



SOFTWARE LICENSE TERMS

These Software License Terms (together with all attachments to these Software License Terms and each statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement that refers to these Software license Terms, this “Agreement”) is between Lowry Holding Company, Inc., a Delaware corporation that does business under the assumed name Lowry Solutions, Inc., (“Lowry”) whose address for notices is 9420 Maltby Road – Brighton Michigan 48116, and the individual or business enterprise named in a statement of work, quotation, Lowry purchase order or Lowry purchase order acknowledgement that refers to these Software License Terms, (“Customer”) whose address for notices is stated in the statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement, effective as of the date stated in the statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement or, if no date is so stated, the date upon which the statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement is executed and delivered (in either case, the “Effective Date”).

1. GRANT OF LICENSE.

- a. **Rights Granted.** Subject to the payment of the applicable license fees and Customer’s full and continuous compliance with this Agreement, Lowry hereby grants to Customer a non-exclusive, nontransferable license to use the executable code version of the software identified in, and as restricted by, statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement (the “Licensed Software”) and the documentation therefor as then provided by Lowry generally to customers for the Licensed Software (the “Documentation”) in connection with the use of the Licensed Software strictly for Internal Use. “Internal Use” means use of the Licensed Software by Customer and Customer’s Authorized Users for Customer’s own internal operations. “Authorized User” means any individual employee, agent or contractor of Customer accessing or using the Licensed Software solely for Customer’s Internal Use.
- b. **Restrictions on License.** The license granted to Customer under Section 1(a) is only for Customer’s own Internal Use. Customer shall not permit any parent, subsidiary, affiliate or third party to use the Licensed Software nor shall it allow electronic access to the Licensed Software by any third party, in each instance, other than Authorized Users, except as otherwise agreed to in writing by Lowry. This license does not include the right to sublicense.
- c. **Maintenance and Support Service.** Lowry may, at Lowry’s option, offer software maintenance and support services to Customer. Such support and maintenance will be the subject of a separate Software Maintenance and Support Agreement or similar written and signed agreement.
- d. **Proprietary Rights.**
 - i. **Licensed Software.** As between Lowry and Customer, ownership of the Licensed Software, and any and all Intellectual Property Rights therein shall at all times remain solely in Lowry and/or its licensor(s), and, except as expressly set forth in this Agreement, no express or implied license or right of any kind is granted to Customer regarding the Licensed Software. Customer shall not have the right to (and Customer agrees that it shall not), market, sell, transfer, translate, decompile, disassemble, modify, adapt, reverse engineer, distribute, or prepare derivative works of the Licensed Software. Any third-

party licensor of material evidenced by or embodied in the Licensed Software (including, but not limited to, any licensor or provider of any Third-Party Materials) shall be a third party beneficiary under this Agreement. "Intellectual Property Rights" means rights recognized by law in works of authorship, inventions, discoveries, improvements, technologies, marks, names, designs, trade dress, utility models, likenesses, and/or information, including, but not limited to, such rights under United States and foreign patents, rights with respect to trade secrets, copyrights, moral rights, and rights of publicity, and any application, or registration, associated therewith.

- ii. **Copies.** Customer may make one copy of the Licensed Software for archival, testing, and/or back-up purposes. provided that no such copy is used in production except in the case of disaster recovery or similar operations.
- iii. **Proprietary Rights Notices.** Customer shall not, and shall not permit others, to remove, alter, deface or modify the proprietary rights, copyrights, trademark or similar notices contained in or on the Licensed Software.

2. PAYMENT

- a. **Fees.** The license and other rights granted by Lowry in this Agreement are contingent upon the payment by Customer of the applicable license fees. The applicable license fees are stated in the applicable statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement. Customer must pay such fees within 30 days after invoice date. Interest shall accrue on any amount due and remaining unpaid for more than 30 days at the rate of 1.5% per month or the maximum rate of interest permitted by applicable law.
- b. **Taxes and other Charges.** Customer shall pay all sales, use, excise, value-added, or other tax or governmental charge imposed on the licensing or use of the Licensed Software or the provision of services by Lowry, except for taxes upon the income of Lowry.

