

ALDELO SOFTWARE AS A SERVICE AGREEMENT

IMPORTANT-READ THIS ALDELO SOFTWARE AS A SERVICE AGREEMENT (THIS "AGREEMENT") CAREFULLY BEFORE CONTINUING REGISTRATION. BY CLICKING THE "I ACCEPT" BUTTON OR OTHERWISE ACCEPTING THIS AGREEMENT THROUGH AN ORDERING DOCUMENT THAT INCORPORATES THIS AGREEMENT (THE "ORDERING DOCUMENT"), YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "YOU" AND "YOUR" AS USED IN THIS AGREEMENT SHALL REFER TO SUCH ENTITY, IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE TO ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT, YOU MUST SELECT THE "I DECLINE" BUTTON AND MAY NOT USE THE SERVICES.

- 1. Definitions.** "You" and "your" refers to the individual or entity that has ordered software as a service from Aldelo, L.P. ("ALDELO") or an authorized distributor or authorized reseller by executing the ordering document that accompanies and incorporates this ALDELO software as a service agreement (collectively, the "agreement"). Software as a service consists of system administration, system management, and system monitoring activities that ALDELO performs for ALDELO programs, and includes your right to use the ALDELO programs, and receive support services (if any) for such ALDELO programs, as well as any other services provided by ALDELO, as defined and set forth in the ALDELO ordering document (collectively, the "services"). The term "program documentation" refers to the program user manual as well as any other materials provided by ALDELO as part of the services. The term "ALDELO programs" refers to the software products owned or distributed by ALDELO to which ALDELO grants you access as part of the services, including program documentation, and any program updates provided as part of the services. The term "users" shall mean those individuals authorized by you or on your behalf to use the services, subject to the limitations and as defined in the ordering document. The term "your data" refers to the data provided by you that resides in your services environment. The term "ordering document" refers to any ALDELO ordering document or form signed by (or "accepted by" in the case of online or electronic ordering platforms) the parties that accompanies and incorporates this software as a service agreement, including the services policies and any other document referenced or incorporated into the ordering document.
- 2. Applicability of Agreement.** This software as a service agreement is meant to accompany and provide the applicable terms and conditions of the ordering document which this agreement accompanies.
- 3. Rights Granted.** Upon ALDELO's acceptance of your order and for the duration of the services term defined in the ordering document, you have the nonexclusive, non-assignable, worldwide limited right to use the services solely for your internal business operations and subject to the terms of the agreement and the ordering document, including your payment and/or subscription obligations. You may allow your users to use the services for this purpose and you are responsible for your users' compliance with the agreement. The services are provided as described in, and subject to, the services policies referenced in the ordering document.

You acknowledge that ALDELO has no delivery obligation and will not ship copies of the ALDELO programs to you as part of the services. You agree that you do not acquire under the agreement any license to use the ALDELO programs specified in the ordering document in excess of the scope and/or duration of the services. Unless otherwise extended or renewed in accordance with ALDELO's services ordering procedures (which are subject to change from time to time), upon the end of the term specified in the ordering document or the earlier termination of this agreement as set forth below, your right to access or use the ALDELO programs specified in the ordering document and the services shall terminate.

- 4. Ownership and Restrictions.** ALDELO or its licensors retain all ownership and intellectual property rights to the services and ALDELO programs. ALDELO, or its licensees or assignees as applicable, retains all ownership and intellectual property rights to anything developed and delivered under the agreement, including without limitation, all copyrights, trademarks, tradenames, logos, know-how, concepts, logic and specifications.

Third party technology, images, data, methods, and procedures ("third party content") that may be appropriate or necessary for use with some ALDELO programs is specified in the program documentation or ordering document as applicable. Your right to use such third party content is governed by the terms of third party content agreements between such third party and ALDELO and this agreement shall not alter the terms of such agreements and shall not be deemed to grant you any rights in or license to such third party content, except as expressly provided by this agreement or ALDELO in connection with the provision of the services.

You hereby agree not to:

- remove or modify any program markings or any notice of ALDELO's or its licensors' proprietary rights;
- make the programs or materials resulting from the services available in any manner to any third party for use in the third party's business operations;
- modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the services or the

ALDELO programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by programs), or access or use the services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to the ALDELO programs; and

- license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the services, ALDELO programs or materials available, to any third party other than, as expressly permitted under the terms of this agreement.

