



## SOFTWARE AS A SERVICE TERMS AND CONDITIONS

### PURCHASER SHOULD READ CAREFULLY THE FOLLOWING TERMS AND CONDITIONS

These Software as a Service Terms and Conditions (“SaaS Terms”) will govern the remote provision of the functionality of certain software as a service or other cloud-based services or features (the “Service”) as further set forth in an Order Form or other document accepted by both Provider and Purchaser and incorporating these SaaS Terms by reference (collectively being the “Transaction Records”).

The "Provider" is the Acuity company specifically identified in one or more Transaction Records. The "Purchaser" is the individual or organization identified in one or more Transaction Records as “purchaser”, “customer”, “licensee”, “end user”, or with a similar designation. By agreeing to these SaaS Terms on behalf of a company or legal entity, you confirm that you have the authority to bind them.

All capitalized terms not defined herein will have the meaning set forth in the Transaction Records. This is neither a license nor a sale of any software. The Service is provided to Purchaser subject to these SaaS Terms, which define what Purchaser can and cannot do with the Service and provide conditions and limitations on warranties and remedies.

- 1. Service Use.** Purchaser accepts the terms of these SaaS Terms and will continue to meet Purchaser’s obligations hereunder, including without limitation, Purchaser’s obligation to pay for the Service, and Provider will make the Service available to Purchaser on a non-exclusive, non-transferable, and limited basis, throughout the term set forth in Section 4, to remotely use the functionality provided by the object code of the most recent version of the software which Provider chooses to offer other parties under terms similar to these SaaS Terms at the time. Purchaser agrees to use the Service solely for Purchaser’s internal business purposes (as compared to reselling the service to third-parties), provided that where Purchaser is using the Service for the benefit of visitors to and occupants of a specific location owned or managed by Purchaser, it will be considered Purchaser’s internal business purposes. To the extent the Transaction Records identify one or more limiting metrics (e.g., square feet, number of end users, number of devices, etc.), Purchaser agrees not to exceed those metrics. During this Term, Provider will provide technical support for Purchaser’s use of the Service in accordance with Provider’s Standard SaaS Service Level Agreement, *available at:* <https://www.acuitybrands.com/support/warranty/terms-and-conditions>.
- 2. Ancillary Software.** If the Transaction Records indicate that Provider is supplying access to Software Development Kit (an “SDK”) or its proprietary programming interfaces (“APIs”) together with their associated specifications and documentation (the “Ancillary Software”) then the Ancillary Software will be considered part of the Service and the following terms will additionally apply to the Ancillary Software, but no other part of the Service or other products. For a term coterminous with the Purchaser’s right to use the Service, Provider grants to Purchaser a non-exclusive, non-sublicensable, non-transferable, revocable, limited worldwide license, under Provider’s copyrights embodied in the Ancillary Software, solely for Purchaser or Purchaser’s agent to (a) utilize the Ancillary Software to modify existing software code or develop new software code to enable use of the functionality of the Service via technology owned by or licensed to Purchaser, and (b) distribute portions of the Ancillary Software if and solely to the extent (i) Purchaser reasonably believes that the recipient would be authorized to use the Service under Sections 1 and 3, (ii) the portions of the Ancillary Software that Purchaser distributes only include machine-readable code (a.k.a. object code) but no documentation for the Ancillary Software; (iii) Purchaser distributes such portions of the Ancillary Software as part of a larger piece of technology, such as a mobile application (i.e., Purchaser may not distribute all or any portion of the Ancillary Software as a “stand alone” work), and (iv) Purchaser includes in the documentation that Purchaser distributes with the larger piece of technology the following language: *“This product contains certain software and other intellectual property (including all trademarks, copyrights, moral rights, and patents associated with the software) (the “Software”) of [insert Provider’s Legal Name], its affiliates, and its licensors (“Licensor”). Licensor hereby grants to you a license to use the Software solely to the extent incorporated into this product and solely in the form it is provided to you as part of this product. Licensor reserves and retains all right, title, and interest in and to the Software.”* after having replaced the italicized language with the legal name of Provider.

