



EZLYNX TERMS OF SERVICE

1. ADVISORY.

PLEASE NOTE THAT OUR TERMS OF SERVICE WERE UPDATED ON MARCH 31, 2022, AND THAT THE UPDATED TERMS WILL APPLY TO: (1) ALL ORDERS MADE AFTER THIS DATE; (2) ALL ORDERS (A) WHICH ARE SUBJECT TO DIFFERENT TERMS AND CONDITIONS THAT ALLOW THE MODIFICATION THEREOF BY POSTING SUCH MODIFICATIONS THROUGH THE SERVICE, OR (B) IN OR FOR WHICH LICENSEE HAS AFFIRMATIVELY ACCEPTED THESE TERMS, INCLUDING THROUGH THE SERVICE BY "CLICK TO ACCEPT"; (3) ALL ORDERS EFFECTIVE PRIOR TO THIS DATE, EXCEPT THAT THESE TERMS WILL NOT APPLY UNTIL THE START OF THE NEXT RENEWAL PERIOD UNLESS CONDITION (A) OR (B) ABOVE IS MET; AND (4) ANY USE OF THE SOFTWARE NOT SUBJECT TO AN ORDER. THESE TERMS WILL SUPERSEDE AND REPLACE OTHER TERMS AND CONDITIONS IN SUCH ORDERS TO WHICH THESE TERMS WILL APPLY.

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BY USING OR ORDERING ANY SOFTWARE OR PROFESSIONAL SERVICES, (A) YOU ACCEPT AND AGREE TO BE BOUND BY THESE TERMS, (B) YOU REPRESENT THAT YOU HAVE FULL POWER AND AUTHORITY TO ENTER INTO THE AGREEMENT (INCLUDING, IF YOU ARE ENTERING INTO THE AGREEMENT ON BEHALF OF ANOTHER PERSON, TO BIND THAT PERSON TO THIS AGREEMENT) AND PERFORM ALL APPLICABLE OBLIGATIONS UNDER IT, AND (C) YOU REPRESENT THAT YOUR EXECUTION AND PERFORMANCE OF THE AGREEMENT WILL NOT CONFLICT WITH OR OTHERWISE VIOLATE ANY APPLICABLE LAWS OR OTHER AGREEMENT TO WHICH YOU MAY BE BOUND. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SOFTWARE.

THE TERMS AND CONDITIONS OF THIS AGREEMENT CONTROL TO THE EXTENT THEY DIRECTLY CONFLICT WITH ANY TERMS OR CONDITIONS CONTAINED IN ANY PRIOR AGREEMENT, INCLUDING PRIOR SCHEDULES, PROPOSALS, LICENSES, ADDENDA, AND/OR ORDERS, BETWEEN LICENSEE AND APPLIED, UNLESS OTHERWISE STATED THEREIN.

2. AGREEMENT & CONSTRUCTION

- 2.1. **Subject of Agreement.** The specific Applied Software and related services obtained by Licensee from APPLIED are set forth the applicable Order and/or replacements and supplements thereto. Access to this Applied Software and related Services is subject to the terms of this Agreement. Capitalized terms not defined elsewhere in the Agreement shall have the meaning given to them in Section 15 (*Definitions*) herein. All terms not defined herein will be given their ordinary meaning.
- 2.2. **Orders.** Once the parties complete and execute an Order, it shall be governed by the Agreement and: (a) Applied will provide the Software and services to Licensee in accordance with the applicable Order; and (b) Licensee is granted a license to use the Software and services as set forth in the Agreement. Unless otherwise specified in writing, all Software will be delivered electronically.
- 2.3. **Modifications.** Modifications to terms of the Agreement will not be effective unless agreed to by both parties through: (a) execution of Attachments; (b) payment of invoices containing additional terms related thereto or (c) acceptance of terms through a "click-wrap" mechanism in the Software, posting amended terms on the EZLynx One Platform, or other electronic agreements. To the extent a direct conflict occurs between the terms of this Agreement and any Attachment, the following priority of documents shall control: 1st: Order; 2nd: Statement of Work (SOW); 3rd: any other Attachment; 4th: this or any other any electronic agreements; and 5th: the Master Agreement.