3. WARRANTY

- a. **Function Warranty.** Lowry warrants solely to Customer that, during a period of 30 days after initial delivery of the Licensed Software to Customer (the "Warranty Period"). , the Licensed Software will perform in all material respects as specified in the applicable Documentation. This warranty is the "Function Warranty."
- b. **Procedure.** If Customer gives Lowry written notice during the Warranty Period of any actual failure of the Licensed Software to conform to the Function Warranty and cooperates reasonably with Lowry in reproducing and isolating such failure, Lowry will, at Lowry's option, **(a)** use its commercially reasonable efforts to correct such failure, or **(b)** accept return of such component(s) of the Licensed Software as fail(s) to conform to the Function Warranty and refund to Customer such amounts as Customer has by then actually paid for such component(s) of the Licensed Software.
- c. **Exclusions from Warranty.** Notwithstanding the foregoing, Lowry shall have no liability under the Function Warranty if: **(1)** Customer materially modifies or attempts to materially modify the Licensed Software and the failure of the Licensed Software to conform to the Function Warranty is caused by the material modification or attempt to materially modify; **(2)** Customer fails to give Lowry written notice, during the Warranty Period, of the claimed breach of warranty; **(3)** Customer fails to properly install and use the Licensed Software in the operating environment specified in the Documentation; **(4)** the failure of the Licensed Software to conform to the Function Warranty is caused in whole or in part by persons other than Lowry or by products or computer programs not furnished by Lowry; or **(5)** Customer uses the Licensed Software other than as authorized under this Agreement.
- d. **Warranty Disclaimer.** Except as expressly warranted in the Function Warranty:
 - i. LOWRY PROVIDES THE LICENSED SOFTWARE, THE DOCUMENTATION, AND ALL OTHER GOODS, SERVICES, AND SOFTWARE UNDER THIS AGREEMENT WITH ALL FAULTS;
 - ii. THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT IS WITH CUSTOMER; AND

- iii. LOWRY MAKES NO WARRANTY AGAINST INTERFERENCE WITH ANY PERSON'S ENJOYMENT OF THE LICENSED SOFTWARE, THE DOCUMENTATION, OR ANY OTHER GOOD, SERVICE, OR SOFTWARE, AGAINST INFRINGEMENT, OR OF FITNESS FOR ANY PARTICULAR PURPOSE OR OF MERCHANTABILITY.
- e. **Warranty Remedies Exclusive.** The remedies stated above for the respective warranties made under this Agreement are Customer's sole and exclusive remedies for the breach of each such warranty.

4. INDEMNIFICATION

- a. Lowry will defend, indemnify, and hold Customer harmless against all costs and reasonable expenses (including reasonable attorneys' fees), damages, and liabilities arising from third-party claims that the Licensed Software, as originally provided to Customer, infringes any third party's copyright or misappropriates any third-party trade secret under applicable law; provided that Customer promptly notifies Lowry in writing of the claim and Customer cooperates with Lowry in and allows Lowry to control the defense of the claim or any related settlement negotiations.
- b. If such a claim is made or appears possible, Lowry may, at its option, **(1)** secure for Customer the right to continue to use the Licensed Software, **(2)** modify the infringing portion of the Licensed Software to make it non-infringing but still functionally equivalent; or **(3)** replace the Licensed Software with a non-infringing product. If, in Lowry's opinion, none of the forgoing alternatives can be implemented despite Lowry' commercially reasonable efforts, either Customer or Lowry shall be entitled to terminate this Agreement with respect to the infringing Licensed Software and Lowry shall provide to Customer a refund of the unamortized portion of all license fees actually paid for the infringing component(s) of the Licensed Software, amortized on a five-year straight-line basis. Lowry's obligations will be reduced to the extent that the infringement or other claim arises **(a)** from Customer's use of the Licensed Software other than as permitted under this Agreement; **(b)** from the combination, operation, or use of the Licensed Software with any programs, data or apparatus that Lowry did not provide; or **(c)** from Customer's modification of the Licensed Software after delivery by Lowry.
- c. THIS SECTION 4 STATES LOWRY'S SOLE LIABILITY WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT, VIOLATION, OR MISAPPROPRIATION OF THIRD-PARTY RIGHTS.

