THE SOFTWARE IS ENTIRELY





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AT YOUR OWN RISK AND NEITHER ALCIT NOR THE ALCIT PARTIES SHALL HAVE ANY LIABILITY RELATING TO SUCH USE.

### B. Limitation of Liability

a. ALCIT WILL NOT BE LIABLE FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE PRODUCTS, SOFTWARE, OR SERVICES PROVIDED HEREUNDER. EXCEPT FOR YOUR BREACH OF SECTION 1.d.1. OR 8., NEITHER PARTY SHALL HAVE LIABILITY FOR THE FOLLOWING: (1) LOSS OF REVENUE, INCOME, PROFIT, OR SAVINGS; (2) LOST OR CORRUPTED DATA OR SOFTWARE, LOSS OF USE OF A SYSTEM OR NETWORK OR THE RECOVERY OF SUCH; (3) LOSS OF BUSINESS OPPORTUNITY; (4) BUSINESS INTERRUPTION OR DOWNTIME; OR (5) DELIVERABLES, ALCIT PRODUCTS, OR THIRD-PARTY PRODUCTS NOT BEING AVAILABLE FOR USE.

b. ALCIT'S TOTAL LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY PRODUCTS, SOFTWARE, OR SERVICES PROVIDED HEREUNDER) IN ANY 12-MONTH PERIOD SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER DURING THE PRIOR 12 MONTHS OF THIS AGREEMENT FOR THE SPECIFIC PRODUCT, SOFTWARE, OR SERVICE GIVING RISE TO SUCH CLAIM(S).

c. THESE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO ALL CLAIMS FOR DAMAGES, WHETHER BASED IN CONTRACT, WARRANTY, STRICT LIABILITY, NEGLIGENCE, TORT, OR OTHERWISE. THE PARTIES AGREE THAT THESE LIMITATION OF LIABILITY ARE AGREED ALLOCATIONS OF RISK CONSTITUTING IN PART THE CONSIDERATION FOR ALCIT'S SALE OF PRODUCTS, SOFTWARE, OR SERVICES TO CUSTOMER, AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES.

C. Confidentiality. In connection with this Agreement, each party may have access to or be exposed to information of the other party that is not generally known to the public, such as software, product plans, pricing, marketing and sales information, customer lists, "know-how," or trade secrets, which may be designated as confidential or which, under the circumstances surrounding disclosure, ought to be treated as confidential (collectively, "Confidential Information"). Confidential Information may not be shared with third parties unless such disclosure is to the receiving party's personnel, including employees, agents, and subcontractors, on a "need-to-know" basis in connection with this Agreement, so long as such personnel have agreed in writing to treat such Confidential Information under terms at least as restrictive as those herein. Each party agrees to take the necessary precautions to maintain the confidentiality of the other party's Confidential Information by using at least the same degree of care as such party employs with respect to its own Confidential Information of a similar nature, but in no case less than a commercially reasonable standard of care to maintain confidentiality. The foregoing shall not apply to information that (1) was known by one party prior to its receipt from the other or is or becomes public knowledge through no fault of the recipient; or (2) is rightfully received by the recipient



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from a third party without a duty of confidentiality. If a recipient is required by a court or government agency to disclose Confidential Information, the recipient shall provide advance notice to other party before making such a disclosure. The obligations with respect to Confidential Information shall continue for two years from the date of disclosure.

D. Indemnification. ALCiT shall defend and indemnify you against any third-party claim or action that Products, Software, Services, or Deliverables (excluding Third-Party Products and open source software) prepared or produced by ALCiT and delivered pursuant to this Agreement infringe or misappropriate that third party's Canadian or U.S. patent, copyright, trade secret, or other intellectual property rights ("Indemnified Claims"). In addition, if ALCiT receives prompt notice of an Indemnified Claim that, in ALCiT's reasonable opinion, is likely to result in an adverse ruling, then ALCiT shall at its option, (1) obtain a right for you to continue using such Products, Deliverables or Software or allow ALCiT to continue performing the Services; (2) modify such Products, Software, Services or Deliverables to make them non-infringing; (3) replace such Products, Software, Services, or Deliverables with a non-infringing equivalent; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product, Deliverables, or Software. Notwithstanding the foregoing, ALCiT shall have no obligation under this Section for any claim resulting or arising from (1) modifications of the Products, Software, Services, Deliverables that were not performed by or on behalf of ALCiT; (2) the combination, operation, or use of the Products, Software, Services, or Deliverables in connection with a third-party product, software, or service (the combination of which causes the claimed infringement); or (3) ALCiT's compliance with your written specifications or directions, including the incorporation of any software or other materials or processes provided by or requested by you. ALCiT's duty to indemnify and defend under this Section 12.d. is contingent upon: (x) ALCiT receiving prompt written notice of the third-party claim or action for which ALCiT must indemnify Customer, (y) ALCiT having the right to solely control the defense and resolution of such claim or action, and (z) your cooperation with ALCiT in defending and resolving such claim or action. This Section 12.d. states Customer's exclusive remedies for any third-party intellectual property claim or action, and nothing in this Agreement or elsewhere will obligate ALCiT to provide any greater indemnity to Customer.

