
Epicor Master Customer Agreement Hosting and Managed Services Supplement

(Updated June 3, 2019)

This Hosting and Managed Services Supplement (this “**Supplement**”) governs Customer’s acquisition and use of the Managed Services (defined below) ordered from Epicor Software Corporation or its Affiliate specified in the Order therefore (“**Epicor**”). This Supplement is subject to the Epicor Master Customer Agreement Master Terms and Conditions (“**Master Terms**”). Capitalized terms have the meanings given in the Master Terms unless otherwise defined herein.

1. Certain Definitions

- 1.1. “**Malicious Code**” means a virus, worm, time bomb, Trojan horse, malware or any other similar harmful or malicious code.
- 1.2. “**Managed Services**” means, collectively, hosting, application management or other managed services supplied by Epicor as specified in an Order. Managed Services do not include Software as a Service (SaaS)-based Products.
- 1.3. “**Managed Services Term**” means the period specified in an Order, as such may be extended or earlier terminated in accordance with the Agreement.
- 1.4. “**Usage Restrictions**” means those obligations of Customer and restrictions on Customer’s and its Users’ use of the Managed Services, which are set forth in Section 2.3 of this Supplement.
- 1.5. “**Users**” means individuals authorized by Customer to use the Managed Services and to whom Customer has supplied a unique user identification and password for portions of the Managed Services that utilize authentication.

2. Managed Services

- 2.1. **Grant; Internal Use.** Epicor grants to Customer on behalf of it and its Affiliates a non-exclusive, non-transferable and worldwide right to use the Managed Services for the Managed Services Term. Customer may access use the Managed Services solely for its and its Affiliates’ internal data processing and data management needs. Customer may not (i) make the Managed Services available to anyone other than its authorized Users without Epicor’s prior written consent, which may be withheld in Epicor’s sole discretion, or (ii) sell, resell, rent or lease the Managed Services or the output thereof.
- 2.2. **Authorized Users.** Customer may permit Users to use the Managed Services in accordance with the Agreement, subject to the volumes and any limitations specified in the Order. User logins are for designated individual Users and Customer may not allow a User login to be shared or used by more than one individual User; however, an individual User login may be redeployed to another individual. Customer will use all reasonable efforts to prevent unauthorized access to or use of the Managed Services and notify Epicor promptly of any such unauthorized access or use. Customer is responsible to ensure its Users comply with the Agreement.
- 2.3. **Acceptable Use Policy.** Customer and its Users will use the Managed Services only in accordance with the associated Documentation, the Agreement and any applicable Product Notes, and may not and will not permit any third party to use the Managed Services: (a) in a way prohibited by the Agreement or by law, regulation, governmental order or decree; (b) to violate the rights of others; (c) to try to gain unauthorized access to or disrupt any service, data, account or network; (d) to falsify any protocol or email header information (e.g., “spoofing”); (e) to spam or distribute Malicious Code; (f) in a way that could reasonably be expected to harm the Managed Services or impair anyone else’s use of them; (g) to reverse engineer, modify, decrypt, extract, disassemble, or decompile the Managed Services; (h) to build or support products or services competitive to Epicor; (i) to license, sell, transfer, assign, distribute, outsource, permit timesharing or service bureau use of, or commercially exploit, or make available the Managed Services to any third party except as permitted by this Agreement; (j) in any application or situation where failure of the Managed Services could lead to death or serious bodily injury or any person, or to the severe physical or environmental damage; or (k) to otherwise violate any other similar “acceptable use” policies communicated by Epicor in writing, including via email or inclusion on website specified by Epicor.
- 2.4. **Suspension.** In addition to any other rights that Epicor may have, Epicor reserves the right to take remedial action if Customer breaches the Usage Restrictions, and such remedial action may include suspending Customer’s use of the Managed Services. Epicor will promptly notify Customer of any such suspension and will limit the suspension in time and scope as reasonably possible under the circumstances.
- 2.5. **Verification.** Customer will monitor its use of the Managed Services and report any use greater than the volumes subscribed. Epicor may monitor use to verify compliance with the Agreement. Customer agrees to promptly pay to Epicor the Managed Services fees applicable to excess use during the applicable usage period and Customer’s Managed Services fees payable for the duration of the Managed Services Term will be adjusted accordingly.
- 2.6. **On-premises Applications.** Certain applications furnished by Epicor as part of the Managed Services must be installed on a Customer controlled computer or server as specified in an Order (“**On-premises Applications**”). If Customer acquires an On-premises Application, Epicor hereby grants to Customer a license to use the object code (run-time) version of the On-premises Application on a worldwide, personal and non-exclusive basis during the Managed Services Term solely in connection with its use of the Managed Services and in accordance with Section 2.1 of this Supplement. During the Managed Services Term, Epicor may make available to Customer security patches and/or other updates or upgrades to the On-premises Applications (“**Updates**”). Customer is responsible for installing (or arranging for the installation of) Updates that are necessary to ensure compatibility and interoperability with the Managed Services. Epicor is not responsible for any error in or unavailability of the Managed Services resulting from Customer’s failure to do so.

