

ACCUTIVE BASIC SUPPORT TERMS AND CONDITIONS

UNLESS A SEPARATE WRITTEN AGREEMENT IS CURRENTLY IN FORCE BETWEEN YOU AND ACCUTIVE WITH RESPECT TO THE SUBJECT MATTER SET FORTH HEREIN, THESE SUPPORT TERMS APPLY TO SUPPORT AND MAINTENANCE SERVICES FOR ACCUTIVE OFFERINGS PURCHASED BY PURCHASER EITHER DIRECTLY OR THROUGH AN AUTHORIZED PARTNER OF ACCUTIVE. THESE SUPPORT TERMS SUPPLEMENT THE TERMS AND CONDITIONS SET FORTH IN THE END USER LICENSE AGREEMENT WITH PURCHASER. ANY TERMS NOT DEFINED HEREIN SHALL HAVE THE MEANING SET FORTH IN THE END USER LICENSE AGREEMENT. ACCUTIVE SHALL NOT BE BOUND BY ANY TERMS ADDITIONAL TO OR DIFFERENT FROM THOSE SET FORTH IN THESE SUPPORT TERMS THAT MAY APPEAR IN ANY ORDER OR IN ANY OTHER COMMUNICATION.

1) DEFINITIONS

“**Accutive**” means Accutive Technologies LLC, a California limited liability company.

“**Documentation**” means all user manuals, operating manuals, technical manuals, handbooks, installation guides, design documents and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, structure, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Products.

“**Failures**” means any reproducible error or defect in the software or hardware that causes the software or hardware to fail to perform substantially in accordance with the Documentation.

“**Support Help Center**” means the Accutive Technical Support Help Center that can be accessed as described in the Welcome Pack.

“**Support Level**” means the Basic support package referred to in the Order Acknowledgement that Accutive has agreed to make available to Purchaser.

“**Support Period**” means the effective time period for which Purchaser has purchased Support that is confirmed by Accutive in an Order Acknowledgement.

“**Welcome Pack**” means the guide to using Accutive technical support services which may be updated from time to time by Accutive in its sole discretion and is available through Accutive’s Support Services team at sales@accutive.com or support@accutive.com.

2) PROVISION OF SUPPORT SERVICES

Subject to Purchaser or Authorized Partner’s timely payment of all fees owed to Accutive, as applicable, Accutive will provide Support Services to Purchaser during the Support Period and at the Support Level purchased and confirmed by Accutive in an Order Acknowledgment.

3) SUPPORT PERIOD, EXPIRED SUPPORT SERVICES AND SUPPORT SERVICES RENEWAL

- a. The Support Period shall commence and end as of the dates set forth in the Order Acknowledgement.
- b. In the event of termination of Support Services, Purchaser shall not be entitled to any refund for any unused portion of the fees or charges paid for Support Services.
- c. In the event Support Services expire or are otherwise terminated a reinstatement fee of 20% of the list price shall be charged by Accutive to Purchaser or the Authorized Partner. In addition, Purchaser shall warrant that as of the date of the Order for renewal that (to the best of its knowledge) all Products to which the Support Services apply are functioning correctly.

4) SUPPORTED VERSIONS AND END OF LIFE

- a. Unless otherwise specified by Accutive, the provision of Support Services is limited to (a) the current version and (b) the immediately preceding version of the Product. The Accutive product-specific lifecycle

policy and information defining currently supported versions is available upon request from Accutive Technical Support.

- b. Accutive will use commercially reasonable efforts to meet the response times set forth herein.
- c. Access to the Support Help Center e-mail or portal for the provision of Support Services may be suspended for brief periods due to scheduled maintenance and other factors.

