

IMPORTANT NOTICE

READ THE TERMS AND CONDITIONS OF YOUR LICENSE AGREEMENT CAREFULLY BEFORE COPYING, INSTALLING, OR USING THE PROGRAMS OR DOCUMENTATION.

THIS LICENSE AGREEMENT TOGETHER WITH ANY APPLICABLE ADDENDUM REPRESENTS THE ENTIRE AGREEMENT BETWEEN YOU (THE "LICENSEE") AND COVENTOR, INC. ("COVENTOR") CONCERNING THE LICENSED PROGRAM(S) AND DOCUMENTATION.

THIS AGREEMENT AND THE APPLICABLE COVENTOR QUOTATION CONTAIN THE PARTIES' ENTIRE UNDERSTANDING RELATING TO THE SUBJECT MATTER UNLESS OTHERWISE DEFINED IN WRITING, AGREED TO, AND SIGNED BY BOTH PARTIES.

BY COPYING, INSTALLING, OR USING THE PROGRAMS AND DOCUMENTATION, YOU ACCEPT THE TERMS OF THIS AGREEMENT. IF YOU ARE NOT WILLING TO DO SO, DO NOT COPY, INSTALL, OR USE THE PROGRAMS AND DOCUMENTATION.

1. Definitions:

1.1 **Licensee** means you, whether an individual or an entity, to whom Coventor grants the License, and who is responsible for complying with the contractual obligations of the License, and ensuring that anyone permitted access to the Licensed Programs also complies with such obligations.

1.2 **Licensed Program(s)** means the executable code version of the Coventor software licensed hereunder, as well as any updates or new versions that may be delivered by Coventor to Licensee during the term of this license.

1.3 **Computer System** means the computer, server and/or other hardware equipment on which Licensee has elected to install and/or execute Licensed Program(s).

1.4 **Documentation** means the softcopy documentation delivered by Coventor with the Licensed Program(s), such as softcopy user manuals and online help.

1.5 **Licensed Product** means, collectively, the Licensed Program(s) and Documentation.

1.6 **Vendor(s)** means the third parties who furnish Coventor with portions of the Licensed Program(s). Certain Vendor software is licensed to be used in conjunction with the Licensed Program(s) and not for any other use.

1.7 **License Key** means a physical or electronic activation key provided by Coventor to Licensee which reflects: (i) the Licensed Program(s), including version number and quantity, licensed to Licensee; (ii) the Computer System; and (iii) the start and expiration dates of the activation key

1.8 **License Site** means the central physical location where the Licensee is authorized by Coventor to use the Licensed Program(s) and other locations within a ten mile radius of the central location.

2. License Fee:

2.1 The license fee ("License Fee") is the aggregate of the fees stated in the applicable Coventor quotation for the Licensed Program(s) selected by Licensee.

2.2 To the extent Licensee (or if agreed by Coventor, Licensees' appointed third party buying agent) places and Coventor accepts purchase orders pursuant to this Agreement ("Order(s)"), each Order will constitute a contract between Licensee and Coventor, which shall be governed solely and exclusively by the terms and conditions of this Agreement, any applicable addenda and the applicable quotation, whether or not these documents are referenced on the Order. Any additional or conflicting terms and conditions appearing on an Order will not be effective unless agreed in writing by an authorized representative of Licensee and Coventor.

2.3 The License Fee is due and payable by Licensee upon receipt of Coventor's invoice. All payments under this Agreement shall be made in United States dollars, and if not paid within thirty (30) days of when due will be subject to interest at the rate of eighteen percent (18%) annually, or the maximum amount allowed by applicable law if lower, calculated from the date when payment was due until payment is made. In addition, Licensee agrees to pay Coventor's cost of collecting any past-due amounts under this Agreement, including but not limited to reasonable attorneys' fees.