2.7. **Feedback.** Any ideas, feedback, suggestions, requests, questions, comments, results of Customer's testing and evaluation of the Managed Services ("**Feedback**") are the property of Epicor. Customer agrees to take all reasonable action directed by Epicor, and at Epicor's expense, to assign the Feedback and any intellectual property rights therein to Epicor.

2.8. **Analyses.** Epicor may compile statistical and other information related to the performance, operation and use of the Managed Services, and use such information in aggregated form to, among other things, create statistical analyses, and for performance optimization, verification of security and data integrity, demand planning, benchmarking, and research and development purposes. In doing so, Epicor will not incorporate any content, personal data or other confidential information that could identify Customer or any individual.

3. Fees and Payment; Suspension

3.1. **Fees; Excess Use.** Customer will pay the Managed Services fees specified in the Order or renewal invoice therefore in accordance with the terms thereof. Except as otherwise agreed in writing, Managed Services fees are payable annually in advance. Additional fees apply if Customer transitions to a more frequent payment structure. Customer will also pay Epicor the Managed Services fees applicable to any excess use during the applicable usage period, and the Managed Services fees applicable to the remainder of the Managed Services Term will be adjusted accordingly.

3.2. **Suspension.** Epicor reserves the right to suspend the Managed Services if fees due Epicor, which are not subject of a good faith dispute (provided all undisputed fees continue to be paid in a timely manner), remain past due following 30 days' written notice regarding the same in addition to any other rights it may have under the Agreement or at law.

4. Additional Customer Data and Data Security Terms

4.1. Epicor and its Affiliates may perform certain aspects of the Managed Services (e.g., administrative, maintenance, support, disaster recovery, data processing) from locations and/or through use of subcontractors (e.g., third party data center providers), worldwide.

4.2. Customer is responsible for entering Customer Data into the Managed Services, where applicable, and is solely responsible for any security vulnerabilities and the consequences of such vulnerabilities arising from the Customer Data and for any Malicious Code contained in therein and from Customer's or its Users' use of the Managed Services in a manner inconsistent with the associated Documentation or the Agreement.

5. Managed Services Warranties; Availability

5.1. **Warranties.** Epicor warrants that during the then applicable Initial Managed Services Term or Renewal Managed Services Term it (i) will perform the Managed Services in compliance with the associated Documentation in all material respects, (ii) will not materially decrease the overall security of the Managed Services, and (iii) will not materially decrease the overall features and functionality of the Managed Services except as contemplated in Section 5.4 of this Supplement. Customer's sole and exclusive remedy and Epicor's entire liability for breach of the aforementioned warranties will be (i) for Epicor to re-perform the deficient Managed Services at no additional cost, and (ii) if Epicor fails to re-perform the Managed Services in a non-deficient manner, Customer may terminate the deficient Managed Services; provided any such termination must occur within 60 days following Epicor's failure to re-perform the Managed Services in a non-deficient manner.

5.2. **Availability.** Epicor also warrants that it will provide the Managed Services in accordance with the applicable service levels specified in a Service Level Agreement ("**SLA Supplement**") available at <https://www.epicor.com/company/customer-agreements.aspx> or such other website specified by Epicor or Services Specification. Customer's sole and exclusive remedy and Epicor's entire liability for breach of the warranty will be for Epicor to issue the services credits, if any, specified in the SLA Supplement or Services Supplement.

5.3. **Exclusions.** The warranties set forth in Sections 5.1 and 5.2 of this Supplement will not apply (i) if the Managed Services are not used in accordance with the associated Documentation, the Agreement or applicable Product Notes, or (ii) the Managed Services are provided for no fee.