You shall defend and indemnify ALCiT against any third-party claim or action arising out of (1) your failure to obtain any appropriate license, intellectual property rights, or other permissions, regulatory certifications, or approvals associated with technology or data provided by you, or associated with software or other components directed or requested by you to be installed or integrated as part of the Products, Software Services or Deliverables; (2) your breach of ALCiT's proprietary rights as stated in this Agreement; (3) any inaccurate representation regarding the existence of an export license or any allegation made against ALCiT due to your violation or alleged violation of applicable export laws, regulations, or orders; or (4) your providing of (or providing access to) Excluded Data to ALCiT.

Each party shall defend and indemnify the other party against any third-party claim or action for personal bodily injury, including death, to the extent directly caused by the indemnifying party's gross negligence or willful misconduct in the course of performing its obligations under this Agreement.



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E. Independent Contractor Relationship; Assignment; Subcontracting. The parties are independent contractors. No provision of this Agreement will or shall be deemed to create an association, trust, partnership, joint venture or other entity or similar legal relationship between ALCiT and Customer, or impose a trust, partnership or fiduciary duty, obligation, or liability on or with respect to such entities. Neither party will have any rights, power, or authority to act or create an obligation, express or implied, on behalf of another party except as specified in this Agreement. ALCiT has the right to assign, subcontract, or delegate in whole or in part this Agreement, or any rights, duties, obligations or liabilities under this Agreement, by operation of law or otherwise, provided that ALCiT shall remain responsible for the performance of Services under this Agreement. Otherwise, neither party may assign this Agreement without the permission of the other.

F. Force Majeure. Neither party shall be liable to the other for any failure to perform any of its obligations (except payment obligations) under this Agreement during any period in which such performance is delayed by circumstances beyond its reasonable control, such as fire, flood, war, embargo, strike, riot, or the intervention of any governmental authority (a "Force Majeure"). In such event, however, the delayed party must promptly provide the other party with written notice of the Force Majeure. The delayed party's time for performance will be excused for the duration of the Force Majeure, but if the Force Majeure event lasts longer than 30 days, then the other party may immediately terminate, in whole or in part, this Agreement or the applicable Service Agreement by giving written notice to the delayed party.

G. Export Compliance. You acknowledge that the Products, Software, and Services provided under this Agreement, which may include technology and encryption, are subject to the customs and export control laws and regulations of Canada and the United States ("U.S."), may be rendered or performed either in Canada, the U.S., in countries outside of Canada and the U.S., or outside of the borders of the country in which you or your system is located, and may also be subject to the customs and export laws and regulations of the country in which the Products, Software, or Services are rendered or received. You agree to abide by those laws and regulations. You further represent that any software provided by you and used as part of the Products, Software, or Services contains no encryption or, to the extent that it contains encryption, such software is approved for export without a license. If you cannot make the preceding representation, you agree to provide ALCiT with all of the information needed for ALCiT to obtain export licenses from the Canadian government, U.S. Government or any other applicable national government and to provide ALCiT with such additional assistance as may be necessary to obtain such licenses. Notwithstanding the foregoing, you are solely responsible for obtaining any necessary licenses relating to the export of software. ALCiT also may require export certifications from you for software. ALCiT's acceptance of any order for Products, Software, or Services is contingent upon the issuance of any applicable export license required by the Canadian government, the U.S. Government or any other applicable national government; ALCiT is not liable for delays or failure to deliver Products, Software, or Services resulting from your failure to obtain such license or to provide such certification. Each Party agrees to indemnify, defend and hold the other harmless from any third-party claims, demands, or causes of action against the other due to the indemnifying party's violation or alleged violation of the applicable export laws, regulations or orders.