3. License Type:

3.1 Nodelocked License. For nodelocked licenses, Licensee may use the Licensed Program(s) only on the Computer System and at the License Site authorized by Coventor. Licensee may have Licensed Program(s) temporarily used by an employee for telecommuting purposes

from locations other than the License Site, such as the employee's residence, an airport or hotel, provided that such employee's primary place of employment is the License Site.

3.2 Floating Site License. For floating site licenses, Licensee may use the Licensed Program(s) on any Computer System that is connected to Licensee's network (up to the number of licensed seats), so long as the Computer System and end user are physically located at the Licensed Site. Licensee has no right to use the Floating Site License from any other site. Licensee may have Licensed Program(s) temporarily used by an employee for telecommuting purposes from locations other than the License Site, such as the employee's residence, an airport or hotel, provided that such employee's primary place of employment is the License Site.

3.3 Floating WAN License. For floating WAN licenses, Licensee may use the Licensed Program(s) on any Computer System that is connected to Licensee's network (up to the number of licensed seats).

4. License Term:

4.1 The term(s) of the license(s) set forth in the applicable Coventor quotation commence on the date of shipment of the Licensed Product, and continue for the time period(s) set forth in the Coventor quotation; provided that a perpetual license shall be for a period commencing upon the date of shipment of the Licensed Product and continuing until such time as Licensee discontinues use of the Licensed Product on the Computer System, or this Agreement is terminated, but otherwise without limitation as to duration.

5. License Grant:

5.1 Coventor hereby grants to Licensee a non-exclusive, non-transferable license to the Licensed Product solely for Licensee's internal use, and limited to the number of seats set forth in the applicable Coventor quotation. Licensee may make one (1) copy of the Licensed Product solely for archival and backup purposes, so long as Licensee includes all Coventor and Vendor proprietary rights notices on such copies. Licensee agrees not to modify, translate, decompile, disassemble, reverse engineer, or otherwise reduce the Licensed Program(s) to human perceivable form or attempt to discover underlying algorithms or techniques. All use of the Licensed Program(s) shall be solely in accordance with the Documentation and License Key and any associated license manager software provided as part of, or used in connection with, the respective Licensed Program(s).

5.2 All licenses are subject to the following limitations:

(a) The Licensed Product shall be used only by Licensee for Licensee's sole and exclusive benefit, and shall not be used to provide time-sharing or other similar services.

(b) Licensee shall not transfer, distribute or sublicense the Licensed Product to any third parties, and Licensee's license shall automatically terminate in the event of such a transfer or distribution.

(c) Licensee shall not lease or lend the Licensed Product or otherwise allow use of the Licensed Product by or on behalf of any third party, nor describe the results of any benchmarking of the Licensed Program(s), whether or not obtained with Coventor's assistance, to any third party.

(d) Coventor reserves all rights to the Licensed Product not specifically granted herein.

5.3 Educational licenses (i.e. licenses which are designated as educational research or educational teaching licenses on the applicable Coventor quotation) are subject to the following additional limitations:

(a) The Licensed Product is licensed to Licensee for Licensee's own use for educational teaching or educational research purposes only as designated on the applicable Coventor quotation.

(b) Expressly excluded from the rights granted under the educational license(s) are: (i) any right on the part of Licensee to sell, license, lease, or otherwise transfer the Licensed Product(s) or to allow any other university, college educational institution or other third party to use the Licensed Product(s); and (ii) the right to use the Licensed Product(s) for any commercial purposes or to make the Licensed Product(s) available in any manner for commercial consulting work. In the event that Licensee desires to use the Licensed Product(s) for commercial programs or for other commercial work, the Licensee shall request Coventor to grant a commercial use license and shall pay the applicable commercial license fee.

(c) Educational licenses that have been designated for educational teaching purposes on the Coventor quotation Licensee agrees to actively teach the Licensed Product to its students; however, only current and updated versions of such Licensed Product will be taught. Licensee agrees to provide Coventor with a course syllabus, a course web-link and reports from time to time, as reasonably requested by Coventor, to verify that the Licensed Product (i) is being actively taught to Licensee's students, (ii) is being promptly updated with Coventor-supplied enhancements and modifications, and (iii) is not being used for purposes prohibited by this Agreement.