5. LIMITATIONS ON LIABILITY

- a. LOWRY SHALL NOT BE LIABLE FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING, WITHOUT LIMITATION LOSS OF PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE) HOWEVER SUCH DAMAGES ARISE, WHETHER FOR BREACH OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, BREACH OF WARRANTY, OR IN TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE) EVEN IF LOWRY HAS BEEN ADVISED OR WAS ACTUALLY AWARE OF THE POSSIBILITY OF SUCH DAMAGES. ALL SUCH DAMAGES ARE EXPRESSLY DISCLAIMED, WAIVED AND RELEASED. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, LOWRY'S LIABILITY ASSOCIATED WITH THIS AGREEMENT OR ANY GOODS, SERVICES, OR SOFTWARE PROVIDED OR TO BE PROVIDED HEREUNDER, AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR IN TORT (INCLUDING, BUT NOT LIMITED TO, STRICT LIABILITY OR NEGLIGENCE) OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT ACTUALLY RECEIVED BY LOWRY FROM CUSTOMER WITH RESPECT TO THE PRODUCTS OR SERVICES THAT CAUSE THE DAMAGES OR ARE THE SUBJECT MATTER, OR ARE DIRECTLY RELATED TO, THE CAUSE OF ACTION.
- b. THE LIMITATIONS IN THIS SECTION 5 APPLY NOTWITHSTANDING THAT A PARTY KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF A PARTICULAR KIND OF DAMAGES AND NOTWITHSTANDING THAT ANY LIMITATION CAUSES A REMEDY TO FAIL OF ITS ESSENTIAL PURPOSE.

6. TERMINATION.

- a. Without prejudice to any other rights or remedies at law, equity, or otherwise of the party so terminating, a party (the "Aggrieved Party") may terminate this Agreement or any license granted hereunder by giving a notice of the other party (the "Defaulting Party"): (a) if at any time, the Defaulting Party materially defaults under this Agreement and fails to remedy same within 30 days after notice by the Aggrieved Party of the occurrence or existence of such default; (b) if the Defaulting Party applies for or consents to the appointment of a receiver, trustee, or liquidator for substantially all of its assets or such a receiver, trustee, or liquidator is appointed; (c) if the Defaulting Party has filed against it an involuntary petition of bankruptcy that has not been dismissed within sixty (60) days thereof, or files a voluntary petition of bankruptcy, or a petition or answer seeking reorganization, or an arrangement with creditors, or seeks to take advantage of any other law relating to relief of debtors, or makes an assignment for the benefit of creditors.
- b. Notwithstanding the foregoing, if Customer fails to pay any amount when due, such failure shall be a material breach giving Lowry the right to terminate this Agreement and/or any license under this Agreement, except that no failure to pay an amount other than for license fees will permit Lowry to terminate any license for Licensed Software for which the license fee has by then been duly and timely paid.

7. CONFIDENTIALITY

- a. "Confidential Information" Defined. "Confidential Information" means any information belonging to, or held by, Lowry, whether fixed in a tangible medium or otherwise, that is not readily ascertainable by proper means by the general public and that Customer receives from Lowry or learns as a direct or indirect result of Customer's possession or use of the Licensed Software and/or the Documentation. The term includes all Licensed Software and Documentation except that portion that, in the ordinary course of bona fide use as permitted by this Agreement, is intended to be displayed to the public.
- b. Confidentiality Generally. Except to the extent actually necessary to enjoy the rights expressly granted to Customer under this Agreement, Customer will do the following things with respect to the Confidential Information.
 - i. Prevent the disclosure of the Confidential Information by Customer and each of Customer's employees, agents, and/or professionals to any third party other than as permitted under this Agreement.
 - ii. Use, and permit the use of, the Confidential Information only for the purpose of using the Licensed Software as expressly permitted under this Agreement.
 - iii. Disclose the Confidential Information only to such of Customer's employees, agents, and professionals as have a bona fide need to possess or know the Confidential Information in the course of accomplishing, or advising Lowry with regard to, the purpose of using the Licensed Software as expressly permitted under this Agreement.
 - iv. Cause each employee and agent to whom Customer discloses the Confidential Information to be bound by an obligation of confidentiality that is at least as rigorous as the terms of this Agreement and verify that each professional to whom Customer discloses any Confidential Information is also subject to a professional obligation of confidentiality with regard to the Confidential Information.
 - v. Return or destroy all written or other tangible copies of Confidential Information in Customer's possession or direct or indirect control, including all extracts and copies hereof, within a reasonable time after, and in accordance with, Lowry's request.
- c. Exceptions to Confidentiality. Nothing in this Agreement will prevent Customer from disclosing Confidential Information to the extent that:
 - i. It is already known by Customer if Customer can show, by clear and convincing evidence that:
 - ii. The Confidential Information is not subject to a previous obligation of Customer to keep such Confidential Information confidential, and