3. LICENSE GRANT & ACCESS

- 3.1. **Access to Software.** As specified in an Order, Applied hereby grants to Licensee a limited, non-sublicensable, non-transferable, non-exclusive right during the Initial Term and then until terminated pursuant to Section 13.1 herein, to allow Users to access the Software via the Cloud Environment solely for the Permitted Use, except during Maintenance, Downtime, a Force Majeure Event, and any suspension or termination of Licensee's or a User's access as permitted by the Agreement.
- 3.2. **Named Basis.** Users are provisioned on a Named Basis only, must be located in the Territory, and must be Licensee's Employees. Incidental access to the Software by Licensee's Employees or Professional Advisors is permitted where: (a) the Employee is performing tasks principally related to internal network/systems administration and not to Licensee's internal insurance operations; and (b) the Professional Advisor is providing its professional services to Licensee in connection with Licensee's general business operations, such as auditing, and not to Licensee's insurance operations. If Licensee wishes to disclose or provide access to the Software to a third party providing technical services, then Licensee, the third-party consultant, and Applied shall first execute an "*Acknowledgement Form for Third-Party Consultants or Programmers*".
- 3.3. **License to Work Product.** Effective upon completion of the Professional Services under an SOW and payment in full by Licensee of the fees and expenses related to such Professional Services, Applied grants to Licensee a personal, non-transferable, non-sublicensable, non-exclusive, and limited license to use the resulting Work Product solely for the Permitted Use in the Territory.
- 3.4. **Extended Solutions.** Except as otherwise noted, Extended Solutions are *optional* and there is no obligation on the part of Licensee to license them. If an Extended Solution is licensed in an Order(s), each Extended Solution is licensed in accordance with terms of the Agreement and Product Terms. Unless otherwise specified in writing, licenses to all Extended Solutions are not perpetual, are subject to an Initial Term, and require the payment of on-going fees.
- 3.5. **Testing Licenses.** Pursuant to an Order, Licensee may: create, retain, and use the specified number of test copies of the Software for Testing so long as (a) such use and access is for Non-Production use only, (b) the number of "test" concurrent users in aggregate among all Testing licenses does not exceed the number of Users licensed to Licensee for "production" or "live" use; and (c) Licensee remains current on fees for the same or equivalent Software that is in production use.
- 3.6. **Restrictions.** Except as expressly authorized herein or by Applied in writing, Licensee shall NOT: (a) remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that appear in or on any Software; (b) disassemble, decompile, reverse-engineer, modify, transform, otherwise translate, or attempt to gain unauthorized access to the Software, including the source code; (c) except as expressly provided by Section 3.2, allow a non-Employee to access the Software; (d) use the Software as part of a third-party "private labeling" or "white labeling" transaction; (e) create derivative works, license, sublicense, resell, lease, lend, distribute, publish, duplicate, reproduce, assign, transfer or otherwise make available the Software, Work Product, or Documentation to any third party, in whole or part; (f) use the Software for purposes of benchmarking, competitive analysis, or for developing, using or providing a competing software product, or service; (g) bypass or breach (or attempt to do so) any security device or protection used by or contained in the Software, or (h) allow another entity or person to do any of the foregoing. All rights not expressly granted to Licensee in the Agreement are reserved by Applied and its licensors. Use of Applied's websites and customer portal are also subject to the Applied Privacy Policy.
- 3.7. **License Pursuant to Migration.** For twelve (12) months following the Activation of new Primary Software pursuant to a Migration, Applied grants Licensee a non-transferable, non-exclusive, non-perpetual, temporary, limited license to use and access the Former Primary Software, together with related Documentation, for Non-Production use only. Licensee shall not use the Former Primary Software to process new business or to enter new



data. The number of Users allowed to access the Former Primary Software shall be limited to one (1) for every fifteen (15) Users licensed for the new Primary Software. Data Conversion Services may be required in order for Migration. Migrations are subject to the Professional Services Terms.

4. INTELLECTUAL PROPERTY

4.1. **Ownership.** All right, title, and interest, including copyright and other intellectual property rights, in and to the Software and Documentation, and all graphics, user interfaces, logos, and trademarks in or on the same, are and shall remain the property of Applied or its licensors. All right, title, and interest, including copyright interests and any other intellectual property rights, in and to Work Product are and shall remain the exclusive property of Applied. Applied Software and Work Product is not and shall not be considered a "work made for hire" (as defined in the U.S. Copyright Act (17 U.S.C. §101 et seq.)) or a work made in the course of employment (as codified in the Canadian Copyright Act (R.S.C., 1985, c. C-42 §13(1)(3)), regardless of Territory. All Updates, as well as ideas or suggestions made by Licensee for program improvements, shall be the property of Applied and subject to the Agreement.

4.2. **Modifications and Assignment.** Licensee is not authorized to make any derivative works, modifications of, or implement any program improvements to any Applied intellectual property, including without limitation, the Applied Software. To the extent Licensee violates this Section 4.2, Licensee automatically assigns to Applied, upon creation, all right, title, and interest in and to such materials, including copyright and any other intellectual property interests, without the necessity of further consideration and without any claim that Applied has waived Licensee's breach of this provision.

4.3. **Unauthorized Use.** Applied does not grant Licensee any license or rights in or to the Software, Work Product, or any of its components except as specifically stated herein. Licensee agrees that the Software constitutes, embodies, and/or contains valuable trade secrets, proprietary information, and other Confidential Information owned by Applied or its licensors and that any use or disclosure to third parties not specifically authorized in writing by Applied or its licensors is prohibited.

5. LICENSEE OBLIGATIONS

5.1. **Acceptable Use.** Licensee shall access and use the Software in compliance with Applied's current Acceptable Use Policy (AUP) and all applicable laws and regulations. Applied reserves the right to delete, move, or edit any content that Applied may determine, in its sole but reasonable discretion, violates the AUP or is otherwise inappropriate.

5.2. **Cooperation and Non-Compliance.** Licensee will use the Applied Software in accordance with the minimum hardware, software, configuration, and connectivity requirements described in the Documentation for the corresponding version of the Applied Software utilized by Licensee. Licensee agrees to reasonably and timely cooperate with Applied in providing Licensee with the Software and Professional Services. Applied reserves the right, in its discretion, to withhold, restrict, suspend, or terminate access to Software, Support, or Professional Services if Licensee is in non-compliance with the Agreement, including the failure to pay any fees. These actions are not exclusive, and Applied reserves its right to exercise other legal rights or courses of action as provided in the Agreement or at law.

5.3. **Licensee Data Warranty.** Licensee warrants that it has the sufficient rights, interest, and authority for the use, collection, disclosure, and access of/to the Licensee Data as contemplated by the Agreement. Licensee will hold harmless, defend, and indemnify Applied and third-party service providers for any damages or third-party claims resulting from Licensee's breach of the foregoing warranty and any arrangement or dispute between Licensee, its current and former officers, directors, managers, partners, members, employees, and agents, Users, consultants, and/or customers regarding same. As between the parties, Licensee shall have sole ownership of, and responsibility for, the accuracy, legality, integrity, and suitability of Licensee Data, and Applied makes no claim of ownership in or to any Licensee Data.