5) SUPPORT SERVICES

During the Support Period, Accutive will provide the following Support Services to Purchaser in relation to Software:

- (i) Updating the Documentation as and when necessary.
- (ii) The provision of generally available maintenance Software and Software release notes.
- (iii) The provision, free of charge, during the Support Period, of generally available maintenance updates to the supported versions of the Software as and when available, in accordance with the Support Level purchased.
- (iv) Commercially reasonable efforts to investigate and resolve Failures reported by Purchaser and confirmed by Accutive in accordance with the priority level assigned to the Failure by Accutive in its reasonable discretion and in accordance with the following table:

<u>Support Offering</u>	<u>Basic Support Package</u>
Hours of Coverage	8x5 regional business hours only Regional business hours are the hours of 9 a.m. to 5 p.m. Pacific time.
1 st Response Target	Next business day Response times are calculated from the moment at which Purchaser's request for support first reaches Accutive's customer support email, or Accutive's customer support portal.
Update Frequency	Every other day, provided Accutive has substantive updates to previous communications with Purchaser
Web/Portal Access	Portal support only
Additional Support Options	N/A
Firmware, Minor Updates, Patches, and Stand-alone Software	All updates available at no charge

As used herein, a "Critical Issue" is defined as a Failure that stops the supported software from running, or so severely impacts production use of the supported software that Purchaser's business operations are critically affected and Purchaser cannot reasonably continue work.

A "High Issue" is defined as a Failure that causes a major functional area of the supported software to be unavailable with no reasonable workaround and there is a serious impact on Purchaser's productivity, but production use of the supported

software is continuing and Purchaser can reasonably continue work using the supported software.

A “Medium Issue” is a Failure which causes a major functional area of the supported software to be unavailable or to function other than as specified in the applicable Documentation but a workaround exists; or a Failure causes less significant functions of the supported software to be unavailable or to function other than as specified in the applicable Documentation, with no reasonable Workaround; or a Failure which causes performance slowdowns in the supported software, but where Purchaser can still reasonably continue to work using the supported software.

A “Low Issue” is a Failure which does not affect essential use of the supported software, but which represents a deviation from the applicable Documentation. Examples of such Failures include screen formatting or placement; minor spelling errors; and color errors. A Low Issue shall also include Purchaser requests information, an enhancement, documentation or other clarification or communication regarding the supported software but there is no material adverse impact on the operation of the supported software.

Purchaser shall promptly download, distribute and install all Software maintenance updates as released by Accutive during the Support Period. Purchaser acknowledges that any failure to do so could result in Purchaser’s inability to receive Support Services. Certain updates may require a Hardware upgrade to function properly. Accutive reserves the right to address support requirements in the future by migrating this product to a “form, fit, function” next-generation equivalent.

6) EXCLUSIONS AND DISCLAIMERS

a. CONDITIONS VOIDING SUPPORT SERVICES

For the avoidance of doubt, Accutive will have no obligation to provide Support Services for any conditions attributable to:

- i) use of the Products other than authorized by Accutive;
- ii) any accident, act of nature, unusual physical, electrical or electromagnetic stress, or by any other cause external to the Product or otherwise beyond Accutive’s reasonable control, neglect, misuse, fault or negligence of Purchaser, its employees, agents, contractors or visitors, operator error, or any other third party;
- iii) modifications, alteration or repairs made to the Product by a party other than Accutive or a party authorized by Accutive;
- iv) failure by Purchaser to provide a suitable environment and operating conditions;
- v) any customizable deliverables created by Accutive or third-party service providers specifically for Purchaser as part of professional services;
- vi) installation, operation or maintenance of the Products not in accordance with the instructions supplied by Accutive, including but not limited to, installation, operation or maintenance of the Products on any hardware, operating system or tools (including their specific configurations) that are not compatible with the Products, as made available by Accutive;
- vii) use of the Software or Hardware with other hardware, software or telecommunication interfaces other than those supplied or approved by Accutive or not meeting or not maintained in accordance with

