

## ACCUMATIC MASTER SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

**THE MASTER SUBSCRIPTION AGREEMENT** (“*Agreement*”) is entered into as of the date set forth in the first Order Form referencing these Terms and Conditions (the “*Effective Date*”) by and between ACCUMATIC, INC., a Washington corporation (“*We*,” “*Us*,” “*Our*” or “*Accumatic*”), and the party identified as the Client in the Order Form (“*You*,” “*Your*” or “*Client*,” and together with Accumatic, collectively the “*Parties*” and individually referred to as a “*Party*”).

**1. SCOPE OF AGREEMENT; DEFINITIONS.** This Agreement covers the (i) Subscription and permitted use of the Solutions, and (ii) access to Client Support and Integration Services. The following terms shall have the following meanings:

1.1. “*Authorized User*” means Your employee(s) (or other third-party consultants as authorized by You under Section 6.2 of the Agreement) authorized by You to access or use the Solutions or access the Client Support.

1.2. “*Client Content*” means the content of any data sets, Client feedback forms or compilations, or other information provided by the Client to Us or to the Solutions.

1.3. “*Client Downtime*” means downtime, failure, disruption or interruption in the Solutions caused by or attributable to You, including, without limitation, (x) failure, interruption or disruption attributable to the actual or attempted acts or omissions of Your (i) Authorized Users, (ii) employees or (iii) independent contractors or agents, or (y) technical failure of Your telephone, computer, connectivity or any other equipment needed to access and use the Solutions or Client Support.

1.4. “*Client Support*” means access to Accumatic technical support as described in Section 7 of the Agreement.

1.5. “*Force Majeure*” means an event caused by conditions beyond the reasonable control of such Party including, but not limited to, governmental action, terrorism, war, acts of public enemies, strikes or other labor disturbances, civil or military authority, fires, floods, or other natural calamities, acts of God, telecommunications failure, electrical outages, any service failure or disruption caused by other service providers, or systems, severe network outages in co-location site networks, error in the coding of electronic files or any causes of like or different kind beyond the reasonable control of such Party.

1.6. “*Integration Services*” means integration services as specified in an Order Form.

1.7. “*Order Form*” means the document by which You order Subscriptions or Integration Services from Us and includes a description and fee schedule of the applicable Solutions and Integration Services as well as payment terms.

1.8. “*Order Term*” means the period of time so identified in an Order Form.

1.9. “*Scheduled Maintenance*” means downtime to the Solutions during which We perform upgrades, bug fixes or other systems servicing to the Solutions or data center environment. Scheduled Maintenance may also include emergency maintenance as necessary to resolve urgent security or update issues.

1.10. “*Solutions*” means the online services that We will provide to You, pursuant to an Order Form.

1.11. “*Subscription*” means Your right to access and use the Solutions specified in an Order Form.

1.12. “*Term*” shall have the meaning set forth in Section 5 of these Terms and Conditions.

### 2. ORDER FORMS.

The Parties will execute one or more Order Forms for You to order Subscriptions or Integration Services from Us. Each Order Form shall set out a description of the Solutions or Integration Services to be provided and fee schedule therefor.

### 3. SOLUTION AND SERVICES.

We shall provide to You, during the Order Term, access for your Authorized Users to use the Solutions, solely for your internal business use within the scope defined on an Order Form. We shall provide to you the Integration Services described in each Order Form.

### 4. INTELLECTUAL PROPERTY

4.1 **Ownership of IP.** As between the Parties, We retain all rights in and to the Solutions and all intellectual property rights therein. As between the Parties, You shall retain rights in and to all Client Content. Nothing in the Agreement will be deemed to transfer any intellectual property rights from either Party to the other.

4.2 **Client Content.** Notwithstanding Section 14, You authorize Us to use aggregated, de-identified Client Content for any purpose, including, but not limited to, maintenance or improvement of the Solutions, fraud prevention and general market analysis, provided that We do not use such data in a manner or publish any report that identifies You without Your permission.

4.3 **Warranties.** You represent and warrant to Us that You have sufficient intellectual property rights to provide the Client Content.