- iii. The Confidential Information was not received in violation of a previous confidentiality obligation of Customer or a third party;
 - iv. It is or becomes readily ascertainable by proper means by the general public without any breach of a confidentiality obligation of Customer, whether that obligation is contained in this Agreement or arises out of any other fact or circumstance;
 - v. It is received from a third party that is not under an obligation of confidentiality;
 - vi. Customer can prove by clear and convincing documentary evidence that the Confidential Information was independently developed by Customer without use of the Confidential Information; or
 - vii. It is required by law to be disclosed, provided that Customer provides to Lowry as much notice as is practicable under the circumstances of such requirement prior to disclosure and provides to Lowry, at Lowry's expense, such assistance as Lowry requests in seeking confidential treatment, protective orders, nondisclosure, and/or similar measures.
- d. Injunctive Relief. Because unauthorized use or disclosure of Confidential Information may result in immediate and irreparable injury to Lowry for which monetary damages may not be adequate, in the event that Customer or any officer, director, employee, agent, professional, or subcontractor of Customer uses or discloses Confidential Information or, in Lowry's reasonable opinion, any such person is likely to use or disclose Confidential Information in breach of Customer's obligations under this Agreement, Lowry will be entitled to equitable relief, including temporary and permanent injunctive relief and specific performance. Lowry will also be entitled to recover any pecuniary gain Customer realizes from the unauthorized use or disclosure of the Confidential Information. The rights in this Section 7(d) are in addition to any other rights a party has under this Agreement, at law, or in equity.
- e. Duration of Confidentiality Obligations. The confidentiality obligations under this Agreement will continue after disclosure of each item of Confidential Information for the longer of (i) the time during which the Confidential Information remains a trade secret (as that term is defined in the Uniform Trade Secrets Act) of Lowry or (ii) five years after Customer receives the item of Confidential Information.

8. **THIRD-PARTY MATERIALS**

- a. Lowry may provide the Licensed Software with third-party goods, services, and/or software identified in the applicable statement of work, quotation, Lowry purchase order, or Lowry purchase order acknowledgement ("Third-Party Materials"). Notwithstanding anything else in this Agreement to the contrary:
- i. All Third-Party Materials are provided with no representation or warranty whatsoever by Lowry and Lowry will have no indemnification or other obligations with respect to Third-Party Materials;
 - ii. All Third-Party Materials are subject to the terms and conditions of the applicable license agreement distributed with such Third-Party Materials; and
 - iii. With respect to any Third-Party Materials that are open-source software, the following disclaimer applies in addition to any disclaimer that appears in any license associated with any such Third-Party Materials:
 - (A) THERE IS NO WARRANTY FOR THE THIRD-PARTY MATERIALS. EXCEPT WHEN OTHERWISE STATED IN WRITING, THE COPYRIGHT HOLDERS AND/OR OTHER PARTIES PROVIDE THE THIRD-PARTY MATERIALS "AS IS" AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE THIRD-PARTY MATERIALS IS WITH CUSTOMER. SHOULD THE THIRD-PARTY MATERIALS PROVE DEFECTIVE, CUSTOMER ASSUMES THE COST OF ALL NECESSARY SERVICING, REPAIR, OR CORRECTION.

(B) IN NO EVENT WILL LOWRY OR ANY LICENSOR TO LOWRY BE LIABLE TO CUSTOMER FOR DAMAGES, INCLUDING ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE THIRD-PARTY MATERIALS (INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY CUSTOMER OR THIRD PARTIES OR A FAILURE OF THE THIRD-PARTY MATERIALS TO OPERATE WITH ANY OTHER PROGRAMS), EVEN IF SUCH HOLDER OR OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. GENERAL PROVISIONS