(d) Maintenance and Support Policies for Educational licenses designated for educational research or educational teaching are limited to installation and licensing support.

5.4 If Licensee is unable to operate the Licensed Program(s) on the Computer System due to equipment malfunction, the Licensed Program(s) may be transferred temporarily to another Computer System during the period of equipment malfunction.

6. Title: No title to or ownership in the Licensed Product is transferred to Licensee. Title to and all applicable rights in patents, copyrights, trademarks and trade secrets in the Licensed Product shall remain in Coventor and its Vendors. The Licensed Product provided hereunder, including the ideas, concepts, know-how and technology contained therein, is proprietary and confidential to and contains trade secrets of Coventor and its Vendors, and Licensee agrees to be bound by and observe the proprietary, confidential and trade secret nature thereof as herein provided. Licensee agrees to take appropriate action by instruction or agreement with its employees who are permitted

access to the Licensed Product to fulfill its obligations hereunder. Except as may be permitted in writing by Coventor, Licensee shall not provide, or otherwise make available, the Licensed Product or copies thereof to any third party.

7. Term and Termination:

7.1 The term of the license set forth in this Agreement is for the period as set forth in the applicable Coventor quotation commencing upon the date of shipment of the Licensed Product.

7.2 Coventor shall have the right to terminate Licensee's license if Licensee fails to pay any required license fee(s) or otherwise fails to comply with the license terms and conditions set forth herein. Coventor shall give written notice to Licensee of such default, and if such default has not been remedied within thirty (30) days after such notice, the license granted hereunder shall terminate.

7.3 Licensee agrees, upon expiration of the license term or upon termination by reason of Licensee's default, to immediately return or destroy the Licensed Program(s) and copies thereof as directed by Coventor and, if requested by Coventor, to certify in writing as to the destruction or return of the Licensed Product and all copies thereof.

7.4 Sections 6, 8.2, 10, 12 and 17 of this Agreement shall survive the expiration or termination of Licensee's license and this Agreement.

8. Warranty:

8.1 Upon installation on the Computer System the Licensed Program(s) will perform in all material respects in accordance with the specifications in the Documentation for a period of ninety (90) days. Licensee's sole remedy for any defect in the Licensed Program(s) communicated to Coventor within the foregoing period shall be to terminate this Agreement in the event that Coventor fails to cure such defect within forty-five (45) days after Coventor has received written notice from Licensee specifying the defect. Any modification or attempted modification of the Licensed Product by Licensee or any failure by Licensee to install any improvements or updates to the Licensed Product as supplied by Coventor shall void this warranty. Coventor shall not be responsible for any defect in, or caused by, any additions or modifications to the Licensed Product by Licensee.

8.2 THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WHICH WARRANTIES ARE HEREBY DISCLAIMED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. Patent and Copyright Indemnification: Coventor shall defend any action, suit or proceeding brought against Licensee in so far as it is based on a claim that the Licensed Product delivered hereunder infringes any United States patent or copyright issued or registered, as of the date of this Agreement. Indemnification hereunder shall be contingent upon Licensee providing prompt notice of such claim in writing, and upon Licensee granting Coventor full authority, information and assistance (at Coventor's expense) for the defense of such claim. Coventor shall pay all damages and costs awarded therein against Licensee, but shall not be responsible for any compromise made without its consent. Coventor may, at its option and expense, replace or modify the Licensed Product so that infringement will not exist or refund to Licensee prepaid License Fees on a pro-rata basis. Notwithstanding the foregoing, Coventor's indemnification hereunder shall not extend to any infringement or claim thereof which is based upon: (i) the combination of the Licensed Product delivered hereunder with any software or device not supplied by Coventor; (ii) specifications provided to Coventor; or (iii) modifications to the Licensed Product not performed by Coventor.