Accutive's specifications as described in the Documentation, unless Accutive has specifically agreed in writing to include such modifications within the scope of the Support Services; or

viii) power, air conditioning or humidity controls, or to failures of storage media not furnished by Accutive or for consumable operating supplies or accessories

b. OTHER EXCLUSIONS

In addition, Accutive shall have no obligation to: i) create or modify custom business roles or reports, or support custom modification to databases, server pages or other code, components or programs; ii) supply personnel to Purchaser's premises; iii) provide software development or coding assistance or use of software developer tool kits to create or develop applications; iv) pay or reimburse Purchaser for expenses relating to the import or export of Products, including custom clearances, inspection certificates, applications and license fees.

c. ADDITIONAL COSTS

To the extent Accutive reasonably determines that a Failure is caused by any condition that is not covered by Support Services pursuant hereto, Accutive may charge Purchaser Accutive's then current hourly fees and costs associated with diagnosing and repairing such Failure.

7) PURCHASER OBLIGATIONS

The Purchaser shall:

- i) promptly report any identified Failure to Accutive by logging in the Support Help Center and submitting a request, documenting it in sufficient detail for Accutive to be able to recreate the Failure;
- ii) use the Product in accordance with the Documentation and promptly and regularly carry out all operator maintenance routines as and where specified;
- iii) use the Product operating supplies and media which comply with Accutive's recommendations;
- iv) permit only Accutive or Accutive's approved agents to adjust, repair, modify, maintain or enhance the hardware or software, save for any operator maintenance specified for Hardware;
- v) Purchaser agrees that it is solely responsible for any and all restoration and reconstruction of lost or altered files, data and programs;
- vi) consistently maintain the environmental conditions recommended by Accutive;
- vii) permit the Products to be used or operated only by properly qualified operators in the employ of or under Purchaser's control;
- viii) install and implement all solutions, corrections, and new releases in accordance with Accutive's installation instructions. Purchaser acknowledges that failure to install such solutions, corrections, and new releases may cause the Software to become unusable or non-conforming and may cause subsequent Failure corrections and updates to be unusable, including, without limitation, any updates provided pursuant hereto. Accutive shall accept no liability for the performance of the Software in respect of Software that has not been installed in accordance with Accutive's installation instructions.

8) ON-SITE WORK

Any provision by Accutive of support and maintenance services on Purchaser's premises are not included hereunder and shall be subject to a separate professional services agreement or statement of work.

9) NON-SOLICITATION

The Purchaser undertakes during the term of the Support Period and for one year after its termination not to solicit, hire, employ or offer employment, directly or indirectly through its affiliates, any of Accutive's employees who have been engaged in providing Support Services pursuant hereto without Accutive's prior written consent; provided, however, that nothing herein shall preclude the hiring of any such individual who (i) responds to general solicitation of employment through an advertisement not directed at such employees of Accutive; (ii) contacts Purchaser on his or her own initiative and without any direct solicitation by Purchaser;

(iii) has terminated employment with Accutive prior to commencement of solicitation of such employee by Purchaser. This Section does not apply where explicitly prohibited by local law and/or regulation.

10) PERSONAL DATA

Accutive may process basic contact information from select Purchaser representatives when providing Support Services pursuant hereto.

11) SYSTEMS AND SECURITY OBLIGATIONS

a. Accutive's helpdesk system may use a third party cloud solution. By using the Support Services, Purchaser authorizes Accutive to store Purchaser's emails and any attached files within the helpdesk in the cloud.

c. Telephone calls made to, or received from, Accutive's support team may be recorded for training or analysis purposes. In addition to the information supplied by Purchaser during a support incident, and to enable operation of the Support Services, Accutive will record limited information about end users and other companies using the Support Services. This includes: Contact email addresses, Contact telephone numbers, Business addresses, Product serial numbers affected.