## 5. TERM AND TERMINATION.

5.1 **Term.** The term of the Agreement will begin on the Effective Date and shall continue for the longer of 12 months or so long as there is an Order Term in effect.

5.2 **Termination.** This Agreement and any Order Forms may be terminated: (a) by either Party if the other Party has breached a material obligation hereunder and has failed to cure such breach within 30 days after receiving notice thereof; (b) by either Party, immediately, if any proceeding is commenced by, for or against the other Party under any bankruptcy, insolvency or debtor's relief law for the purpose of seeking a reorganization of such Party's debts, and such proceeding is not dismissed within 90 calendar days after its commencement, or (c) as otherwise provided by the Agreement.

5.3 **Renewal.** At the expiration of each Order Term, the Order Term for a Subscription shall automatically renew for the same period of time as the initial Order Term unless either Party notifies the other Party of its intention not to renew at least 90 days prior to the end of the applicable Order Term. In the event of any renewal under this Section 5.3, Our then-current fees shall apply, but in no event shall the increase be greater than 10% of the applicable fee at the time of renewal.

5.4 **Effect of Termination.** Upon expiration or termination of the Agreement for any reason, or at the expiration of an Order Term where the Order Term was not renewed, (a) all Subscriptions shall cease; (b) You shall immediately cease (and shall cause Your employees and any Authorized User to immediately cease) all use of the Solutions; (c) each Party shall take such other actions as the disclosing Party may reasonably request to ensure that no Confidential Information remains in the receiving Party's or any of its employees' or Authorized Users' possession or control; and (d) any undisputed fees owed by You to Us hereunder shall become immediately due and payable to Us.

5.5 **Transition.** Upon notice of termination, provided you have paid us all fees due, and we have not terminated the Agreement for your breach under Section 5.2(a), We shall provide you with limited access to the Solutions for a grace period of 30 days to download your data or produce existing reports from the Solutions. This access will not include the ability to add new data or create new reports.

5.6 **Survival of Certain Provisions.** Sections 1, 4, 5.4, 5.5, 11, 12, 13, 14 and 15 hereof shall survive termination or expiration of the Agreement.

## 6. RESTRICTIONS AND SCOPE OF USE.

6.1 **Restrictions.** You can access and use the Solutions and Client Support solely for Your internal use as permitted hereunder. You and each Authorized User may not access, distribute or use the Solutions except as expressly permitted under the Agreement. You shall not, nor shall You allow or encourage any Authorized User or third party to do any of the following: (a) sell, distribute, transmit or otherwise provide access or use of the Solutions to any person other than an Authorized User; (b) use the Solutions to process data or provide analytical services to any third party, (c) attempt to reverse-engineer the Solutions or use knowledge of the Solutions to develop a competing product or service, and (d) disclose Our Confidential Information (defined below).

6.2 **Consultants.** You may allow your third-party consultants to access and use the Solutions as Authorized Users solely for Your internal business purposes, provided that you will be responsible for all Authorized Users abiding by the terms of the Agreement.

7. **CLIENT SUPPORT.** During an Order Term, as part of a Subscription to the Solutions, We will provide You with access to Client Support for the Solutions in accordance with Our then-current Client Support policies. Client Support is limited to technical support directly related to use of the Solutions, including resolution of errors and guidance on the use of the Solutions. We will, during the hours of 8:00 a.m. to 8:00 p.m. (ET) on weekdays (exclusive of holidays), provide Client Support via telephone, and at other times, via email. All support requests will be prioritized according to the severity of the support request, according to our then-current Client Support policies. Client Support hours and policies are subject to change at Our option, and we will advise you in writing of any such change. You may appoint up to three people as Your authorized Client Support contacts, and to receive Client Support, they must complete training on the operation and maintenance of the Solutions as We specify. Client Support may, at Your request, be provided in person. Travel costs are not included in the fees identified on an Order Form and You will be responsible for reimbursing Us for the costs of any travel You request associated with delivering Client Support.