10. Use of Licensed Program(s) and Limitation of Liability:

10.1 The Licensed Program(s) are tools that are not intended to replace the professional skills and judgment of Licensee and its employees, agents and consultants. Licensee alone shall be responsible for the accuracy and adequacy of information and data furnished for processing and any use made by Licensee of the output of the Licensed Program or any reliance thereon. Licensee shall also be responsible for the continued operation and maintenance of the computer equipment and the third-party software used with the Licensed Program(s). For these reasons, Licensee agrees to be solely responsible for the design, repair and configuration of Licensee's equipment, machinery, systems and/or products. Licensee assumes all risks and liability for results obtained by the use of and/or implementation of the designs in any way influenced by the use of the Licensed Program(s) or the provision of services, whether such designs are used singly or in combination with other designs or products. Licensee shall protect, indemnify, hold harmless and defend Coventor of and from any loss, cost, damage or expense, including attorneys' fees, arising from any claim asserted against Coventor that is in any way associated with the matters set forth in this Section 10.1.

10.2 Without limitation of Section 10.1 above, the liability of Coventor for any claim relating to the subject matter of this Agreement regardless of the form of action, whether in contract or tort, including claims of negligence against Coventor, shall be limited to the total of all amounts Licensee has paid to Coventor for the Licensed Program(s) or services that are alleged to have caused damages or that are related to the cause of action. In no event shall Coventor or its Vendors be liable for any incidental, indirect, exemplary, special or consequential damages including, without limitation, loss of use, loss of profits or other consequential damages, even if Coventor or its Vendors have been advised of the possibility of such damages. No action, regardless of form, relating to the transactions under this Agreement may be brought by Licensee more than one (1) year after the event giving rise to the cause of action has occurred.

11. Support and Maintenance: Coventor's provision of Support and Maintenance Services are subject to the terms and conditions of this Agreement and Coventor's then-current Support and Maintenance policies. A current version of those policies is set forth in Exhibit A.

12. Proprietary Rights:

12.1 Information and data supplied by either party to the other party may include confidential or proprietary information. Confidential or proprietary information ("Confidential Information") means any information or data (including without limitation any formula, pattern, compilation, program, device, method, technique, or process) that is disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") pursuant to this Agreement. Confidential Information of Coventor includes, but is not limited to, the terms of this Agreement, the Licensed Product, the structure, organization, design, algorithms, methods, templates, data models, data structures, flow charts, logic flow, and screen displays associated with the Licensed Program(s), the Documentation, and pricing information. Confidential Information of Licensee includes, but is not limited to, Licensee data and Licensee's financial and business information. Confidential Information shall not include information that either party can demonstrate: (i) at the time of disclosure is in the public domain or is otherwise available to the Receiving Party other than on a confidential basis; (ii) after disclosure, becomes a part of the public domain by publication or otherwise through no fault of the Receiving Party; (iii) was disclosed to the Receiving Party by a third party not under an obligation of confidentiality to the Disclosing Party; or (iv) is or has been independently developed by the Receiving Party (as evidenced by the Receiving Party's written records) without access to any Confidential Information of the Disclosing Party.

12.2 Each party agrees: (i) to hold the Disclosing Party's Confidential Information in strict confidence; and (ii) except as expressly authorized by this Agreement, not to, directly or indirectly, use, disclose, copy, transfer or allow access to the Confidential Information. Notwithstanding the foregoing, a Receiving Party may disclose Confidential Information of the Disclosing Party as required by law or court order; in such event, such party shall inform the other party via telephone, email, or facsimile, prior to any such required disclosure. Without limiting any of the foregoing, Licensee specifically agrees that it shall not permit any third party, nor any employee, representative or agent thereof, that develops, markets or licenses software applications with functionality similar to the functionality of the Licensed Product to have access to the Licensed Product or to any trade secrets and Confidential Information therein.