5.4. **Other Obligations.** Licensee agrees that it is solely responsible for ensuring the compatibility of the Software with its business system requirements at all times. Licensee is responsible for securing and maintaining the confidentiality of passwords to the Software and in no event will Applied be liable for any delay or damages caused by invalid passwords or unauthorized use of the Software resulting from the misappropriation or unauthorized sharing of passwords or account information.

6. THIRD-PARTY PROGRAMS & SOFTWARE CONNECTIVITY

6.1. **Third-Party Programs.** Applied may distribute (or deploy in the Cloud Environment) certain Third-Party Software and products to Licensee or Applied Software may Integrate, Connect, incorporate, or interact with certain Third-Party Software. Licensee's use of such Third-Party Software or programs is subject to the terms, conditions, and warranties (if any) that are made solely by the applicable third-party provider or licensor. Certain Third-Party Software and products provided (such as Microsoft products) or distributed by Applied are listed on and subject to the Product Terms, however, some Third-Party Software may require the parties to agree in writing to a separate license agreement, presented via an Attachment at the time of licensing. Some Third-Party Software providers and their affiliates and subcontractors may be located outside of the Territory and Licensee expressly consents to the transfer and hosting of Licensee Data in and to such locations and third parties as may be necessary to provide the Third-Party Software.

6.2. Data Transport & Software Connectivity.

(A) **Connectivity.** Applied provides various authorized means of importing or exporting data to/from the Applied Software, including: (i) to/from Participating Companies via Connectivity, (ii) via Integration, (iii) using existing functionality within the Applied Software to translate data into other formats, or (iv) as a separately licensed product or service. If Licensee chooses to use Connectivity or Integration, it may involve disclosure of Licensee Data to a third party; any such disclosure is done by Licensee and/or by Applied at Licensee's direction (which Licensee expressly permits). Other Integrations, Connectivity, use of tools, utilities, or SDKs by Licensee in order to facilitate certain Integrations or connections are prohibited without Applied's prior written consent.

(B) **Limitations.** Licensee shall only use the Applied Software to Integrate, Connect, or import/export data as provided for herein and shall not do so in a way that has the effect of reducing the number of Users that Licensee would otherwise be required to obtain. Applied reserves the right to establish mechanisms within the Applied Software to block or limit unauthorized data import or export and/or modification to database tables or structures. Participating Companies and approved transactions networks may also have certain requirements for Connectivity, and it is Licensee's responsibility to obtain and satisfy those requirements and configurations. Applied cannot obligate any insurance company or third party to Connect or Integrate with the Applied Software.

7. FEES

7.1. **Fees, Payment, and Taxes.** Licensee shall pay the fees as specified in the applicable Order. All fee amounts are stated in U.S. dollars, unless the Licensee (as defined in the Master Agreement) is located in Canada, in which case, such amounts are stated in Canadian dollars. Unless otherwise stated in an Order, fees for Software and Professional Services are to be paid in advance, are subject to Applied's then-current rates, and shall be paid in accordance with the invoice. All fees are exclusive of taxes, non-refundable, and earned upon receipt. Applied may increase fees subject to providing Licensee thirty (30) days prior written notice. Notwithstanding anything to the contrary herein, if Applied provides Licensee with access to Software or Work Product prior to Licensee's full payment of the applicable fees, then Licensee shall only obtain a temporary, non-transferable, non-exclusive, and limited license, which may be terminated by Applied at any time until full payment is received. Licensee shall pay any and all customs, sales, use, property, excise, or other taxes due or assessed in connection with Licensee's acquisition of license(s) to the Software and Professional Services, exclusive of taxes based on Applied's income. If Applied has a legal obligation to pay or collect taxes for which Licensee is responsible under the Agreement, the appropriate amount, as determined by Applied in good faith, shall be invoiced to and paid by Licensee unless Licensee provides Applied with a valid tax exemption certificate authorized by the appropriate taxing authority. Any late payments are subject to a service charge equal to an annual rate of 15% (calculated on a monthly basis) or the maximum amount allowed by law, whichever is less. Licensee shall reimburse Applied for all reasonable costs incurred in collecting outstanding amounts including collection agency fees, court costs and attorneys'



fees. If Licensee terminates a license to particular Applied Software and later requests reinstatement, Applied may require payment for missed fees, reinstatement fees or repurchase of products or services.

- 7.2. **License Use Assessment.** Applied may confirm that Licensee has not exceeded the scope of the terms and conditions of its license(s) through Internet or other network-based connections. If an assessment reveals that Licensee underpaid any amounts owing under the Agreement, or is otherwise out of compliance with the provisions of the Agreement, Licensee will immediately pay all amounts owing or take such measures as are required to bring itself into compliance with the provisions of the Agreement. Each such assessment shall be performed at Applied's expense, unless such audit reveals an underpayment in excess of 5%, in which case Licensee shall additionally pay Applied's reasonable expenses incurred in conducting such assessment.
- 7.3. **Professional Services Fees.** Unless otherwise agreed to in writing, Professional Services purchased by Licensee will be charged on a time and material basis plus reasonable out-of-pocket expenses, including travel expenses (e.g., costs for transportation, lodging, and meals) as per the then-current Applied travel policy (available upon request). Applied agrees to provide Licensee upon request with access to such receipts and other records as may be reasonably appropriate for Licensee or its accountants to verify the amount and nature of any such expenses.