8. **SERVICE LEVELS.** We will use commercially reasonable efforts to make the Solutions available on the Internet for access by You 99% of the available time each calendar month, excluding any outages on account of or caused by: (a) Client Downtime, (b) Scheduled Maintenance, or (c) Force Majeure ("**Availability**"). We will use commercially reasonable efforts to coordinate Scheduled Maintenance during off-hours of the normal workweek. We will use commercially reasonable efforts to coordinate with You regarding the scheduling of any

emergency maintenance. We will maintain industry-standard administrative, physical and technical safeguards designed to protect the security, confidentiality and integrity of Client Content. In the event we do not meet the Availability requirements of this Section, you may request a 10% credit in the Solutions Subscription fees for the applicable calendar month, and if we are able to confirm the Availability failure you report, we will credit you for such amount, against any Subscription fees payable by You thereafter. Nothing in this Section will entitle you to any refund of Fees already paid. Such credit will be your sole remedy for Our failure to meet the Availability requirements of this Section.

#### 9. FEES.

9.1 You shall pay all fees specified in an Order Form. Except as otherwise specified herein, or in an Order Form, (i) all fees are based on the Subscription ordered and not actual usage, and (ii) payment obligations are non-cancellable and non-refundable.

9.2 Unless agreed to otherwise in an Order Form, We will issue an invoice for the first month of the Subscription fees due under the Agreement, , and thereafter monthly in advance. You shall pay invoices no later than 30 days after the date of Our invoice, unless otherwise specified in an Order Form.

9.3 You agree to reimburse Us for our reasonable travel expenses. You also agree to reimburse Us for any fees or charges incurred due to the cancellation of any travel by You within 30 days of the agreed upon travel date.

9.4 With respect to any past due payments not in dispute, We reserve the right to charge You and, if assessed, You agree to pay, a late fee equal to the lesser of 1.5% per month or the greatest amount permitted by law for each month or partial month such undisputed amount remains outstanding.

9.5. You agree to pay or reimburse all fees and expenses reasonably incurred by Us in enforcing the Agreement and collecting any amounts due under the Agreement, including, but not limited to, all reasonable attorneys' fees and all expenses associated therewith.

9.6 You shall be solely responsible and liable for any and all applicable federal, state and/or local sales, use or similar taxes related to Solutions on the applicable Order Form unless You furnish satisfactory proof of exemption.

**10. MONITORING AND SUSPENSION.** We may monitor all use of the Solutions for security and operational purposes. We may suspend Your access to the Solutions in the event that You are engaged in, or We in good faith believe You are engaged in or is supporting, any unauthorized conduct (including any violation of the Agreement, any applicable law or third party right). We will use diligent efforts to contact You prior to or contemporaneously with such suspension; provided, however, that Our exercise of the suspension rights

herein will not be conditioned upon Your receipt of any notification.

**11. WARRANTY DISCLAIMER. WE MAKE NO WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, TO YOU, THE AUTHORIZED USERS OR ANY OTHER PARTY, FOR THE SOLUTION, CLIENT SUPPORT, OR INTEGRATION SERVICES, AND ALL WARRANTIES ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR OTHER WARRANTIES FOR NON-INFRINGEMENT, SATISFACTORY QUALITY, OR AGAINST LATENT DEFECTS. YOU ACKNOWLEDGE AND AGREE THAT THE SOLUTION, CLIENT SUPPORT, AND INTEGRATION SERVICES, AS APPLICABLE, ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITH NO WARRANTY WHATSOEVER. WE SPECIFICALLY DISCLAIM ANY IMPLIED OR EXPRESS WARRANTY THAT THE SOLUTION WILL OPERATE UNINTERRUPTED OR ERROR-FREE AND FOR THE ACCURACY OR COMPLETENESS OF ANY DATA OR CONTENT PROVIDED BY ACCUMATIC OR OTHERS.**

#### 12. LIMITATION ON LIABILITY

IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR LOST PROFITS, LOST DATA, OR FOR SPECIAL, INCIDENTAL, ENHANCED OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY THEREOF. IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER UNDER THIS AGREEMENT OR ANY ORDER FORM FROM ANY OR ALL CLAIMS OR CAUSES EXCEED THE AMOUNT OF THE AGGREGATE FEES PAID OR PAYABLE TO US FROM YOU FOR THE 12 MONTH PERIOD PRECEDING THE OCCURRENCE OF THE LAST EVENT GIVING RISE TO LIABILITY. THIS LIMITATION OF LIABILITY IS INTENDED TO APPLY NOTWITHSTANDING THE FAILURE OF ANY LIMITED REMEDY.