- 3. Authorized Users.** Where Purchaser is authorized by Provider to utilize the Service for the benefit of visitors to and occupants of a specific location under Section 1, Purchaser may authorize those visitors and occupants to utilize the Service for that purpose. Otherwise, Purchaser may authorize employees, contractors, or agents of Purchaser (other than those engaged in competitive activities with Provider) (“Authorized Users”) to utilize the Service and Ancillary Software solely when performing activities in the furtherance of Purchaser’s internal business purposes and only where Purchaser would have been authorized to perform such activities under Sections 1 or 2, as applicable. Purchaser will ensure that its Authorized Users understand that their performance is subject to compliance with these SaaS Terms and applicable provisions of the Transaction Records at all times and Purchaser will remain responsible for the acts or omissions of its Authorized Users in connection with the use of the Service. Purchaser will, and will require all Authorized Users to, use all reasonable means to secure user names and passwords and maintain appropriate technical and organizational measures to comply with industry standard practices regarding security and secure facilities and systems from and through which the Service is accessed. Purchaser will promptly notify Provider if Purchaser knows or reasonably suspects that any user name and/or password has been compromised. Each account for the Service may only be accessed and used by the specific Authorized User for whom such account is created.
- 4. Term and Termination.** Each party’s obligations under the Transaction Records and these SaaS Terms will be binding upon them, respectively, and will continue for as long as there is any active Subscription Term, as defined herein. The “Subscription Term” will begin on the earlier of (a) the start date noted in the Transaction Records, (b) the date Provider first notifies Purchaser that the Service is available for productive use, or (c) the date Purchaser first logs into the Service for any purpose other than basic testing. The Subscription Term will continue for the number of years identified as the Subscription Term in the Transaction Records. Unless otherwise agreed in Transaction Records or limited by local law, i) a Subscription Term will automatically renew for an additional period equal to the prior Subscription Term unless either party provides notice of its intent not to renew no less than sixty (60) days before expiration of the prior Subscription Term, and ii) the renewal fee for any automatic renewal will be equal to the fees for the prior Subscription Term plus the net change in the Consumer Price Index for All Urban Consumers (CPI-U) as reported by the U.S. Bureau of Labor and Statistics over the previous Subscription Term. Any renewal, regardless of whether automatic or agreed to in Transaction Records, will be considered a Subscription Term. These SaaS Terms will continue in full force throughout the Subscription Term unless it is terminated earlier as set forth herein. Either party may terminate a Subscription Term for cause upon written notice to the other party, provided that the terminating party provided the other party with written notice detailing that party’s failure to comply with its obligations hereunder and provided that party with thirty (30) days to cure if the breach is of the type that is capable of cure. Notwithstanding the foregoing, Provider may, without liability, immediately suspend Purchaser’s or its Authorized User’s use of the Service in the case such use is reasonably deemed to pose a security threat, constitute illegal activity, or is likely to cause immediate and ongoing harm to Purchaser or others. Except as limited by local law, all Subscription Terms will automatically terminate should Purchaser voluntarily or involuntarily become subject to the jurisdiction of any bankruptcy court or insolvency court of any analogous procedure in the relevant jurisdiction. Any unpaid fees for a Subscription Term will become immediately due and payable upon termination and Purchaser will only be relieved of its obligation to pay through the end of the Subscription Term where the Subscription Term is terminated for Provider’s uncured breach. Upon termination of a Subscription Term for any reason, Purchaser will immediately cease using the Service (and Provider may terminate access to the Service) and Purchaser will return any and all related documentation to Provider, or, at Provider’s discretion, Purchaser will permanently destroy all copies of the related documentation in Purchaser’s possession or control. Upon termination or expiration of these SaaS Terms all sections of these SaaS Terms which by their nature should survive will continue in full force and effect, including without limitation Sections 4, 5, 6, 11 – 24, and 26 – 31.
- 5. Fees.** Unless stated otherwise on a Transaction Record, all fees will be due within thirty (30) days of invoice. All fees not paid when due will be subject to interest at a rate equal to the lesser of one percent (1%) per month or the highest rate allowable by law. In addition to any other rights Provider may have under these SaaS Terms, Provider may suspend any or all Services for any account with fees that are more than thirty (30) days past due.

