
Epicor Master Customer Agreement

Software Subscription License Supplement

(Limited Term Licenses)

(Updated June 3, 2019)

This Software Subscription License Supplement (this “**Supplement**”) governs Customer’s acquisition and use of Software licensed on a limited term basis from Epicor Software Corporation or its Affiliate specified in the Order therefor (“**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. “**Customization**” means a custom code modification to the Software performed by Epicor.
- 1.2. “**License Term**” means the period specified in the Subscription License Order, as such may be extended or earlier terminated in accordance with the Agreement.
- 1.3. “**Malicious Code**” means a virus, worm, time bomb, Trojan horse, malware or any other similar harmful or malicious code.
- 1.4. “**Modification**” means a modification, alteration, addition, derivative work, derivation, enhancement and/or improvement of any kind to or of or from or based on or related to the Software or any part thereof, in any form or format. For the avoidance of doubt, configuration of the base Software is not a Modification.
- 1.5. “**Software**” means the specific application software product, module and/or user licenses specified in an Order.
- 1.6. “**Software Update**” means a patch, workaround, improvement, correction, modification or derivate to the Software that is made generally available by Epicor as part of a Support subscription or incidental to Epicor’s warranty obligations.
- 1.7. “**Subscription License Warranty Period**” means the 1-year period following the date the Software licensed hereunder is first shipped or made electronically available to Customer.
- 1.8. “**Support**” means those maintenance and support services Epicor performs with respect to the License in accordance with its then current support policy applicable to the Software product licensed and/or the region that such Software is licensed.
- 1.9. “**Users**” means individuals authorized by Customer to use the Software pursuant to the Agreement and to whom Customer has supplied a unique user identification and password for the Software that utilizes authentication.

2. Software License

- 2.1. **License Grant.** Subject to the terms and conditions herein and any limitations specified in an Order (including any Product Notes thereto), Epicor grants Customer on behalf of Customer and its Affiliates a personal, non-exclusive, non-transferable, and worldwide license for the use of the Software (“**Subscription License**”) during the License Term. The Subscription License is for the (i) object code (run-time) version of the Software and such Software Updates as may hereafter be provided by Epicor to Customer, and (ii) Software Documentation applicable to the Software. The Subscription License is subject to the associated license type(s) designated on an Order or the related Documentation.
- 2.2. **Internal Use.** The Subscription License is granted solely to Customer for its and its Affiliates’ internal data processing and data management needs. Customer agrees that the Subscription License does not permit Customer to: (i) make the Software available to anyone other than its authorized Users without Epicor’s prior written consent, which may be withheld in its sole discretion, (ii) use the Software for a timesharing or service bureau application, or (iii) sublicense or encumber the Subscription License and Documentation except as otherwise permitted herein.
- 2.3. **Authorized Users.** Customer may permit Users to use the Software in accordance with the Agreement, subject to any volume limitations stated 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; provided 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 Software, and notify Epicor promptly of any such unauthorized access or use, and will be responsible for any such unauthorized access by, through or with respect to Customer. Customer is responsible to ensure its Users comply with the Agreement.
- 2.4. **Usage Restrictions.** Except to the extent permitted by law without the possibility of contractual waiver, Customer may not reverse engineer, modify, decrypt, extract, disassemble, or decompile the Software, or permit anyone else to do so (a “**Prohibited Action**”). Before Customer exercises any legal right to conduct a Prohibited Action it must provide Epicor with reasonable prior written notice and will not unreasonably refuse to accept any alternative course of action that Epicor proposes to satisfy Customer’s legal rights in lieu of conducting a Prohibited Action.
- 2.5. **High Risk Use.** Customer and its Users may not and will not permit any third party to use the Software for any high risk use (i.e., where failure or fault of the Software could lead to death or serious bodily injury of any person, or to severe physical or environmental damage).
- 2.6. **Copies.** Customer may make a reasonable number of copies of the Software and Documentation licensed hereunder solely for its own data archival or disaster recovery purposes. Customer will not permit any third party to copy the Software or Documentation without Epicor’s prior written consent

2.7. **Fees; Excess Use.** Customer will pay the Subscription License fees applicable thereto as specified in the Order or renewal invoice therefor in accordance with the terms thereof. Except as otherwise agreed in writing, Subscription License fees are payable annually in advance. Additional fees apply if Customer transitions to a more frequent payment structure. If Customer's usage exceeds the License, it must promptly license and pay the applicable Subscription License fees for such additional software product usage.

2.8. **Verification and Audit**

2.8.1. Customer will monitor its use of the Subscription License and report any use greater than the amounts licensed.

2.8.2. On Epicor's written request, no more frequently than annually, Customer will provide Epicor with a signed written certification (i) verifying that the Software furnished hereunder has been used in complete compliance with the terms of this Agreement, including any user limitations, and (ii) listing the locations at which software Products furnished hereunder are being used. Customer agrees to grant Epicor reasonable access (either onsite or remotely) to all relevant locations and provide reasonable co-operation, upon prior notice during normal business hours, to allow Epicor to audit Software usage, and to confirm the information provided by Customer in its signed written certification.