The Parties acknowledge and agree that the disclaimers, exclusions and limitations of liability set forth in this Section form an essential basis of the Agreement and that, absent any of such disclaimers, exclusions or limitations of liability, the terms of the Agreement, including, without limitation, the economic terms, would be substantially different.

#### 13. INDEMNIFICATION.

**13.1 Indemnification.** Each Party agrees to indemnify, defend, and forever hold the other Party (including each of their respective members, partners, directors, officers, employees, stockholders, agents, successors and assigns) (collectively, “*Indemnitees*”) harmless from and against any and all losses, liabilities, claims, costs, damages and reasonable expenses, including fines, forfeitures, penalties, reasonable attorneys’ fees, disbursements and court or administrative costs (collectively, “*Liabilities*”) incurred as a result of a third-party claim that arises out of or in connection with any violation by that Party of Section 4.3 (Warranties) or Section 14 (Confidentiality). THIS PARAGRAPH STATES OUR ENTIRE OBLIGATION AND LIABILITY, AND YOUR EXCLUSIVE REMEDY, FOR ANY INFRINGEMENT CLAIM.

13.2 The Parties’ respective indemnification obligations are subject to the Party seeking indemnification (the “*Indemnified Party*”) (a) promptly notifying the other Party (the “*Indemnifying Party*”) in writing of any such suit or proceeding; provided, however, that any failure to promptly provide such notice shall not relieve the Indemnifying Party of its obligations hereunder, except to the extent that such delay has actually and materially prejudiced the Indemnifying Party’s ability to defend such suit or proceeding; (b) providing the Indemnifying Party with control over the defense or settlement of any such claim or action (except that the Indemnifying Party shall not, without the Indemnified Party’s prior written consent, settle any claim that imposes any (1) equitable remedy against an Indemnitee, (2) financial obligation for which any Indemnitee is not otherwise indemnified hereunder, or (3) any other liability or obligation which could be reasonably expected to have a material adverse effect upon the Indemnified Party’s business, reputation or prospects; and (c) providing the Indemnifying Party with reasonable information and assistance, at the Indemnifying Party’s cost and expense, in the defense or settlement of any such claim or action. The Indemnified Party may participate in any such suit or proceeding through counsel of its choice at its own expense, provided that the costs associated with its counsel shall not be deemed damages or costs for purposes of the Indemnifying Party’s indemnity hereunder.

#### 14. CONFIDENTIALITY.

**14.1 Confidential Information.** Any information we provide to you about the Solutions or Our business, including in connection with Client Support, or Integration Services will be our “*Confidential Information.*” The Client Content, and any information about Your business that You provide Us which is marked Confidential or is otherwise of a nature or type that, under the circumstances, We reasonably should have known that it was nonpublic and You considered it confidential when disclosed, is your “*Confidential Information.*”

**14.2 Obligations.** Each Party shall hold the Confidential Information of the other Party in strictest confidence, and shall not disclose it (or authorize third parties to disclose it) to any third party without the prior written consent of the other Party or as otherwise permitted under the Agreement. Each Party also agrees to use commercially reasonable efforts to protect one another’s Confidential Information. Each Party may use any Confidential Information for the purposes of performing its obligations under the Agreement. Each Party shall be liable to the other Party for any breach of this Section 14 by its employees, any Authorized User or any other third party receiving access to any Confidential Information through or on behalf of such Party and/or its employees.

**14.3 Exclusions.** “*Confidential Information*” shall not include information which the receiving Party can document (a) is publicly known through lawful means; (b) was rightfully in the possession of or independently developed by such Party at the time of disclosure thereof by the other Party; (c) is disclosed to such Party without confidential or proprietary restriction by a third party who rightfully possesses the information (without confidential or proprietary restriction) and did not learn of it, directly or indirectly, from the other Party or (d) is required to be disclosed by law, a court order or competent government authority, provided that in such case the receiving Party shall promptly inform the disclosing Party of such requirement and shall cooperate with the disclosing Party to allow such Party to obtain a protective order.