8. SUPPORT

- 8.1. **Support.** Applied provides Support and Updates for Applied Software. Support may be provided by any of Applied's group company Affiliates, including outside of Support Hours. Applied reserves the right to modify or change the frequency, type, or other terms of Support upon prior written notice. Applied will make Updates to the Software available to Licensee as they become available. Licensee's failure to install available Updates for Software may affect the operation of Applied Software and Applied's ability to effectively provide Support. Support may be limited for older versions of the Software and Extended Solutions. In no case shall Applied be responsible or obligated to provide technical support for any Third-Party Software.
- 8.2. **Error Notification.** If errors or technical issues are discovered by Licensee, the Applied Support team must be notified of Licensee's findings with sufficient detail so that the problem can be replicated. Once the Applied Support team has identified and replicated the problem and determined that the error originates from the Applied Software, Applied may record the error in a tracking database. During Support Hours, Applied shall troubleshoot and attempt to correct, cure, or provide a "work around" solution for significant errors, which shall be conducted according to Applied's ordinary programming methods and procedures, and of which Applied shall maintain sole and exclusive control. Applied makes no warranty for specific repair times for any particular error, and not all errors may be corrected. Any programming modifications or corrections made for the exclusive benefit of Licensee or other end users shall not be construed as defects or omissions.
- 8.3. **Maintenance of Cloud Environment.** During certain times, Maintenance will be performed on the Cloud Environment. During Maintenance, the Cloud Environment and/or Software may be inaccessible or inoperable. Maintenance typically occurs overnight; however, due to the nature or urgency of certain activities being performed, these times may be expanded.
- 8.4. **Service Level.** Excluding Maintenance, if Applied discovers or is notified by Licensee of any interruption of Licensee's access to the Cloud Environment, Applied shall use all commercially reasonable efforts to (a) determine the source of the problem and (b) with the exception of Downtime, either resolve the inaccessibility within two (2) hours of determining its cause or notify Licensee within the same time period as to when a resolution will be available. If Applied believes the source of the problem is attributed to Downtime, Applied shall use commercially reasonable efforts to notify the party/parties it believes is responsible and cooperate thereafter with such party/parties to resolve such problems as soon as practicable.

9. PROFESSIONAL SERVICES

- 9.1. **Generally.** Any acquired Professional Services are set forth in an Order or in one or more SOWs. Requested services outside the scope of the SOW will require a modified or additional SOW and may require additional fees.
- 9.2. **Logistics of Professional Services.** Professional Services will be performed at Applied's location unless otherwise agreed by the parties in writing. Licensee shall ensure that appropriate personnel who are familiar with the scope of the work to be performed are reasonably available during performance of the Professional Services. Scheduling of Professional Services will be completed in consultation with Licensee. Applied may postpone dates for Professional Services if it determines, in its reasonable judgment, that Licensee requires additional time to prepare for Activation of Applied Software.
- 9.3. **Data Conversion Services.** Data Conversion Services are subject to the Professional Services Terms and the Professional Services warranty in Section 11.1.
- 9.4. **Failure to Accept Full Delivery.** If Licensee does not accept full delivery of Professional Services within twelve (12) months after purchase, the cost of those Professional Services may be re-priced to reflect Applied's then-current pricing. Licensee will be responsible for paying any price difference in order to receive the impacted Professional Services. After twenty-four (24) months, if Licensee has not accepted full delivery of Professional Services, they shall be forfeited.

10. CONFIDENTIALITY & DATA SECURITY

- 10.1. **Use & Disclosure of Confidential Information.** Confidential Information will be treated in the same manner that the receiving party protects its own confidential information, but not less than is reasonable under the circumstances (or as required by law) without regard to whether the information received satisfies the statutory definition of a "trade secret". Confidential Information disclosed under the Agreement may be used by the receiving party only for the purpose for which it was disclosed or as otherwise permitted by the Agreement. Each party shall disclose Confidential Information received by such party under the Agreement only as permitted by the Agreement and only to those of their Employees, or Professional Advisors, with a need to know and who are subject to confidentiality obligations consistent with those set forth in this Master Agreement. Each party shall be liable for violations of the obligations in this Section of this Master Agreement by its Employees and Professional Advisors.
- 10.2. **Exceptions.** There shall be no legal obligation on the receiving party to treat as confidential any information which: (a) is or has become generally available to the public or well known in the trade other than as a result of any breach of the Agreement; (b) represents generic insurance industry standards, techniques, formulae, terms, and conditions; (c) is or has become lawfully known to the receiving party from sources other than the disclosing party; or (d) was independently developed by the receiving party without reference to the information disclosed.
- 10.3. **Compelled Disclosure.** Notwithstanding anything to the contrary herein, a party may disclose Confidential Information received from the other party to the extent it is required to be disclosed by law or by judicial or regulatory process. This disclosure is subject to the receiving party promptly notifying the disclosing party in writing to allow the disclosing party a reasonable opportunity to seek a protective order before the required disclosure. The receiving party shall provide reasonable assistance, at the disclosing party's expense, to the disclosing party in its efforts to seek a protective order and otherwise comply with the terms of any protective order placed in effect. For avoidance of doubt, any Confidential Information disclosed by the receiving party shall remain subject to the terms and obligations of the Agreement both before and after such required disclosure.
- 10.4. **Maintenance of Licensee Data.** Applied will maintain commercially reasonable back-up and recovery procedures designed to include Licensee Data contained within the Software deployed via the Cloud Environment. Applied will use commercially reasonable efforts to reconstruct any Licensee Data that has been lost or damaged by Applied. At Licensee's request, Applied will make a copy of the Licensee Data in Applied's possession and send it to Licensee, for which Applied will charge Licensee for time, materials, and shipping.
- 10.5. **Treatment of Information.** Applied, Applied's Affiliates, and its or their Employees, may collect, use, store, and disclose Information and Personal Information for the Purposes, and as otherwise required or permitted by law, the Agreement, or the Applied Privacy Policy. Applied may compile, store, extract, and/or modify identifiable and non-aggregated Information collected from Licensee and its authorized User(s) and render it Non-Identifiable Data. Applied shall own all right, title, and interest in and to the Non-Identifiable Data. Unless otherwise expressly set out in the Agreement or required by law, Information that has not been rendered in a form that is Non-Identifiable Data may only be used by Applied for the Purposes.