## TERM OF SALE

H. Regulatory Requirements. ALCiT is not responsible for determining whether any Third-Party Product to be used in the Products, Software, or performance of the Services, satisfies the local regulatory requirements of the country to which such Products, Software, or Services are to be delivered, and ALCiT shall not be obligated to provide any Product or Software or perform any Services where the resulting Products, Software, or Services do not satisfy the local regulatory requirements.

I. Entire Agreement; Severability. This Agreement is the entire agreement between you and ALCiT with respect to its subject matter and supersedes all prior oral and written understandings, communications, or agreements between you and ALCiT. Any preprinted terms on your purchase order shall be given no force or effect and no terms of a purchase order that conflict with this Agreement shall be binding on ALCiT. No amendment to or modification of this Agreement, in whole or in part, will be valid or binding unless it is in writing and executed by authorized representatives of both parties. If any provision of this Agreement should be found to be void or unenforceable, such provision will be stricken or modified, but only to the extent necessary to comply with the law, and the remainder of this Agreement will remain in full force and will not be terminated.

J. Updates. ALCiT reserves the right to update this Agreement at any time, effective upon posting an updated version at [www.ALCiT.ca/terms](http://www.ALCiT.ca/terms); however, your rights and obligations shall be as provided in the version of this Agreement executed by you or available to you at the time of your purchase of Products, Software, or Services or, when applicable, renewal of Software or Services.

K. Governing Law. This Agreement, any related Service Agreement, and ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS) BETWEEN CUSTOMER AND ALCiT, including their affiliates, contractors, and agents, and each of their respective employees, directors, and officers arising from or relating to this Agreement, its interpretation, or the breach, termination or validity thereof, the relationships which result from this Agreement (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), ALCiT's advertising, or any related purchase (a "Dispute ") shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to conflicts of law. The parties agree that the UN Convention for the International Sale of Goods will have no force or effect on this Agreement.

L. Venue. The parties agree that any Dispute shall be brought exclusively in the applicable provincial or federal courts located in Toronto, Ontario. Customer and ALCiT agree to submit to the personal jurisdiction of the applicable provincial or federal courts located in the province of Ontario and agree to waive any and all objections to the exercise of jurisdiction over the parties by such courts and to venue in such courts.

M. Bench Trial. The parties agree to waive, to the maximum extent permitted by law, any right to a jury trial with respect to any Dispute.



## TERM OF SALE

N. No Class Actions. NEITHER CUSTOMER NOR ALCIT SHALL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS BY OR AGAINST OTHER CUSTOMERS, OR PURSUE ANY CLAIM AS A REPRESENTATIVE OR CLASS ACTION.

O. Limitation Period. NEITHER PARTY SHALL BE LIABLE FOR ANY CLAIM BROUGHT MORE THAN TWO YEARS AFTER THE CAUSE OF ACTION FOR SUCH CLAIM FIRST AROSE.

P. Dispute Resolution. Customer and ALCIT will attempt to resolve any Dispute through face-to-face negotiation with persons fully authorized to resolve the Dispute or through mediation utilizing a mediator agreed to by the parties, rather than through litigation. The existence or results of any negotiation or mediation will be treated as confidential. Notwithstanding the foregoing, either party will have the right to obtain from a court located in the province of Ontario a temporary restraining order, preliminary injunction, or other equitable relief to preserve the status quo, prevent irreparable harm, avoid the expiration of any applicable limitations period, or preserve a superior position with respect to other creditors, although the merits of the underlying Dispute will be resolved in accordance with this paragraph. In the event the parties are unable to resolve the Dispute within 30 days of notice of the Dispute to the other party, the parties shall be free to pursue all remedies available at law or in equity.

Q. Notices. Notice to ALCIT under this Agreement or any related Service Agreement must be in writing and sent by postage prepaid first-class mail or receipted courier service to the address below or to such other address (including facsimile or e-mail) as specified in writing, and will be effective upon receipt.

A la carte Information System Services Inc. Attn: Contracts Manager

5-12 Goodmark pl. Etobicoke, ON, M9W 6R1

Commercial Terms of Sale (Canada)

Revision Date August 04, 2020

The latest version of this document can be found here:

<https://alcit.com/legal>

END OF AGREEMENT