**14.4 Equitable Relief.** Upon any breach of this Section 14 or threat thereof, the Party whose Confidential Information is at issue shall be entitled as a matter of right without proof of actual damages, to seek injunctive and other equitable relief, in addition to any other remedies available to it at law or hereunder.

**14.5 Publicity.** You grant Us the right to use Your name and logo as Our customer in Our public communications. This includes, but is not limited to, in a list of Our customers, on Our website, in marketing materials, in advertising and in case studies. Upon execution of the Agreement, You grant Us the right to issue a press release within 60 days announcing Your selection of Accumatic.

#### 15. MISCELLANEOUS PROVISIONS.

**15.1 Notices.** All notices relating to the Agreement shall be in writing, signed by the Party giving or making such notice or communication, and shall be delivered by: (a) personal delivery; (b) electronic transmission; (c) certified or registered mail, return receipt requested by electronic mail; or (d) recognized overnight courier service. Notices shall be sent to the address of the other Party set forth in the Order Form, or such other address

as either Party may specify in writing in accordance with this Section and shall be deemed given upon personal delivery, three business days after deposit in the mail, one business day if delivered by overnight courier, or upon acknowledgment of electronic transmission. In the case of notice to Accumatic, the notice shall be sent to the attention of Accumatic's Chief Executive Officer.

**15.2 Assignment.** Neither Party may assign the Agreement without the express written consent of the other Party. Notwithstanding the foregoing, either Party may assign its rights or delegate its obligations without such consent to an entity that acquires all or substantially all of the business or assets of such Party to which the Agreement pertains, whether by merger, reorganization, acquisition, sale, or otherwise. The Agreement, including both its obligations and benefits, shall inure to the benefit of and be binding upon the Parties and their respective successors, transferees and assigns.

**15.4 Choice of Law and Venue.** The Agreement shall be construed in accordance with the laws of the State of Washington applicable to contracts entered into and to be performed therein without regard to principles of conflict of laws and will not be governed by the U.N. Convention on Contracts for the International Sale of Goods. Any dispute arising out of or related to the Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in King County, Washington.

**15.5 Force Majeure.** The failure of either Party to perform any obligation otherwise due (other than the obligation to pay any fee) as a result of an event of Force Majeure is excused for so long as said cause exists.

**15.6 Construction.** Accumatic and Client each acknowledge and agree that the Agreement was fully negotiated by the Parties and, therefore, no provision of the Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision. In the event there is any conflict or inconsistency between the terms and conditions of the Agreement and the terms and conditions of an Order Form, the terms and conditions of the Order Form shall govern and control the rights and obligations of the parties with regard to the conflict or inconsistency.

**15.7 Amendment; Waiver.** No amendment or modification of the Agreement shall be valid or binding upon the Parties unless in writing and signed by an authorized officer of each Party. No failure or delay on the part of either Party in the exercise of any right or privilege hereunder shall operate as a waiver thereof of the exercise of any other right or privilege hereunder, nor shall any single or partial exercise of any such right or privilege preclude other or further exercise thereof or of any other right or privilege.

**15.8 Severability.** If any provision of the Agreement is held to be ineffective, unenforceable or illegal, that provision will be reformed to effectuate the intent of the Parties at the time the Agreement was entered into, and such reformation shall not affect the validity or enforceability of any or all of the remaining portions thereof.

**15.9 Entire Agreement.** These Terms and Conditions together with applicable Order Forms, constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements, proposals, and understandings, whether written or oral, between the parties with respect to such subject matter. The terms and conditions of the Agreement shall prevail regardless of any preprinted or conflicting terms on a Client's purchase order; any preprinted or conflicting terms shall be null and void.

**15.10 Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. This Agreement may be executed by facsimile or scanned signatures or via any electronic signature complying with applicable law (e.g., [www.docuSign.com](http://www.docuSign.com)).

**15.11 Relationship of Parties.** Each of the Parties is an independent contractor and the Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between them. Neither Party will have the power to bind the other or incur obligations on the other's behalf.