The rights granted to you under the agreement are also conditioned on the following:

- the rights of any user approved to use the services pursuant to the ordering document (e.g., on a "named user" basis) cannot be shared or used by more than one individual (unless such right is reassigned in its entirety to another authorized user, in which case the prior authorized user shall no longer have any right to access or use the ALDELO program or the services);
- except as expressly provided herein, no part of the services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording, or other means;
- you agree not to remove any product identification or notices of proprietary restrictions; and
- you agree to make every reasonable effort to prevent unauthorized third parties from accessing the services, the ALDELO programs and the third party content.

- 5. Warranties, Disclaimers and Exclusive Remedies.** ALDELO warrants that the services will perform in all material respects in accordance with the services policies referenced in the ordering document. If the services provided to you for any given month during the services term were not performed as warranted, you must provide written notice to ALDELO as specified in

the ordering document no later than ten (10) days after the last day of that particular month or within the other period stated in the ordering document.

YOU ASSUME FULL RESPONSIBILITY FOR THE SELECTION OF THE PARTICULAR ALDELO SERVICE AND ACCESS TO THE PARTICULAR ALDELO PROGRAM TO ACHIEVE YOUR INTENDED PURPOSES, FOR THE PROPER USE OF THE PROGRAM/SERVICE AND FOR VERIFYING THE RESULTS OBTAINED FROM THE PROGRAM/SERVICE. ALDELO DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE ALDELO PROGRAMS ARE FIT FOR ANY PARTICULAR PURPOSE OR THAT THE OPERATIONS OF THE ALDELO PROGRAMS ARE FIT FOR ANY PARTICULAR PURPOSE.

ALDELO DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT ALDELO WILL CORRECT ALL SERVICE ERRORS. YOU ACKNOWLEDGE THAT ALDELO DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. ALDELO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

YOU AGREE AND ACKNOWLEDGE THAT ALDELO DOES NOT ASSUME ANY RESPONSIBILITY FOR YOUR USE OR MISUSE OF PERSONAL INFORMATION OR OTHER INFORMATION TRANSMITTED, UPLOADED, OR STORED USING THE ALDELO PROGRAMS OR THE SERVICES AND SHALL NOT BE HELD LIABLE FOR ANY DAMAGES RESULTING FROM YOUR USE OR MISUSE OF THIS INFORMATION. FURTHERMORE, YOU AGREE TO INDEMNIFY ALDELO FROM ANY CLAIM, ACTION, OR CAUSE, TORT OR OTHERWISE, THAT MAY BE BROUGHT AGAINST YOU AND/OR ALDELO IN THE EVENT THAT YOUR PERSONALLY-IDENTIFIABLE INFORMATION IS COMPROMISED DUE TO YOUR NEGLIGENCE OR FAILURE TO USE OR CONTROL SECURE ID'S AND PASSWORDS.

FOR ANY BREACH OF THE ABOVE WARRANTIES, ALDELO WILL REMIT A SERVICES FEE CREDIT TO YOU EQUAL TO THE NET MONTHLY FEES FOR THE APPLICABLE SERVICES FOR THE MONTH IN WHICH THE BREACH OCCURRED. THE CREDIT WILL BE PROVIDED ONLY TOWARDS ANY OUTSTANDING BALANCE FOR SERVICES OWED TO ALDELO, AND THE REMITTANCE OF SUCH CREDIT WILL REPRESENT YOUR EXCLUSIVE REMEDY, AND ALDELO'S SOLE LIABILITY, FOR ALL BREACHES OF ANY WARRANTY SPECIFIED IN THE AGREEMENT.

TO THE EXTENT NOT PROHIBITED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS.

6. **Trial Use.** ALDELO may offer free trials of the service from time to time on a limited basis. Any such free trial is provided

“AS IS” during the free trial period and any warranties in the agreement or the ordering document do not apply to such free trial services. Before your free trial period expires, we may contact you and invite you to purchase the service via one of our appointed distributors, resellers or direct sales personnel. By subscribing to the free trial, you expressly acknowledge and agree that we may pass the contact details that you have provided to such distributor, reseller or sales personnel. If you wish to continue to receive the service, please contact ALDELO, distributor or reseller to arrange payment. If you do not purchase the service, your right to access or use the ALDELO programs specified in the ordering document and the services shall terminate.