- a. **Force Majeure.** Neither party shall be liable for any failure to perform or for delay in performance of its obligations hereunder caused by circumstances beyond its reasonable control, including, but not limited to, communications systems failures or outages, fire, storm, flood, earthquake, explosion, lighting, riot, acts of vandalism, accident, acts of the public enemy, war, rebellion, insurrection, sabotage, epidemic, quarantine restrictions, labor disputes, transportation embargoes, acts of God, acts of any government or agency thereof or judicial action. If such event prevents a party from performing for longer than 30 days, the other party may terminate this Agreement without further notice.
- b. **Remedies Cumulative.** Except as otherwise stated in this Agreement, all remedies of each party are cumulative and may be exercised concurrently or separately.
- c. **Waiver of Default.** Any waiver of any default of this Agreement shall be limited to the particular instance and shall not operate or be deemed to waive any future default of it nor shall any delay on the part of either party to act upon any default be deemed a waiver thereof.
- d. **Enforceability.** In the event that any one or more provisions contained in this Agreement are unenforceable, such enforceability shall not affect any other provision of the Agreement, but the Agreement shall be construed as though such unenforceable provisions had not been contained herein, and a new enforceable provision that accomplishes the interest of the severed provision as nearly as practicable shall be substituted therefor.
- e. **Notices.** Any notice required or permitted to be given under this Agreement must be in writing and will be deemed effective (a) if given by personal delivery, upon such personal delivery or (b) if given by nationally-recognized courier or mail service (in either case that has realtime or near-realtime tracking), at the time that the notice is delivered to the receiver's premises according to the tracking records of the courier or mail service. The addresses for notice for each party are those in the preamble to this Agreement and/or in the related quotation, statement of work, purchase order, and/or acknowledgement. Either party may change its address for notice by notice to the other party.
- f. **Choice of Law; Jurisdiction; Venue.**
 - i. This Agreement shall be governed in all respects by the laws of the State of Michigan without regard for its conflict of laws provisions. Any claim, suit, or cause of action arising out of, or relating to, this Agreement must be brought solely in the Michigan state courts sitting in Livingston County, Michigan or the United States District Court for the Eastern District of Michigan and each Party consents to the personal jurisdiction of, and exclusive venue in, such courts.
 - ii. Notwithstanding anything in Section 9(f)(i) to the contrary, at Lowry's option and upon notice given by Lowry, the Parties will resolve any claim, suit, or cause of action, or portion thereof, by arbitration under the rules of the International Chamber of Commerce. In such a case:
 - (A) The language of the arbitration will be English;
 - (B) The place of the arbitration will be London, England;
 - (C) The Parties will cause the arbitrator(s) to, to the maximum extent permitted by the applicable rules, permit participation in the arbitration by remote means, including, but not limited to, videoconference and teleconference, and will

structure such remote participation in a manner reasonably calculated to give the Parties the opportunity to be on equal footing for interactions during the arbitration (such as, but not limited to, requiring that both parties present by teleconference regardless of whether a Party is presenting from a remote location);

(D) The judgment and award of the arbitrator(s) may be entered in, and enforced by, any court of competent jurisdiction; and

(E) Nothing in this Section 9(f)(ii) will prevent either Party from seeking in any court any relief not reasonably available from an arbitrator.

- g. **Assignment.** Neither party may assign or transfer its rights or obligations under this Agreement without the other party's written consent which will not be unreasonably withheld. Notwithstanding the foregoing, Lowry may assign any and all of its rights under this Agreement to any affiliate of Lowry or in connection with the sale or other transfer of the business of Lowry, whether by transfer of assets, transfer of equity securities, merger, change of control, or otherwise.
- h. **Relationship.** Lowry and Customer are independent principals in all relationships and actions under and contemplated by this Agreement. This Agreement shall not be construed to create any employment, partnership or joint venture, or agency relationship between the parties.
- i. **Survival.** Any right or obligation that accrues prior to the termination of this Agreement for any reason will survive such termination. The provisions of Section 7 of this Agreement will survive the termination of this Agreement for any reason according to their terms. The provisions of Sections 1, 2, 3(d), 4, 5, 6, 8, and 9 will survive indefinitely the termination of this Agreement for any reason. (it being understood that any license that survives where Customer terminates this Agreement for default by Lowry will be and remain subject to the restrictions in this Agreement that apply to the license and will be terminable by Lowry upon violation of any such restriction).
- j. **Cross-Default.** A breach or default by Customer under any other agreement with Lowry or its affiliates will be a breach of this Agreement.
- k. **Drafting Party.** No rule that requires that ambiguity with respect to language in this Agreement be construed against the drafter will have any effect in the construction or enforcement of this Agreement.
- l. **Entire Agreement.** This Agreement, including any attachments or other documents expressly referred to in this Agreement, constitute the entire agreement between the parties with regard to the subject matter of this Agreement. No amendment to this Agreement will be of any effect unless in the form of a record signed by the party against whom enforcement is sought.