- 6. Taxes.** Unless stated otherwise on a Transaction Record, fees for the Service do not include any taxes due and payable by Purchaser (including but not limited to, sales, use, excise, value-added, and other similar taxes) (“Taxes”), tariffs and duties. Purchaser will pay all Taxes resulting from these SaaS Terms and the Transaction Records, whether imposed, levied, collected, withheld, or assessed now or later. If Provider is required to impose, levy, collect, withhold, or assess any Taxes under these SaaS Terms or the Transaction Records, Provider may invoice Purchaser for such Taxes unless at the time of order placement, Purchaser furnishes Provider with an exemption certificate sufficient to verify Purchaser’s exemption from the Taxes. In no event will Provider be liable for Taxes paid or payable by Purchaser. Purchaser may not set off or attempt to recoup any invoiced amounts against amounts due from Provider or its affiliates.
- 7. Purchase through Reseller.** The parties acknowledge that Purchaser may have purchased Services through third-party resellers authorized by Provider to promote and resell the Service (“Reseller”). Such purchases through Resellers will be subject to these SaaS Terms. Without limiting the foregoing, when Purchaser purchases Service through a Reseller, Reseller and Purchaser will enter into a separate agreement setting forth the fees to be paid by Purchaser to Reseller for such Service, Purchaser’s agreement to these SaaS Terms, as well as any other terms or conditions that apply between Reseller and Purchaser. Subject to receipt of payment from the Reseller, Provider will be responsible to Purchaser for providing Service under a valid order from Reseller that identifies Purchaser. Purchaser hereby acknowledges that Provider will not be responsible for (a) the obligations of any Reseller to Purchaser under such separate agreement, (b) for the acts or omissions of Reseller or its officers, directors, employees and agents, or (c) for any third party products or services furnished to Purchaser by any Reseller. For the avoidance of doubt, Section 5 Fees will be of no effect where Purchaser purchases Service through a Reseller, as payment will be addressed in the agreement between Reseller and Purchaser. Reseller will not be considered an agent of Provider under these SaaS terms. If Reseller fails to make payment for the Service, then Purchaser agrees and acknowledges that Provider may suspend or terminate Service until such payment is received.
- 8. Changes to Functionality or Ongoing Access.** Provider retains the right, in Provider’s sole discretion and at any time, to update and modify the Service, replace the Service with another product or service, and discontinue making the Service available.
- 9. General Restrictions.** Purchaser may only use the Service in accordance with the applicable documentation and these SaaS Terms. The software utilized through the Service is protected under copyright, trade secret, and other intellectual property laws. Unless otherwise agreed in writing by an authorized representative of Provider in its sole discretion, Purchaser may not (a) sublicense, reproduce, distribute, market, sell, transfer, or disclose the Service or its documentation except as set forth in Sections 1 and 3, (b) translate, modify, disassemble, or reverse engineer the Service or its related software or documentation (except to the extent permitted by law), (c) create derivative works based on any portion of the Service or its related software or documentation, provided however that Purchaser may create derivative works of the Ancillary Software as set forth in Section 2(a), (d) obtain possession of any source code or other technical material relating to the Service or its related software or documentation, (e) use the Service other than in accordance with the applicable documentation and this agreement, (f) use the Service after expiration or termination of the Subscription Term, (g) use the Service for the benefit of a third party (including through the operation of a service bureau) or otherwise use the software to directly generate revenue or otherwise directly commercially exploit the Service other than as permitted in Sections 1 and 3 or Transaction Records, (h) remove, alter, or obscure any copyright notice(s) or proprietary legend(s) contained on or included in the Service or its documentation, in each case as provided by Provider.
- 10. High-Risk Restriction.** Purchaser acknowledges and accepts that Provider did not design the software and does not warrant the Service for use in developing, or for incorporation into, products or services relative to or within applications or environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, life support machines, surgically implanted devices, weapons systems, or other applications, devices or systems in which the failure of the software could directly result in death, personal injury, or severe physical or environmental damage (“High-Risk Activities”). Notwithstanding any other provision of these SaaS Terms, Purchaser may not use or authorize any third party to use the Service in connection with any High-Risk Activity.