3. **Software Warranty**

3.1. Epicor warrants that during the Subscription License Warranty Period: (i) the Software will substantially conform to the applicable Software Documentation, (ii) any media upon which the Software is supplied will be free from defects in design, material or workmanship, and (iii) the Software as originally delivered will not contain any Malicious Code.

3.2. The warranties described herein do not apply to defects resulting from (a) a Modification or repair that is not performed by Epicor or its Affiliates, (b) interoperability with Third Party Applications not supplied by Epicor, or (c) misuse, damage or unlicensed use of the Software by Customer or a third party. Epicor does not warrant that the functions contained in the Software will meet Customer's requirements or needs, or that the operation of the Software will be uninterrupted or error free.

3.3. Customer's sole and exclusive remedy for breach of the warranties described herein will be for Epicor to repair or otherwise remedy the nonconformity in a reasonably timely manner and at Epicor's own expense if Customer notifies Epicor in writing within the Subscription License Warranty Period and Epicor validates the nonconformity.

4. **Support**

4.1. **General.** Epicor will supply Support during the License Term upon payment of the applicable Subscription License fees.

4.2. **Support Warranty.** Epicor warrants that Support will be provided by qualified personnel in a professional and workmanlike manner. Customer's sole and exclusive remedy for breach of this warranty will be for Epicor re-perform the Support in a non-deficient manner.

4.3. **Microsoft Embedded Maintenance.** Customer's subscription to the Microsoft Embedded Maintenance program as specified on an Order entitles Customer to receive new product versions to certain Microsoft Software products supplied by Epicor, if and when commercially released by Microsoft Corporation, during the applicable coverage period, in accordance with Microsoft Corporation's policies then in effect.

4.4. **Third Party Applications.** Notwithstanding anything to the contrary contained herein, Support for Third Party Applications supplied by Epicor under the Agreement may be subject to different terms and conditions and may be otherwise limited. See the Third-Party Applications Addendum or an Order therefor for details. Further, Epicor may discontinue Support for Third Party Applications supplied by Epicor hereunder upon no less than 180 days' notice, following which Epicor will use commercially reasonable efforts to assist Customer to obtain replacement software or support and the applicable Support fees will be adjusted accordingly.

4.5. **Customization Support.** If Epicor develops a Customization for use with the License, then Customer may separately subscribe to Customization Support, if available. Customization Support is furnished subject to the terms and conditions specified in the Customization Supplement then in effect, available at <https://www.epicor.com/company/customer-agreements.aspx> or such other website specified by Epicor. Epicor is not responsible for any Software or interoperability error or defect that results from Customer's failure to subscribe to Customization Support or to comply with the terms and conditions applicable thereto.

5. **Amendments to Master Terms**

5.1. **Customer Claims - Exclusions.** Epicor has no obligation to Customer or Customer Indemnified Parties for Customer Claims that result from Customer's use of a superseded Software version if a corrective Software Update has been made available to Customer for no additional license fees and given reasonable time to implement.

6. **Term and Termination**

6.1. **Term.** The initial period applicable to the Subscription Licenses is as stated in the Order therefor ("**Initial License Term**").

6.2. **Renewal.** Upon expiration of the Initial License Period, and each anniversary thereafter, the Subscription License Order will automatically renew for an additional one-year period (each, a "**Renewal License Term**") at the rates then in effect, unless Epicor and Customer 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 License Term or Renewal License Term as the case may be. The Master Terms and Software Subscription License Supplement in effect at the time of renewal will govern the Subscription License for the duration of the Renewal License Term.

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

6.4. **Termination.** A party may terminate the Agreement, this Supplement and/or the Subscription License in accordance with the Master Terms.

6.5. **Effect of Termination.** Customer's right to use the Subscription License ends upon the effective date of expiration or termination of the License Term. Customer will return or destroy all Software and Documentation supplied hereunder, and if requested by Epicor, will certify in writing as to the destruction of the same.

6.6. **Refund or Payment upon Termination.**

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

6.6.2. Customer will pay any unpaid Subscription License fees covering the duration of the Initial License Term or Renewal License Term, as applicable, to the Subscription License Order if Epicor terminates the Agreement or Subscription License Order because of Customer's uncured breach or if Customer terminates the Agreement or Subscription License Order other than as permitted under the Agreement

6.7. **Surviving Provisions.** In addition to those Sections that survive under the Master Terms, Sections 1, 2.7, 2.8, 5, and 6 of this Supplement will survive expiration or termination of the Agreement.