7. **Indemnification.** If a third party makes a claim against either you or ALDELO (“recipient” which may refer to you or ALDELO depending upon which party received the Material), that any information, design, specification, instruction, software, service, data, or material (“Material”) furnished by either you or ALDELO (“provider” which may refer to you or ALDELO depending upon which party provided the Material), and used by the recipient infringes its intellectual property rights, the provider, at its sole cost and expense, will defend the recipient against the claim and indemnify the recipient from the damages, liabilities, costs and expenses awarded by the court to the third party claiming infringement or the settlement agreed to by the provider, if the recipient does the following:

- notifies the provider promptly in writing, not later than 30 days after the Recipient receives notice of the claim (or sooner if required by applicable law);
- gives the provider sole control of the defense and any settlement negotiations; and
- gives the Provider the information, authority, and assistance the Provider needs to defend against or settle the claim.

If the provider believes or it is determined that any of the Material may have violated a third party's intellectual property rights, the provider may choose to either modify the Material to be non-infringing (while substantially preserving its utility or functionality) or obtain a license to allow for continued use, or if these alternatives are not commercially reasonable, the provider may end the license for, and require return of, the applicable Material and refund any unused, prepaid fees the recipient may have paid to the other party for such Material. If such return materially affects ALDELO's ability to meet its obligations under the relevant order, then ALDELO may, at its option and upon 30 days prior written notice, terminate the order. The provider will not indemnify the recipient if the recipient alters the Material or uses it outside the scope of use identified in the provider's user documentation or services policies or if the recipient uses a version of the Materials which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Material which was provided to the recipient. The provider will not indemnify the recipient to the extent that an infringement claim is based upon (i) any information, design, specification, instruction, software, data, or material not furnished by the provider, or (ii) any Material from a third party portal or other external source that is accessible to you within or from the service (e.g., a third party Web page accessed via a hyperlink). ALDELO will not indemnify you to the extent that an infringement claim is based upon the combination of any Material with any products or services not provided by ALDELO. ALDELO will not indemnify you for infringement caused by your actions against any third party if the services as delivered to you and used in accordance with the terms of the agreement would not otherwise infringe any third party intellectual property rights. ALDELO will not indemnify you for any infringement claim that is based on: (1) intellectual property rights that you were made aware of prior to the effective date of the agreement (pursuant to a claim, demand, or notice); or (2) your actions prior to the effective date of the agreement. This section provides the parties' exclusive remedy for any infringement claims or damages.

8. **Support Services.** Support services provided under the agreement are specified in the services policies referenced in the ordering document.

9. **Term and Termination.** Services provided under this software as a service agreement shall be provided for the period defined in the ordering document unless earlier terminated in accordance with the agreement. The term of the services and any

renewal terms are collectively defined as the "services term." At the end of the services term, all rights to access or use the services, including the ALDELO programs listed in the ordering document, shall end.

If either of us breaches a material term of the agreement and fails to correct the breach within 30 days of written specification of the breach, then the breaching party is in default and the non-breaching party may terminate the applicable services term under which the breach occurred. If ALDELO ends the services term as specified in the preceding sentence, you must pay within 10 days all amounts which have accrued prior to such end, as well as all sums remaining unpaid for the services ordered under the agreement plus related taxes and expenses. If ALDELO ends the services under the Indemnification section (Section 7 above), you must pay within 10 days all amounts remaining unpaid for services plus related taxes and expenses. The nonbreaching party may agree in its sole discretion to extend the 10 day period for so long as the breaching party continues reasonable efforts to cure the breach. You agree that if you are in default under the agreement, you may not use the services ordered or the ALDELO programs.

In addition, ALDELO may immediately suspend your password, account, and access to or use of the services (i) if you fail to pay ALDELO as required under the agreement and do not cure within the 10 day cure period, or (ii) if you violate any provision of this agreement. Any suspension or termination by ALDELO of the services under this paragraph shall not excuse you from your obligation to make payment(s) under the agreement.

You agree and acknowledge that except as may otherwise be required by law, ALDELO has no obligation to retain your data and that your data may be irretrievably deleted after 10 days following the termination of the ordering document.

You agree and acknowledge that Sections 4, 5, 7, 9-13, 15, 17, and 19-22 (as well as others which by their nature are intended to survive) shall survive termination or expiration of the agreement indefinitely.