- 11. Ownership.** Provider, its affiliates, and/or its licensors are the owners of all intellectual property rights, including without limitation patent, trademark, copyright, and trade secret rights, in the software, the corresponding documentation, and the techniques and ideas embodied and expressed in the foregoing, including the structure, sequence, and organization of the software (collectively the “Program Concepts”). Purchaser acknowledges that, except for the limited purpose granted as part of the Service hereunder, Purchaser have no rights in or to the software, any documentation, the Program Concepts, or any copies thereof. Purchaser is not required to provide feedback or comments to Provider about the Services, but to the extent that Purchaser does so Purchaser grants to Provider a perpetual, fully paid, non-royalty bearing, worldwide, and unrestricted license to use that feedback and those comments for any business purpose.
- 12. Purchaser’s Data.** With respect to data entered into the software or which Provider may access through its performance of the Services for Purchaser, Purchaser’s agents, and those Purchaser authorizes to use the Service (collectively “Purchaser’s Data”), Purchaser agrees and acknowledge that Purchaser is solely responsible for the content of such data. Purchaser represents and warrants to Provider that Purchaser will obtain all licenses and permissions needed to provide and/or license Purchaser’s Data to Provider to enable Provider to perform its obligations hereunder. Purchaser represents and warrants to Provider that providing and/or licensing Purchaser’s Data to Provider under these SaaS Terms will not violate any applicable law or right of any third party. Purchaser agrees and acknowledges that Purchaser is solely responsible for ensuring that Purchaser maintains proper backup or documentation necessary to enable Purchaser to recover Purchaser’s Data in the event of corruption or data loss. Provider is not acting as a disaster recovery provider for Purchaser and will not be liable for the loss or replacement of Purchaser’s Data. Provider will use commercially reasonable administrative, physical and technical safeguards designed to protect Purchaser’s Data. Purchaser is solely responsible for costs or liability incurred due to unauthorized use or access through Purchaser’s or its Authorized Users’ account credentials or systems. Subject to the requirements in this Section 12 and 13, the parties agree that Provider’s Privacy Statement found at <https://www.acuitybrands.com/privacy-statement> will apply to Purchaser’s Data, as applicable.
- 13. License to Purchaser’s Data.** Purchaser hereby licenses Provider the right to utilize Purchaser’s Data for the purpose of performance of Provider’s obligations to Purchaser under these SaaS Terms and for the purpose of allowing Provider to develop, test, and provide the Services and underlying software and documentation. Additionally, Purchaser hereby licenses Provider the right to extract from Purchaser’s Data certain information that, either alone or in conjunction with other information which Provider may decide to include, can be used to make up anonymized data sets which Provider may use for any lawful purpose in perpetuity. For the purposes of this license, anonymized data sets may include any of Purchaser’s Data on an aggregated basis except (a) Purchaser’s information which is protected by a separate license agreement between Purchaser and Provider, (b) information that can be used to identify a specific individual’s identity (or as otherwise protected by applicable law), either alone or when combined with other information from another source, (c) protected health information which has not been de-identified in accordance with 45 CFR 164.514 or other applicable law, prior to incorporation in the anonymized data set, or (d) information which can be used to easily identify Purchaser as the source.
- 14. Publicity.** Purchaser grants Provider the right to use Purchaser’s name and logo (in accordance with any brand guidelines provided by Purchaser in writing) in (a) its lists of Provider’s customers on its website and in promotional and marketing materials, and (b) communications intended for internal distribution.
- 15. Confidential Information.** If Purchaser and Provider have entered into a separate Mutual Nondisclosure Agreement, then that document will supersede this Section 15, provided that the parties agree that the term of that Mutual Nondisclosure Agreement will be automatically extended to be coterminous with the Subscription Term. Purchaser acknowledges and agrees that the Service, and all Ancillary Software, other software, documentation and other information related thereto or disclosed or delivered to Purchaser in relation to these SaaS Terms represent Provider’s confidential and proprietary information. Provider acknowledges and agrees that the information entered into the Service by or on behalf of Purchaser represents Purchaser’s confidential and proprietary information. Each party agrees to keep the other’s confidential and proprietary information secret by exercising the necessary care required to prevent its disclosure and to only use that information in furtherance of the rights and obligations expressly authorized by these SaaS Terms. Such obligations with