5.4. **Third Party Applications.** Notwithstanding Section 5.1 of this Supplement, Epicor may discontinue Third Party Applications supplied as part of the Managed Services upon no less than 180 days' prior written notice, in which case the Managed Services fees will be reduced accordingly. Epicor will use commercially reasonable efforts to assist Customer to obtain replacement services.

6. Additional Indemnification and Liability Limitation Terms

6.1. **Epicor Claims.** In addition to Customer's obligations under the Master Terms, Customer will, at its own expense defend Epicor Indemnified Parties against Losses finally awarded against them or amounts agreed to in a monetary settlement arising out of or in connection with such Claim to the extent the Claim (any of the following, also an Epicor Claim for purposes of the Agreement) results from Customer's use of the Managed Services not in accordance with the Usage Restrictions.

6.2. **Additional Limitations.** The parties agree that the exclusions and limitations specified in Section 8 of the Master Terms do not apply to Customer's breach of the Usage Restrictions.

7. Term and Termination

7.1. **Term.** The initial period applicable to the Managed Services is as stated in the Order therefore ("**Initial Managed Services Term**").

7.2. **Renewal.** Upon expiration of the Initial Managed Services Period, and each anniversary thereafter, the Managed Services Order will automatically renew for an additional one-year period (each, a "**Renewal Managed Services Term**") at the rates then in effect unless Customer and Epicor negotiate a new multi-year arrangement or either party gives written notice of non-renewal at least 90 days prior to the end of the applicable Initial Managed Services Term or Renewal Managed Services Term as the case may be. The Master Terms

and Managed Services Supplement in effect at the time of renewal will govern the Managed Services for the duration of the Renewal Managed Services Term.

7.3. **Additional Managed Services Orders.** Any additional Managed Services Orders processed during the Managed Services Term will be added to Customer's then current Managed Services and are subject to the Master Terms and Managed Services Supplement in effect at the commencement of the then current Initial Managed Services Term or Renewal Managed Services Term as the case may be.

7.4. **Termination.** A party may terminate the Agreement, this Supplement and/or the Managed Services Order in accordance with the Master Terms. Customer may also terminate the Agreement and Managed Services Order as permitted under Section 5.1 of this Supplement upon written notice.

7.5. **Effect of Termination; Customer Data Portability and Deletion.** Customer's right to use the Managed Services and On-premises Applications ends upon the effective date of expiration or termination of the Managed Services Term. If Epicor processes Customer Data as part of the Managed Services, Epicor will make the Customer Data available to Customer in machine-readable format upon Customer's written request made within 30 days following termination or expiration of the Managed Services Term. Except as otherwise required by law, Epicor may delete or destroy all copies of the Customer Data following such 30 day-period.

7.6. **Refund or Payment upon Termination.**

7.6.1. Customer is entitled to a pro-rata refund in the amount of any then prepaid Managed Services fees for the terminated period calculated as of the effective date of the termination if (i) Customer terminates the Agreement or Managed Services Order for cause (subject to such cause being established) pursuant to the Master Terms or as permitted under Section 5.1 of this Supplement, or (ii) Epicor terminates the Agreement or Managed Services Order as a result of its indemnification obligations under the Master Terms.

7.6.2. Customer will pay any unpaid Managed Services fees covering the duration of the Managed Services Term applicable to the Managed Services Order if Epicor terminates the Agreement or Managed Services Order because of Customer's uncured breach or if Customer terminates the Agreement or Managed Services Order other than as permitted under the Agreement. Notwithstanding the foregoing, if Epicor performs the Managed Services for on-premises software licensed by Customer from Epicor on a perpetual (e.g., non-subscription or limited term basis) ("**Licensed Software**"), then the fees payable under this Section will not exceed 10% of the sum of (i) the software license fees attributable to the Licensed Software, (ii) any maintenance and support fees payable with respect to the Licensed Software for the initial annual maintenance and support term therefore, and (iii) any non-cancellable Managed Services fees (e.g., setup fees). The foregoing clause does not limit Customer's obligation to pay any unpaid Managed Services fees applicable for the period preceding termination.

7.7. **Surviving Provisions.** In addition to those Sections that survive under the Master Terms, Sections 1, 3.1, 6 and 7 of this Supplement will survive expiration or termination of the Agreement.