- 10. Fees and Taxes.** You agree to pay for all services ordered as set forth in the applicable ordering document. All fees due under the agreement are non-cancelable and the sums paid nonrefundable. You agree to pay any sales, value-added or other similar taxes imposed by applicable law that ALDELO must pay based on the services you ordered, except for taxes based on ALDELO's income. You will reimburse ALDELO for reasonable expenses related to providing any on-site portion of the services, if any, as set forth in the ordering document. Fees for services listed in an ordering document are exclusive of taxes and expenses. All amounts invoiced hereunder are due and payable on the date of the invoice.

You agree that you have not relied on the future availability of any services, programs or updates in entering into the payment obligations in the ordering document; however, the preceding does not relieve ALDELO of its obligation to deliver services that you have ordered per the terms of the agreement.

- 11. Nondisclosure.** By virtue of the agreement, the parties may have access to information that is confidential to one another ("confidential information"). We each agree to disclose only information that is required for the performance of obligations under the agreement. Confidential information shall be limited to the terms and pricing under the agreement, your data residing in the services environment, and all information clearly identified as confidential at the time of disclosure.

A party's confidential information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; (d) is independently developed by the other party; or (e) is used by ALDELO for the purpose of data aggregation, trend analysis, and market analysis conducted anonymously without having you or your company name identified as the source of such analytics.

We each agree to hold each other's confidential information in confidence indefinitely. Also, we each agree to disclose confidential information only to those employees or agents who are required to protect it against unauthorized disclosure in a manner no less protective than under the agreement. ALDELO will protect the confidentiality of your data residing in the services environment in accordance with the ALDELO security practices specified in the services policies referenced in the ordering document. Nothing shall prevent either party from disclosing the terms or pricing under the agreement in any legal proceeding arising from or in connection with the agreement or from disclosing the confidential information to a governmental entity as required by law.

- 12. Entire Agreement.** You agree that the agreement (including the information which is incorporated into the agreement by written reference and including reference to information contained in a URL or referenced policy), is the complete agreement for the services ordered by you, and that the agreement supersedes all prior or contemporaneous agreements or representations, written or oral, regarding such services. If any term of the agreement is found to be invalid or unenforceable, the remaining provisions will remain effective and such term shall be replaced with a term consistent with the purpose and intent of the agreement. It is expressly agreed that the terms of the agreement, including any ordering document, shall supersede the terms in any purchase order or other documents. The agreement may not be modified and the rights and restrictions may not be altered or waived except in a writing signed or accepted online by authorized representatives of you and of ALDELO.
- 13. Limitation of Liability.** YOU AGREE THAT YOU USE THE SERVICE AT YOUR OWN RISK. NEITHER YOU, ALDELO OR ANY AFFILIATE OF ALDELO SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS (EXCLUDING FEES UNDER THE AGREEMENT), DATA, OR DATA USE. ALDELO'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS SOFTWARE AS A SERVICE AGREEMENT OR YOUR ORDER, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID TO ALDELO FOR THE SERVICES UNDER THE ORDER THAT IS THE SUBJECT OF THE CLAIM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. ANY DAMAGE IN YOUR FAVOR AGAINST ALDELO SHALL BE REDUCED BY ANY REFUND OR CREDIT RECEIVED BY YOU UNDER THE AGREEMENT AND ANY SUCH REFUND AND CREDIT SHALL APPLY TOWARDS THE LIMITATION OF LIABILITY. NOTWITHSTANDING THE FOREGOING, ALDELO DOES NOT LIMIT ITS LIABILITY IN RELATION TO FRAUD, DEATH, OR PERSONAL INJURY.

- 14. Export.** Export laws and regulations of the United States and any other relevant local export laws and regulations may apply to the services. You agree that such export control laws govern your use of the services (including technical data) and any services deliverables provided under this agreement, and you agree to comply with all such export laws and regulations (including "deemed export" and "deemed re-export" regulations). You agree that no data, information, software programs

and/or materials resulting from services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws.