respect to information deemed “trade secrets” under applicable law will remain in effect for as long as the information remains a trade secret. Obligations with respect to information that is not deemed to be a trade secret will remain in effect throughout the Subscription Term and for a period of three (3) years thereafter. Should either party is subject to subpoena or public disclosure laws that require that party to disclose Confidential Information, if allowable by law that party will notify the other party of any orders or requests for disclosure of Confidential Information within a reasonable period so as to allow the other party to challenge such disclosure if the other party should choose to do so. The party challenging disclosure will be responsible for any costs associated with such challenge.

- 16. Warranty; General Disclaimer.** Provider warrants that (a) Provider will perform the Services in a professional and workmanlike manner in keeping with the standards of those of the industry, (b) the Service and related software will operate in material conformity with the then-current documentation, and (c) Provider’s performance of its obligations hereunder will be in accordance with all applicable laws. Purchaser warrants that Purchaser will be solely responsible for any representations or warranties it makes with respect to the Service and will not represent or otherwise suggest otherwise, (b) Purchaser will comply with all laws applicable to it and its use of the Service, and (c) Purchaser will ensure that the Services will not be exported to, or used by, nor will the data gained therefrom be exported to, transshipped or re-exported to any nation, organization, or individual, in violation of any applicable export laws of the applicable jurisdiction where the Services are “accessed or used” or “provided for access or use.” Without limiting the foregoing, Purchaser agrees that Provider and its officers, directors, agents, and employees, will have no liability for errors or omissions in (a) the output of the Service, such outputs including, without limitation, the quality or accuracy of any screen displays or reports, (b) the operation of third party equipment controlled by the Service, and (c) the transmission and reception of data. Provider does not represent or warrant that the Service will operate continuously or error free. Provider is not responsible for the operation of any technology or third party services not controlled by or on behalf of Provider, including the Internet. Purchaser expressly accepts that the installation, establishment, and maintenance of proper safety controls and procedures and proper monitoring and operation of all equipment within Purchaser’s control is Purchaser’s responsibility and not that of Provider, and hereby waives any claims of liability of Provider to any damages that may result from such operation. Reliance upon the Service will not be considered a basis for transferring any portion of such responsibility to Provider nor a basis for contributory or comparative liability. EXCEPT AS SET FORTH HEREIN, PROVIDER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT.
- 17. Special Warranty Disclaimer.** Purchaser agrees and acknowledges that Provider is providing Purchaser with the Service as a tool which is to only be used by an individual of appropriate training and expertise as an adjunct to his or her professional judgment. Such individual will be solely responsible for reviewing all data put into and all data extracted from the Service to ensure that it meets all applicable professional standards and legal requirements as well as Purchaser’s needs and intent. Provider does not represent or warrant and expressly disclaims that (a) the Service will properly scale or translate data between different software programs or data formats, and (b) the Service will conform any output to meet any professional standards or legal requirements. If Purchaser uses the Service for basic testing or other temporary use as authorized by Provider prior to the start of the Subscription Term, then Purchaser’s use of the Service is only permitted for Purchaser’s confidential internal use for the limited period as stated by Provider in writing and such use is licensed “AS-IS” without obligation of support or warranty of any kind, expressed or implied.
- 18. Limitation on Liability.** SUBJECT TO THE REQUIREMENTS OF APPLICABLE LAW, IN NO EVENT WILL PROVIDER OR ITS AFFILIATES, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES, BE LIABLE TO PURCHASER FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL, OR INDIRECT DAMAGES OR COSTS (INCLUDING LEGAL FEES AND EXPENSES) OR LOSS OF GOODWILL OR PROFIT IN CONNECTION WITH THE SUPPLY, PERFORMANCE, USE OF OR INABILITY TO USE THE SERVICE OR IN CONNECTION WITH ANY CLAIM ARISING FROM THESE SAAS TERMS, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR COSTS. SUBJECT TO THE REQUIREMENTS OF APPLICABLE LAW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF A PARTY FOR ANY AND ALL CLAIMS UNDER THESE SAAS TERMS, REGARDLESS OF THE THEORY OF LIABILITY, WILL BE THE GREATER OF THE SUM OF THE FEES