13. Export: Licensee acknowledges that the Licensed Product provided hereunder may be subject to export controls. Licensee agrees that any Licensed Product licensed hereunder will not be exported (or re-exported from the country where it was first installed), directly or indirectly, separately or as part of a system, without Licensee, at its own cost, first obtaining all necessary licenses from the United States Department of Commerce and any other appropriate agency of the United States Government as may be required by law. Licensee acknowledges that it shall be solely responsible for determining the extent of any such licenses required, and any costs associated with complying with the requirements of this Section 13.

14. Government Contracting: If the Licensed Product is used in connection with United States government or other government contracting or subcontracting, Licensee shall ensure that no government entity shall acquire any rights of any nature in the Licensed Program(s).

15. Taxes: The License Fees and any other amounts payable pursuant to the terms and conditions herein are exclusive of all national, state, regional, local municipal or other taxes and fees including, but not limited to, excise, sales, use, property, ad valorem, intangibles, goods and services and value added taxes, Licensee's duties and registration fees, now in force or enacted in the future, and all such taxes and fees, except taxes based on Coventor's net worth, capital or net income, shall be paid directly by the Licensee, or if paid by Coventor, Licensee will reimburse Coventor.

16. Notice: Any notice or other communication given hereunder shall be in writing. Notice shall be considered delivered and effective upon receipt when sent by U.S. Mail, postage prepaid, or certified mail, return receipt requested, addressed to the parties as set forth above. Either party, upon written notice to the other, may change any name or address to which future notice shall be sent.

17. General:

17.1 Licensee may not assign any of its obligations, rights or remedies hereunder, in whole or in part, whether voluntary or by operation of law, including by way of sale of assets, merger or consolidation, without the prior written consent of Coventor, and any such attempted assignment shall be null and void. For purposes of this section: (a) the acquisition by any person, entity or group directly or indirectly, of beneficial ownership of more than fifty percent (50%) of the total voting power of the capital stock or other securities of Licensee; or (b) any merger, consolidation, spin-off or similar transaction by Licensee (or any part of Licensee) with or into any person or entity (even if Licensee is the surviving entity), shall each constitute an assignment for which the prior written consent of Coventor is required. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.

17.2 The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder. This Agreement constitutes the complete understanding between the parties with respect to the subject matter herein and supersedes all proposals, all previous negotiations and agreements, written or oral, express or implied, between the parties with respect to the subject matter herein. This Agreement may not be waived, altered, amended or modified except in writing, directly referencing the Agreement, and signed by authorized representatives of both parties.

17.3 It is expressly agreed that the parties are acting hereunder as independent contractors. Under no circumstances shall any of the employees of one party be deemed the employees of the other for any purpose.

17.4 If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

17.5 The obligations of Licensee under Sections 5, 11, 12 and 13 hereof are of a special and unique character which gives them a peculiar value to Coventor and its third party vendors for which neither Coventor nor its third party vendors can be reasonably or adequately compensated in damages in the event Licensee breaches such obligations. Therefore Coventor and its third party vendors shall, in addition to other remedies which may be available, each be entitled to injunctive and other equitable relief in the event of the breach or threatened breach of such obligations.

17.6 This Agreement shall be governed by the laws of the state of North Carolina. This Agreement will not be governed by the United Nations Convention of Contracts for the International Sale of Goods, or by the Uniform Commercial Code, the application of which are expressly excluded. The parties agree that sole jurisdiction and venue for any dispute relating to the Agreement shall be in a federal or state court in Wake County, North Carolina.

17.7 The parties hereto may execute this Agreement by an exchange of faxed signed copies hereof. In the event of such an exchange, this Agreement shall become binding on both parties and shall constitute admissible evidence of the existence and binding effect of this Agreement.

17.8 The Licensed Product may contain or include software (“**Vendor Software**”) licensed by Vendors. Vendor Software is licensed for use solely in conjunction with the Licensed Product and not for any other use. The terms and conditions of this Agreement apply to any and all Vendor Software. All Vendors are intended third-party beneficiaries of this Agreement.