15. **Miscellaneous.**

- ALDELO is an independent contractor and we agree that no partnership, joint venture, or agency relationship exists between us.
- You shall obtain at your sole expense any rights and consents from third parties necessary for ALDELO and its subcontractors to perform the services under the agreement.
- The agreement is governed by the substantive and procedural laws of California and you and ALDELO agree to submit to the exclusive jurisdiction of, and venue in, the courts in Alameda county in California in any dispute arising out of or relating to the agreement.
- If you have a dispute with ALDELO or if you wish to provide a notice under the Indemnification section of this software as a service agreement, or if you become subject to insolvency or other similar legal proceedings, you will promptly send certified written notice to: Aldelo, L.P., 6800 Koll Center Parkway, Suite 310, Pleasanton, CA 94566, Attention: Legal Department. ALDELO may give notice applicable to ALDELO's software as a service customer base by means of a general notice on the ALDELO portal for the services, and notices specific to you by electronic mail to your e-mail address on record in ALDELO's account information or by written communication sent by first class mail or pre-paid post to your address on record in ALDELO's account information.
- You may not assign the agreement or give or transfer the services or an interest in them to another individual or entity.
- ALDELO may audit your use of the services. You agree to cooperate with ALDELO's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with your normal business operations. You agree to pay within 10 days of written notification any fees applicable to your use of the services in excess of your rights. If you do not pay, ALDELO may, in addition to other legal remedies available to it, end your services and/or the agreement.

16. **Force Majeure.** Neither of us shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party. We both will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 30 days, either of us may cancel unperformed services upon written notice. This section does not excuse your obligation to pay for the services.

17. **Your Data.** You agree to provide any notices and obtain any consents related to your use of the services and ALDELO's provision of the services, including those related to the collection, use, processing, transfer and disclosure of personal information. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and ownership of all of your data.

Upon termination of this agreement, any Data hosted by ALDELO in its data centers may be irrevocably deleted 10 days after the termination date. If you wish to continue to gain access to such Data hosted by ALDELO in its data centers, you must reinstate the services under this agreement and be accepted by ALDELO prior to the 10 day period before the irrevocable Data deletion. You agree that ALDELO is not obligated and will not provide any of the services' software and Data hosted in its data centers to you for download, backup, or offsite retrieval (except as allowed within the services' described features while this agreement is valid, such as report exports) during and after the term of this agreement.

18. **Restrictions on Use of the Services.** You agree not to use or permit use of the services, including by uploading, emailing, posting, publishing or otherwise transmitting any material, for any purpose that may (a) menace or harass any person or cause damage or injury to any person or property, (b) involve the publication of any material that is false, defamatory, harassing or obscene, (c) violate privacy rights or promote bigotry, racism, hatred or harm, (d) constitute unsolicited bulk e-mail, "junk mail", "spam" or chain letters; (e) constitute an infringement of intellectual property or other proprietary rights, or (f) otherwise violate applicable laws, ordinances or regulations. In addition to any other rights afforded to ALDELO under the agreement, ALDELO reserves the right to remove or disable access to any material that violates the foregoing restrictions. ALDELO shall have no liability to you in the event that ALDELO takes such action. You agree to defend and indemnify ALDELO against any claim arising out of a violation of your obligations under this section.

19. **Services Tools.** ALDELO may use tools, scripts, software, and utilities (collectively, the "tools") to monitor and administer the services and to help resolve your ALDELO service requests. The tools will not collect, report or store any of your data residing

in the service production environment, except as necessary to troubleshoot service requests or other problems in the service. Data collected by the tools (excluding production data) may also be used to assist in managing ALDELO's product and service portfolio and for license management. You agree that (a) except as set forth in the following paragraph, you may not access or

use the tools, and (b) you will not use or restore the tools from any tape backup at any time following termination of the agreement.

20. **Statistical Information.** ALDELO may compile statistical information related to the analytics and performance of the services, and may make such information publicly available, provided that such information does not include your company's name. ALDELO retains all intellectual property rights in such information.

21. **Third Party Web Sites, Content, Products and Services.** The services may enable you to add links to Web sites and access to content, products and services of third parties, including users, advertisers, affiliates and sponsors of such third parties. ALDELO is not responsible for any third party Web sites or third party content provided on or through the services and you bear all risks associated with the access and use of such Web sites and third party content, products and services.

22. **Customer Reference.** You agree (i) that ALDELO may identify you as a recipient of services and use your logo in sales presentations, marketing materials and press releases, and (ii) to develop a brief customer profile for use by ALDELO on ALDELO's Web sites for promotional purposes.