RECEIVED BY PROVIDER FOR PROVIDING THE SERVICE TO PURCHASER OVER THE TWELVE (12) MONTH PERIOD LEADING UP TO THE DATE THE CAUSE OF ACTION ACCRUED OR ONE HUNDRED DOLLARS (\$100). EXCEPT AS LIMITED BY LAW, NO ACTION ARISING OUT OF THESE SAAS TERMS, REGARDLESS OF FORM, MAY BE BROUGHT MORE THAN ONE (1) YEAR AFTER THE DATE THE CAUSE OF ACTION HAS ACCRUED. THE PROVISIONS OF THIS SECTION 18 WILL NOT APPLY TO ANY CLAIM FOR BREACH OF CONFIDENTIALITY, VIOLATION OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR CLAIM FOR INDEMNIFICATION.

- 19. Indemnification.** Each party (the "Indemnifying Party") will indemnify, defend, and hold harmless the other party and its officers, directors, employees and agents (each, an "Indemnified Party") against any and all liabilities (including, but not limited to, losses, damages, expenses and reasonable attorneys' fees) arising from any claim brought against the Indemnified Party by an unrelated third party alleging injury, in whole or in part, resulting from (a) the negligence or willful misconduct of the Indemnifying Party, its officers, directors, employees, and agents, (b) the Indemnifying Party's materials (e.g., the Service and documentation for Provider; the Purchaser's Data for the Purchaser) violates a trademark, copyright, patent, or other proprietary right of any unrelated third party, except to the extent that such claim is alleged to arise from a modification of the materials by anyone other than the Indemnifying Party, the use of the materials in combination with intellectual property not approved by the Indemnifying Party, materials which were delivered pursuant to the Indemnified Party's specific requirements, or use of the materials in a way not in accordance with any documentation or restrictions supplied by the Indemnifying Party to the Indemnified Party, (c) any violation of any law or regulation by the Indemnifying Party, its officers, directors, employees, and agents, including any violation of privacy rights, and (d) as to Purchaser's indemnity obligations only, unauthorized use of or access to the Service, including through Purchaser's facilities or systems. In the event of a claim under part (b) of this Section, the Indemnifying Party will, at its sole option and expense, have the right to procure for Indemnified Party the right to continue the use of the materials without interruption, replace or modify the materials to make their use non-infringing while being substantially capable of performing the same function, or accept return of the materials and refund a pro-rata portion of the fees for those materials. In all cases the Indemnified Party will promptly provide the Indemnifying Party written notification of the assertion of any claim (although failure to do so will only excuse liability to the extent that material prejudice results from the delay) and provide reasonable support in aiding the Indemnifying Party in any defense to a claim, at the Indemnifying Party's reasonable cost. The Indemnifying Party will have sole control over the defense or settlement of any claim, provided that neither Party will agree to any settlement that places any financial or public burden upon the other Party. This Section states the entire liability of the Parties and each Party's sole remedy with respect to any claim for infringement under part (b).
- 20. Verification.** On the reasonable request of Provider, Purchaser will furnish Provider with a signed statement that the Service and the Program Concepts are being used pursuant to these SaaS Terms. If Provider has reason to believe that the Service or the Program Concepts are not being used in accordance with these SaaS Terms, Purchaser will permit Provider to review Purchaser's relevant records and inspect Purchaser's facilities to ensure compliance with these SaaS Terms. Provider will conduct such inspection during normal business hours in a manner that does not unreasonably interfere with Purchaser's business operations. If such audit shows that Purchaser has exceeded the license set forth in Section 1, in addition to other rights it may have, Provider will be entitled to invoice, and Purchaser will promptly pay, an amount equal to one-hundred-fifty percent (150%) of the fees beyond those paid which would have been payable to Provider from the beginning of the Subscription Term for a suitable license.
- 21. U.S. Government Restricted Rights.** The following applies to all acquisition of the software by or for the U.S. government or by any prime contractor or subcontractor under any contract, grant, or other activity with the U.S. government. The software and the Service related to such software provided to Purchaser hereunder are "commercial items" as that term is defined at 48 C.F.R. 2.101 (October 1995) consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212 (Sept. 1995) and other applicable acquisition regulations and are provided to the U.S. Government only as a commercial item. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 (June 1995), all U.S. Government users and licensees acquire the software and its associated documentation with only those rights and subject to the restrictions set forth in these SaaS Terms. Notwithstanding the foregoing, the software may not be acquired by the U.S. government pursuant to a contract incorporating clauses prescribed by FAR