- 10.6. **Data Security and Safeguards for Personal Information.** Beginning on the Effective Date and continuing so long as Applied possesses or otherwise has access to Personal Information, Applied (as part of its information security program, practices, and policies) shall maintain appropriate administrative, technical, and physical safeguards and restrictions reasonably designed to: (a) ensure the security, confidentiality, and integrity of Personal Information; (b) protect against any anticipated threats or hazards to the security or integrity of Personal Information; and (c) protect against unauthorized access to or use of such Personal Information that could result in substantial harm or inconvenience to any customer. Such safeguards and restrictions shall include regular monitoring, appropriate disposal methods, and shall be materially consistent with the security requirements and safeguards for protection of Personal Information as set forth in applicable federal, state, and provincial privacy law, as each may be amended from time to time. Applied shall notify Licensee, as soon as reasonably possible (and in compliance with applicable laws), by telephone or e-mail, confirmed by written notice, of any use or disclosure of Personal Information that is materially contrary to the authorizations or obligations in the Agreement, or of any unauthorized access to or acquisition of data that materially compromises the security, confidentiality, or integrity of the Personal Information of which it becomes aware and which creates a substantial risk of identity theft, fraud or other harm against one or more of Licensee's customers. For avoidance of doubt, neither this section nor the Agreement is intended to, and does not, confer any rights or remedies upon any person or entity other than the named parties.
- 10.7. **Periodic Risk Assessments.** Not to exceed once per year, Licensee may request and Applied shall provide its Due Diligence Package. Licensee shall refer to and review the Due Diligence Package to answer Licensee's questions relating to its risk assessment.
11. **REPRESENTATIONS & WARRANTIES**
- 11.1. **Professional Services Warranty.** Applied will perform Professional Services in a good and workmanlike manner. In the event of a breach of the foregoing warranty, Licensee must raise such claim within 60 days after the completion of the relevant Professional Service and Licensee's sole remedy and Applied's sole obligation shall be, in Applied's discretion, to either: (a) re-perform the Professional Services or (b) refund the fees paid by Licensee toward that portion of the Professional Services in dispute. Applied makes no warranty as to the accuracy or completeness of Data Conversion Services.
- 11.2. **Software Warranty.** Applied warrants that the material functions of the Applied Software shall substantially perform as described in the Documentation for a period of one year from the date Licensee initially receives, Updates, or accesses the Applied Software, provided that Licensee has not modified or used the Software in violation of this Agreement. Following such time, Licensee accepts the Applied Software "AS IS".
- 11.3. **Intellectual Property.** Applied warrants to Licensee that, to the best of Applied's knowledge, it has all, right, title and interest necessary to grant the licenses herein and to provide the Professional Services to Licensee on the terms set forth in the Agreement.
12. **DISCLAIMERS & LIMITATIONS**
- 12.1. **Backwards Compatibility.** Applied is not responsible for backwards compatibility or obsolescence of any Software or Work Product that may result from changes in Licensee's requirements or computing environment. Applied assumes no responsibility to modify Work Product to account for Updates.
- 12.2. **DISCLAIMER. EXCEPT AS PROVIDED HEREIN, THE SOFTWARE AND WORK PRODUCT ARE LICENSED "AS IS". APPLIED EXPRESSLY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND NOT STATED HEREIN, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, QUALITY, ACCURACY, TIMELINESS, COMPLETENESS, NON-INFRINGEMENT, OR SYSTEM INTEGRATION. APPLIED DISCLAIMS ALL LIABILITY AND RESPONSIBILITY THAT MAY ARISE FROM THE SOFTWARE, PROFESSIONAL SERVICES OR WORK PRODUCT NOT MEETING LICENSEE'S REQUIREMENTS, DOWNTIME, UPDATES, MODIFICATIONS, INTERRUPTIONS, SECURITY ISSUES, USE WITH THIRD PARTY HARDWARE OR SOFTWARE, OR THE ACCURACY OF DATA STORED THEREIN. SOFTWARE REMAINS UNDER PERMANENT DEVELOPMENT AND IS NOT ERROR-FREE. LICENSEE SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE, AND SUITABILITY OF THE SOFTWARE, PROFESSIONAL SERVICES OR WORK PRODUCT. ANY ADVICE PROVIDED BY APPLIED PURSUANT TO THE AGREEMENT SHALL NOT BE CONSIDERED FINANCIAL OR LEGAL ADVICE AND NO REPRESENTATION IS MADE AS TO ITS ACCURACY.**