EXHIBIT A

Support and Maintenance Policies

1. Support and Maintenance services are included in License Fees for licenses of a term of one (1) year or less, the term of such services to be coterminous with the term of such licenses. Support and Maintenance services are available for multiple year and perpetual licenses at an annual fee of 18% of the then-current list price for the Licensed Program(s), paid in advance. Note: These Support and Maintenance Policies – and Coventor’s obligation to provide Support and Maintenance Services – apply only to Licensees paying License fees and Support and Maintenance fees directly to Coventor. Licensees acquiring Licensed Programs from a third-party Coventor distributor will normally receive Support and Maintenance from their distributor.
2. Coventor will provide telephone support for the Licensed Program(s) between the hours of 8:30 a.m. and 5:00 p.m., local time, at the designated Coventor support location based on Licensee’s location, Monday through Friday, excluding normal business holidays. Coventor will use commercially reasonable efforts to communicate a qualified response or status within a reasonable period of time. Coventor’s assistance will be limited to providing general advice on the installation, operation and use of the Licensed Program(s) and assistance with suspected problems with the Licensed Program(s).
3. Licensee will designate up to 3 full-time employees as the designated contact persons. Coventor will receive requests for support and assistance solely from such contact persons. Before contacting Coventor, the contact person will take reasonable steps to resolve the problems, including verifying the alleged problem and reviewing the Documentation.
4. For all reported problems, Coventor will work to determine the source of the problem. Coventor will attempt to correct all documented problems reported to Coventor by Licensee that Coventor is able to recreate, and will deliver any corrections to Licensee (“Error Corrections”). Coventor may identify errors as arising from non-Coventor hardware or software, or from unauthorized modifications to the Licensed Product. In such a case, Coventor reserves the right to charge Licensee for correcting such errors at its then-current rates for such services.
5. From time to time, Coventor may provide upgrades to Licensed Program(s) (“Upgrades”) for no additional charge to Licensees paying for maintenance. Licensee agrees to implement Upgrades as soon as is reasonably practical. Coventor will have no responsibility to provide Support and Maintenance Services for any versions of the Licensed Program(s) other than the current and immediately prior versions. Upgrades do not include: (a) new products which provide significant new features and functions not provided in the current Licensed Program(s), (b) which port existing Licensed Program(s) to new hardware or Licensed Program(s) platforms, (c) which provide significant new functionality on new hardware or Licensed Program(s) platforms, or (d) which Coventor designates with a new product number.
6. Licensee shall perform tasks as requested by Coventor to aid in the resolution of problems, and shall implement all reasonable workarounds to problems as directed by Coventor. Upon request of Coventor as necessary to resolve a Licensee problem, Licensee will provide Coventor with a copy of requested Licensee data in the machine-readable format reasonably requested by Coventor. Licensee shall be responsible for maintaining adequate back-ups of all data used in connection with the Licensed Program(s).
7. Coventor will not be obligated to provide any services in addition to those set forth in these Support and Maintenance Policies (“Additional Services”). Unless otherwise agreed, Licensee shall pay Coventor at Coventor’s then-current hourly rates for Additional Services provided. Additional Services include, but are not limited to, the following: (i) detailed advice or support regarding the use and operation of the Licensed Program(s); (ii) on-site service of any kind; (iii) installation, data conversion, system integration or consulting services; (iv) service or maintenance of third-party software, operating systems, hardware, or other equipment; (v) services caused by Licensee's fault, misuse, negligence or failure to perform Licensee's responsibilities, including failure by Licensee to maintain adequate data back-ups; (vi) services caused by a malfunction of or problem with any product or goods other than those licensed by Coventor; and (vii) services caused by the use by Licensee of any version of the Licensed Program(s) other than the current or immediately prior version.
8. In the event that Licensee declines to purchase and initiate Support and Maintenance services at the time of installation of the Licensed Program, or in the event that Licensee allows Support and Maintenance service coverage to lapse for any period of time, Licensee agrees that Support and Maintenance fees will be due, upon the resumption of Support and Maintenance services, for any period during which Licensee declined to purchase Support and Maintenance services.