Subpart 27.4 (June 1987) or DFARS Subpart 227.4 (Oct. 1988). If these SaaS Terms is inadequate to meet the government's needs or is inconsistent in any respect with Federal law, the government should return the software, unused, to Provider.

22. **Injunctive Relief.** Purchaser acknowledges that remedies at law will be inadequate to provide Provider with full compensation in the event of Purchaser's material breach of these SaaS Terms, and that Provider will therefore be entitled to injunctive relief in the event of any such material breach without the need to post bond or prove the inadequacy of monetary damages. Regardless of any provisions to the contrary, Provider will have no obligation to allow Purchaser to cure Purchaser's breach prior to seeking injunctive relief and will be entitled to seek such injunctive relief in any jurisdiction regardless of any choice of law or venue provisions.
23. **Governing Law and Dispute Resolution.** These SaaS Terms will be governed in accordance with the laws of New York (USA), without regard to choice of law principles. Any dispute, controversy, or claim between Provider and Purchaser relating to these SaaS Terms including, arising out of or relating to these SaaS Terms or their breach, termination, or validity, if not settled by mutual good faith negotiations will be resolved by final and binding arbitration administered by the International Centre for Dispute Resolution (ICDR) in accordance with the ICDR's then-current arbitration rules. The seat for arbitration will be New York, New York (USA), and all proceedings will be in English. Neither the Uniform Commercial Code, any part of the Uniform Computer Information Transactions Act (if adopted), nor the United Nations Convention on the International Sale of Goods shall apply to these Terms and Conditions.
24. **Legal Expenses.** Unless applicable law explicitly prohibits either party from recovering such costs or fees, in which case both parties agree that neither will be entitled to such costs and fees, the prevailing party in any dispute proceeding or litigation hereunder will be entitled, in addition to such other relief as may be granted, to recover reasonable related fees and the costs incurred. For purposes of the foregoing: (a) "prevailing party" means (i) in the case of the party initiating the enforcement of the rights or remedies, that it recovered substantially all of its claims; and (ii) in the case of the party defending against such enforcement, that it successfully defended substantially all of the claims made against it; and (b) if no party is a "prevailing party" within the meaning of the foregoing, then no party will be entitled to recover its fees and costs pursuant to this Section.
25. **Onsite Services.** Provider may agree to provide ancillary professional services as part of providing the Services (e.g., setup of a technology environment, configuration of software, data migration), for an additional fee. All such ancillary professional services will take place within Provider's facilities and solely on Provider's hardware and software. However, if Provider agrees to perform any activities in connection with the Services which take place outside of Provider's facilities or on any hardware or software other than that operated by or for Provider (e.g., installation of a device at Purchaser's site), those activities will be governed by Provider's Terms and Conditions for Field Services, available at <https://www.Acuitybrands.com/support/warranty/terms-and-conditions>.
26. **Compliance with Laws and Export Rules.** Purchaser will be solely responsible for ensuring that Purchaser's use of the software, Service, documentation, and Purchaser's Data is in full compliance with all applicable laws and without violation of the rights of third parties. Without limiting the forgoing, Purchaser represents and warrants that the software, Service and documentation will not be exported to, or used by, nor will the data gained therefrom be exported to, transshipped or re-exported to (a) any individual located in any nation to which export, transshipment, or re-export is prohibited by U.S. law or regulation, or other Governing Law (as set forth above), at that time (collectively, the "Restricted Nations"); (b) any business or organization owned, controlled by or acting on behalf of an individual, business or organization in a Restricted Nation; (c) the governments of a Restricted Nation or any business or organization owned, controlled by or acting on behalf of a government of a Restricted Nation; or (d) any individual, group or organization on the U.S. Department of Treasury's Office of Foreign Assets Control's list of Specially Designated Nationals or the U.S. Department of Commerce's Bureau of Export Administration's List of Denied Persons, or similar list maintained within the country of Provider's domicile (if not the USA), as each may be amended from time to time. Further, Purchaser acknowledges and agrees that it has not taken, and will not take, any actions that may subject Provider or any of its officers, directors or employees, or related parties to liability under the UK Bribery Act 2010, the Foreign Corrupt Practices Act of 1977, 15 U.S.C. §§78dd-2, the Corruption of Foreign Public Officials Act (Canada),