- 12.3. **Limitation of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL APPLIED BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY LOST PROFITS, OR ANY TYPE OF CONSEQUENTIAL, PUNITIVE, INCIDENTAL, OR SPECIAL DAMAGES OF ANY KIND (INCLUDING BUT NOT LIMITED TO LOSS OF DATA, REVENUE OR ECONOMIC ADVANTAGE). APPLIED'S MAXIMUM LIABILITY HEREUNDER SHALL NOT EXCEED THE FEES PAID TOWARD THE APPLIED SOFTWARE, PROFESSIONAL SERVICES, OR WORK PRODUCT THAT ARE THE SUBJECT OF THE CLAIM DURING THE THEN-MOST RECENT TWO-YEAR PERIOD PRECEDING THE FIRST EVENT OUT OF WHICH LIABILITY AROSE. THE LIMITATIONS OF DAMAGES OR LIABILITY ARE IMPORTANT ELEMENTS OF THE BASIS OF THE AGREEMENT BETWEEN LICENSEE AND APPLIED. LICENSEE UNDERSTANDS AND AGREES THAT APPLIED COULD NOT ECONOMICALLY OFFER THE AGREEMENT, AND ITS SUBJECT MATTER, TO LICENSEE WITHOUT THESE LIMITATIONS.
13. **TERM & TERMINATION**
- 13.1. **Agreement Term & Termination.** The Agreement shall be effective when You activate or otherwise access the Software after being presented with these terms. The Agreement shall continue from the Effective Date until terminated as provided herein or as provided by law. Unless otherwise specified in an Order, either party may terminate the Agreement after the Initial Term provided the other party is given at least 60 days prior written notice, which if a Renewal Term exists, shall not take effect until the completion of the then-current Renewal Term. Licensee shall not be entitled to terminate or cancel the Agreement prior to the expiry of the Term and if it attempts to do so, Licensee shall be responsible for payment of early termination fees computed based on the monthly fees due multiplied by the number of months remaining in the then current Term. In addition, a party may terminate any Order, or portion thereof, or the entire Agreement: (a) as provided by law or; (b) if the other party materially breaches any term or condition of the Agreement and fails to cure such breach within 30 days (10 days in the case of non-payment) after written notice is delivered to such party describing the breach; or (c) if the other party commences or becomes subject to any bankruptcy, receivership, or similar proceeding and such proceeding is not dismissed within 90 days. Notwithstanding the foregoing, IP Violations shall not be curable, and Applied may terminate the Agreement immediately upon written notice to Licensee in the event Applied has a good faith, reasonable belief that Licensee, its Affiliate(s), or User(s) has committed an IP Violation.
- 13.2. **Effect of Termination.** Upon termination of the Agreement: (a) all licenses granted and all Professional Services being performed by Applied under the Agreement will immediately cease; (b) Licensee will promptly discontinue use of all Software; and (c) all amounts owed by Licensee to Applied shall immediately become due.
- 13.3. **Licensee Data on Termination.** Upon written request, Applied will provide a copy of Licensee Data that Applied may have in its possession within a reasonable period subject to full payment by Licensee of any outstanding balances including reasonable costs of providing such copy (if any). If Licensee requires any Professional Services (e.g. translating data), such Professional Services will be performed at then-current rates. Promptly upon termination of the Agreement, but no later than 180 days, Licensee Data obtained under the Agreement shall be deleted in accordance with applicable backup destruction policies and procedures.
14. **MISCELLANEOUS**
- 14.1. **Independent Contractors.** The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to create an agency, partnership, employer-employee relationship, or joint venture between the parties.
- 14.2. **Affiliates.** An Affiliate of Licensee may purchase Software and Professional Services pursuant to this Agreement, provided that the Affiliate agrees to bound by the terms and conditions of this Agreement. However, except as otherwise set forth in the Agreement, any contractual rights or remedies of the named parties shall not be transferrable and shall remain those of the named party only. Notwithstanding anything herein to the