12) PURCHASER CONTROL AND RESPONSIBILITY

The Purchaser has and will retain sole responsibility for:

a. all information, instructions and materials provided by or on behalf of Purchaser or any authorized user in connection with the Support Services;

b. Purchaser's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Purchaser or through the use of third-party services ("Purchaser Systems");

c. the security and use of Purchaser's and its authorized users' access credentials; and

d. all access to and use of the Support Services and Products directly or indirectly by or through Purchaser Systems or its authorized users' access credentials, with or without Purchaser's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

13) DISCLAIMER OF WARRANTIES

a. ACCUTIVE WARRANTS THAT SUPPORT SERVICES WILL BE PERFORMED IN A PROFESSIONAL AND WORKMANLIKE MANNER. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF ACCUTIVE EXCEED THE FEES PAID BY PURCHASER FOR SUPPORT SERVICES IN THE 12 MONTHS PRECEDING THE DATE OF THE CLAIM. FOR PURPOSES OF THIS SECTION, A "CLAIM" SHALL MEAN, COLLECTIVELY ALL CAUSES OF ACTION, DAMAGES, CLAIMS OR DISPUTES OR SIMILAR REQUESTS FOR COMPENSATION THAT ARE RELATED TO OR ARISE FROM THIS AGREEMENT AND FROM A PARTICULAR EVENT, ACT, OMISSION, FAILURE OR ROOT CAUSE. ACCUTIVE SHALL ONLY HAVE LIABILITY FOR SUCH BREACHES OF WARRANTY IF PURCHASER PROVIDES WRITTEN NOTICE OF THE BREACH TO ACCUTIVE WITHIN THIRTY (30) DAYS OF THE PERFORMANCE OF THE APPLICABLE SUPPORT SERVICES.

b. THIS WARRANTY IS PURCHASER'S EXCLUSIVE WARRANTY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ACCUTIVE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED BY CUSTOM, TRADE USAGE OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR WARRANTY IS GIVEN THAT FAILURES (AS DEFINED HEREIN) WILL BE FIXED OR FIXED WITHIN A SPECIFIED PERIOD OF TIME.

c. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ACCUTIVE BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES WHATSOEVER, OR FOR ANY LOSS OF GOODWILL, LOST PROFITS, LOSS OF BUSINESS OR LOST OPPORTUNITIES IN ANY WAY RELATING TO PROVIDING SUPPORT SERVICES, EVEN IF ACCUTIVE HAS BEEN NOTIFIED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, AND REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

14) ANTI-CORRUPTION AND INFLUENCE PEDDLING

a. The parties shall always act in accordance with the national and foreign laws and regulations applicable to the prevention and detection of risks of corruption and influence-peddling. Whether directly or via third parties, neither party shall propose to any person, or shall accept from any person, any offer, promise, donation, gift or benefit of any kind which would be linked to a misuse that would be made by that person, or that has already been made by that person, of his/her real or supposed influence with a view to obtaining, for itself or for others, a distinction, a job, a contract or any other favorable decision. Neither party shall solicit or accept for itself any offer, promise, donation, gift or benefit of any kind, for the purpose of misusing its influence with a view to making or obtaining any favorable decision.

15) FORCE MAJEURE

a. Accutive shall not be considered in default of performance of its obligations under the Agreement if performance of such obligations is prevented or delayed by any circumstances not within Accutive's reasonable control including, without limitation: acts of God, fire, explosion, flood, storm, terrorist attack, civil war, commotion or riots, war (or threat of war), imposition of sanctions, embargoes or acts of government (including without limitation failure or delay to obtain export licenses), pandemic, labor disputes, failure or delay of transportation, vendors or subcontractors, Accutive's inability to enter Purchaser's premises to fulfill its obligations, or any other similar cause or causes beyond the reasonable control of Accutive. Time of performance of Accutive's obligations hereunder shall be extended by the time period reasonably necessary to overcome the effects of such force majeure occurrences.

16) ENTIRE AGREEMENT

- a. These Support Terms constitute the entire agreement between the parties with respect to the maintenance and support services and supersede and extinguish all previous agreements, promises, conditions, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance, covenant, condition or warranty (whether express or implied, made innocently or negligently) that is not expressly set out in these Support Terms.
- b. If the services required by Purchaser are special services such as installation, commissioning, training, development or management services, any additional terms of Accutive applicable to such services will apply except that in the event of any conflict these conditions shall prevail.