or any other applicable laws relating to combating bribery or official corruption.

27. **Waiver / Severability.** The failure of to exercise or enforce any right or provision of these SaaS Terms will not constitute a waiver of such right or provision. Should any court or legal authority hold any provision of these SaaS Terms unenforceable or invalid for any reason, then Purchaser and Provider agree that such court or authority will attempt to craft an acceptable provision most closely resembling the intent of the offending provision, and if such court or authority is unable or unwilling to do so then these SaaS Terms will be construed as if such provision were never contained in these SaaS Terms.
28. **Assignment.** Purchaser cannot assign, sublicense, or transfer these SaaS Terms without the prior written consent of Provider. Any attempt by Purchaser to sublicense, assign, or transfer any rights, duties, or obligations hereunder is null and void. Provider may assign, sublicense, or transfer these SaaS Terms, in whole or in part, at will and without prior notice to Purchaser.
29. **Notice.** All notices or approvals hereunder will be in writing and sent by certified or registered mail, postage prepaid, return receipt requested (or similarly evidenced overnight delivery), and will be deemed to have been given upon receipt. Notices will be provided to Purchaser and Provider at the address set forth on the Transaction Records with a copy provided by email. Either party may change its address for such communications by giving notice thereof. Rejection or other refusal to accept, or the inability to deliver because of un-notified changed address, will be deemed to be receipt of the notice sent as provided above.
30. **Order of Precedence.** In the event that there is a conflict between these SaaS Terms and any other document, the following order of precedence will apply: 1. any Transaction Records signed by both an authorized representative of Provider and an authorized representative of Purchaser, provided that the document expressly and unambiguously states that these SaaS Terms, by specific reference, are subservient to the terms set forth in that document, then 2. these SaaS Terms, then 3. any Transaction Record signed by Provider. Otherwise, neither party will be bound by any terms or conditions set forth in any other document, and all such terms are expressly rejected, such as those on a purchase order or invoice, even where they may have been otherwise enforceable based upon contractual concepts such as “acceptance by performance” and similar concepts.
31. **Merger.** These SaaS Terms, along with the Transaction Records, comprise the entire agreement between Purchaser and Provider with respect to the Service, Ancillary Software, and related software and documentation, and supersedes any other agreement or discussion, oral or written.