contrary, the parties shall be strictly liable for any acts or omissions of their Affiliates in violation of the Agreement, which violations shall be deemed to have been committed by the named party as well as the Affiliate.

- 14.3. **Compliance.** The parties shall comply with all laws and regulations applicable to their respective obligations hereunder. Licensee will not transmit, directly or indirectly, any Software, Work Product, technical information, or derivative thereof to any person or place in violation of applicable export regulations or other applicable U.S., Canadian, or foreign law or regulation.
- 14.4. **Parties in Interest.** The Agreement is enforceable only by Applied and Licensee. The terms of the Agreement are not a contract or assurance regarding compensation, continued employment, or benefit of any kind to any personnel assigned to Licensee's work, or any beneficiary thereof, and no other party shall be a third-party beneficiary under or pursuant to the terms of the Agreement.
- 14.5. **Force Majeure.** If a Force Majeure Event occurs which reasonably prevents the performance by the parties of any of the provisions of the Agreement, then such nonperformance by the parties shall be excused, while, but not longer than, such conditions prevail.
- 14.6. **Choice of Law and Venue.** The Agreement and the relationship between the parties, and all proceedings directly or indirectly related thereto shall be governed by the laws of Will County, Illinois. **Licensee consents to the sole and exclusive jurisdiction and venue of the courts of Will County, Illinois for any proceeding or claim between the parties.**
- 14.7. **Limitation on Actions and Waiver of Jury Trial.** Any action, claim, or suit, whether based in contract, strict liability, or tort, (including any action, claim, or suit based on negligence) relating to the Agreement or in any way relating to the relationship between the parties must be filed within the lesser of: (a) two years from the date the cause of action accrues or (b) as provided by relevant Location statutes of limitations law. **To the extent permitted by law, trial by jury is waived for any action between the parties.**
- 14.8. **Non-Waiver.** No terms or provisions hereof shall be waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent or waiver by a party of a breach by the other shall not constitute waiver of, or excuse for, any other different or later breach.
- 14.9. **Severance and Enforceability.** All terms shall be interpreted in such a way as to be valid or enforceable while preserving to the fullest permissible extent the intent and agreements of the parties as set forth in the Agreement. If any provision of the Agreement is found to be invalid, unlawful, or unenforceable by a court of competent jurisdiction, such invalid term will be severed from the remaining portion of the Agreement, which will continue to be valid and enforceable to the fullest extent permitted by law.
- 14.10. **Assignment.** Licensee may not transfer or assign (in whole or part) the Agreement, the Software, or the rights granted under it without prior written permission from Applied which shall not be unreasonably withheld, and any attempt to do so shall be void.
- 14.11. **Arm's Length Negotiations.** The Agreement is a result of arm's length negotiations between the parties, both of whom were represented by counsel or had adequate opportunity to seek counsel or be represented by counsel. Therefore, this document is the product of both parties. To this effect, no part of this document should be construed against either party as the drafter. Each party waives any potential claim of ignorance as to the terms and conditions of the Agreement.
- 14.12. **Survival.** Sections 4, 5.3, 6.1, 7, 10.5, 12, 14, and 15 shall survive the termination of the Agreement.
- 14.13. **Authorization to Execute.** You represent and warrant that You have the full power and authority to enter into and perform the Agreement and that the person accepting the Agreement has been properly authorized and empowered to do so.
- 14.14. **Entire Agreement.** The Agreement, including all Attachments, contains the entire agreement between the parties, and Applied is not bound by any representations or inducements not set forth herein. Handwritten or typed changes made to the face of any documents comprising the Agreement shall have no effect unless initialed by both parties. Licensee has relied on no representations or warranties that have not been set forth herein.
- 14.15. **Choice of Language.** The parties confirm that it is their wish that the Agreement, as well as any other documents relating to the Agreement, have been and shall be in the English language only. Les parties aux présentes confirment leur volonté que cette convention, de même que tous les documents, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.
15. **DEFINITIONS** In addition to the terms defined elsewhere in the Agreement, the following terms shall have the following meanings:
- **Acceptable Use Policy (AUP)** - Applied's acceptable use policy for the Software located at <https://www1.appliedsystems.com/en-us/terms/AUP> and <https://www1.appliedsystems.com/en-ca/terms/AUP>.
 - **Activation** – The date on which the Applied Software at issue is either utilized or is ready to process live production data (as opposed to testing or demonstration data), whichever occurs first.
 - **Affiliate** – Any existing or later-acquired third party entity for so long as such entity is controlling, controlled by, or under common control with Licensee or Applied, respectively, and provided that in Licensee's case that the Affiliate is not a competitor to Applied.
 - **Applied Software** – Proprietary Software and products that Applied and its Affiliates develop, market, license, and distribute but excluding Third-Party Software.
 - **Attachments** – Statements of Work, Orders, schedules, addenda, and exhibits attached to or otherwise incorporated by reference into the Agreement, including, without limitation, through reference to a URL.
 - **Cloud Environment** - An application hosting and data center environment used by Applied to host and deploy the Software.
 - **Confidential Information** – The Applied Software, Support Materials, any trade secrets, compilations, components, Licensee Data, data, source/object code, customer/vendor/supplier info, documents, drawings, sketches, financial info, formulae, inventions, lists, manuals, parts, patterns, plans, processes, software, specification, techniques, proposals and all other information protectable by applicable privacy laws and other information of a secret, confidential, or proprietary nature.
 - **Connect or Connectivity** – data exchange between Participating Companies involved in the buying, selling, and servicing of insurance and Applied Software.
 - **Data Conversion Services** - authorized means of translating or converting data for use by the Applied Software as specified in the then-current Documentation or applicable Order.
 - **Documentation** – Instructions, content, manuals, and Support Materials, whether in print, on-line, electronic, or other form, concerning the functionality and proper use of the Applied Software, as updated from time to time.
 - **Downtime** – Licensee's inability to access the Cloud Environment caused by reasons beyond the reasonable control of Applied, and which may or may not be foreseeable by Applied. Downtime shall include, but not be limited to, Licensee's inability to access the Cloud Environment due to: (a) telecommunications interruptions; (b) hostile network attacks; (c) network congestion; (d) Licensee's or a third party's hardware and/or software; (e) actions or inactions by Licensee and/or a third party; (f) Licensee's use of the Cloud Environment after being advised by Applied to modify its use, if Licensee did not modify its use as advised; and/or (g) situations where other Applied customers who share the same operating platform are able to access the Cloud Environment but not all of Licensee's Users are able to access the Cloud Environment simultaneously.
 - **Due Diligence Package** - information in connection with Applied's compliance and security matters, which may change but currently includes: (a) a copy of Applied's most current SOC-2 report and (b) a copy of Applied's SIG report (which is based on the Standardized Information Gathering questionnaire) and other relevant Documentation for the specific Applied Software.
 - **Effective Date** – the date specified in Section 1 and, if no date is specified, then on the date on which the last party executes this Master Agreement.



- **Employees** – Common law or statutory employees of a party hereto or its Affiliate; insurance agents, insurance producers, and Licensee's contractors providing non-technical services (e.g. insurance producers, administrative, sales, support, or staff augmentation); and Applied's contractors.
- **Extended Solutions** – Applied Software programs, products, and modules that may be utilized in conjunction with Primary Software and are intended to provide complimentary functionality. May also be referred to as "Ancillary Products" in older Documentation.
- **Force Majeure Event** – Any act of God, act of government, pandemic or epidemic, flood, fire, earthquake, civil unrest, act of war, act of terrorism, strike or other labor problems (other than those involving a party's employees), or other cause beyond the control of a party. The inability to pay shall not be considered a Force Majeure Event.
- **Former Primary Software** - See the definition of Migration.
- **Information** - Licensee Data and other information collected by Applied.
- **Initial Term** – a minimum period of 12 months, except as otherwise expressly stated by Applied in writing. May also be referred to as the "Minimum Support Period" in older Documentation.
- **Integrate or Integration** – data exchange between Third-Party Software, programs or databases and Applied Software.
- **IP Violation** – An infringement or misappropriation of any patent, trademark, trade secret, copyright, or other intellectual property right.
- **Licensee Data** – Data that: (a) Licensee (or its Affiliate or User) enters or inserts into (or causes to be entered or inserted into) the Applied Software; (b) is provided by Licensee to Applied; or (c) is designated as such in writing by the parties.
- **Maintenance** - includes but is not limited to running software or hardware utilities, backing up software or data, upgrading software or hardware, and deploying Updates in the Cloud Environment.
- **Migration** - a process for Licensee to discontinue using its current Primary Software (which then becomes the "Former Primary Software") and obtain a new license for a different Primary Software pursuant to an Order or SOW.
- **Named Basis** – A license or seat that is provisioned to a specific individual and cannot be shared among other individuals or Users.
- **Non-Identifiable Data** - Information that has been aggregated or de-identified such that the Information can no longer reasonably identify Licensee, its authorized User(s), or Licensee's customers.
- **Non-Production** – Instances in which no "live" data is processed or used in a production type environment or for commercial gain.
- **Order** – Document(s) specifying Software or Professional Services acquired from Applied by Licensee and other terms, which is executed by both parties, whether titled "Order", "Change Order", "Schedule A", and/or "Proposal".
- **Participating Companies** - insurance companies and third-party vendors participating in an approved transaction network(s).
- **Permitted Use** - Use and access solely pursuant to an Order, in connection with Licensee's internal insurance operations, and in accordance with the Agreement and the Documentation.
- **Personal Information** - nonpublic personal information (as defined by Gramm Leach Bliley Act, M.G.L. ch. 93H, 93I, 201 CMR 17.00 et seq.) or personal information (as defined under applicable federal, state, and provincial privacy laws and regulations) contained within Licensee's customer data.
- **Primary Software** – Applied Software designed to automate core insurance agency or broker operations (e.g. Applied Epic, Applied TAM, EZLynx).
- **Privacy Policy** – Applied's then-current privacy policy available at <https://www1.appliedsystems.com/en-us/privacy-policy/> and <https://www1.appliedsystems.com/en-ca/privacy-policy/>.
- **Product Terms** – the additional terms and conditions that govern certain Software located at <https://www1.appliedsystems.com/en-us/terms/product-terms> and <https://www1.appliedsystems.com/en-ca/terms/product-terms>.
- **Professional Advisors** – One or more individuals, and their associated legal entities through which they provide services to the public, who provide accounting, financial, legal, tax, or auditing advice, counsel, or services and are generally recognized as a licensed professional.
- **Professional Services** – Training, professional consulting, data translation, implementation, or other services to be provided by Applied as set forth in an Attachment, where they may also be referred to as "Services".
- **Professional Services Terms** – the additional terms and conditions applicable to Professional Services available at <https://www1.appliedsystems.com/en-us/terms/services-terms> and <https://www1.appliedsystems.com/en-ca/terms/services-terms>
- **Purposes** – To perform its obligations under the Agreement; to deliver the Software and Professional Services; to deliver Support and technical support in connection with the Software and Professional Services; for product and service research, development, and enhancement; and to issue invoices, manage accounts and records, and collect payments and debts.
- **Renewal Term** – a specified length of time that may be set forth in an Order and is in addition to and follows consecutively with the Initial Term.
- **Software** – Any software provided or made available by Applied pursuant to the Agreement but excluding Work Product and certain software programs (i.e. Applied Rater, IVANS-branded products) that are subject to a separate standalone agreement.
- **Statement of Work (SOW)** – Document(s) executed by both parties specifying the scope, assumptions, prerequisites, estimated timing, deliverables, and/or other matters specific to non-Support-related Professional Services to be rendered by Applied for Licensee.
- **Support** - consists of unlimited toll-free telephone and e-mail technical assistance but limited to: (a) answering general questions on the use of the Applied Software; (b) diagnosing and trouble-shooting issues or problems relating to the Applied Software; and (c) attempting to resolve problems related to the use of the Applied Software.
- **Support Hours** - Monday through Friday 7:00a – 7:00p CT excluding national public holidays in the Territory.
- **Support Materials** - Documentation comprising a listing of known-and-replicated errors, work-around solutions, procedures, self-help tools such as a technical support knowledge base or technical support tips and comments, postings, and other information.
- **Term** – collectively, the Initial Term and any Renewal Term(s) as applicable.
- **Territory** – If the named Licensee is located in the United States, then the United States and its territories only or, if the Licensee is located in Canada, then Canada and its territories only.
- **Testing** - internal testing, evaluation, training, and quality assurance review of the Software or an Update.
- **Third-Party Software** - software which is proprietary to any third party which may be either licensed to Licensee pursuant to the Agreement or otherwise made available or accessible to Licensee.
- **Updates** – Error corrections, modifications, patches, custom programming, enhancements, maintenance, additions, and improvements to the program features and functions, and sequential versions of the Applied Software.
- **User** – An individual authorized by Licensee or its Affiliate to access and use the Software for which Applied has received timely payment of the appropriate fees and excludes any competitor of Applied, managing general agent (MGA), general agent (GA), and managing general underwriter (MGU).
- **Work Product** – Any deliverables produced or provided in the course of Applied providing Professional Services to Licensee or its Affiliate(s), including, without limitation, reports, charts, visuals, statistical data, templates, and documentation, whether in print, on-line, electronic, or other form, that are provided by Applied or otherwise derived therefrom.

[END EZLYNX TERMS OF SERVICE]