

Standard End-User License Agreement for Arcana Development Software Products

Version 4.1, updated April 15, 2018

This license agreement (“AGREEMENT”) is a legal agreement between you (either an individual or a single entity) and Arcana Development, LLC (“Arcana Development”) for the software product identified above (“SOFTWARE PRODUCT”), which includes the computer software and any associated media, printed materials, and “online” or electronic documentation (“PRODUCT COMPONENTS”) distributed together under the product name shown above. The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to you by Arcana Development. Any software provided along with the SOFTWARE PRODUCT that is associated with a separate end-user license agreement is licensed to you under the terms of that license agreement. By purchasing, installing, copying, downloading, executing, or otherwise using the SOFTWARE PRODUCT, you agree to be bound by the terms of this AGREEMENT. If you do not agree to the terms of this AGREEMENT, do not install or use the SOFTWARE PRODUCT.

This AGREEMENT shall be governed by the laws of the State of Virginia and, in respect of any dispute which may arise hereunder, you consent to the jurisdiction of the federal and state courts sitting in Virginia.

Software Product License

The SOFTWARE PRODUCT is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. The SOFTWARE PRODUCT is licensed, not sold.

The SOFTWARE PRODUCT contains some or all of the following types of software: “Server Software” that provides the core services or functionality of the SOFTWARE PRODUCT (the computer running the Server Software shall be referred to as the “Server”); and “Client Software” that allows other computers to gain access to or utilize the services or functionality provided by the Server Software (each computer running the Client Software shall be referred to as a “Client”).

1. **Grant of License.** This AGREEMENT grants you the following rights provided that you comply with all terms and conditions of this AGREEMENT:

a. *“Licensed” Software.* If you have purchased or otherwise legally obtained a license to use the SOFTWARE PRODUCT (i.e., obtained from Arcana Development or its authorized agents a printed or electronic license certificate containing a valid license number or serial number for, and authorizing you to RUN, the SOFTWARE PRODUCT) the SOFTWARE PRODUCT is considered “Licensed Software” (and you are considered a “LICENSEE”) and you are granted the following rights, based on the type of license purchased:

i. *“Server” or “Per-Computer” License.* You may install, use, display, run, or otherwise interact with (“RUN”) the Server Software on a single computer (“Server”), whether physical or virtual, for each license that you hold.

- ii. *Multi-Computer Licenses.* If you have obtained a multi-computer license you may RUN additional copies of the Server Software up to the number of copies specified in your license certificate.
- iii. *Site Licenses.* If you have obtained a site license you may RUN as many copies of the Server Software as you wish, on computers owned by you or under your sole control, at each physical location (“site”) for which you have obtained a license. Your site license certificate specifies the site for which the license is valid; the license does not entitle you to RUN the Server Software on computers that are not at the designated site.
- iv. *Unlimited Use License.* If you have obtained an unlimited use license you may RUN as many copies of the Server Software as you wish, on computers owned by you or under your sole control, regardless of location.
- v. *“Client” Installation.* Regardless of the kind of license you have obtained, you may RUN the Client Software on as many computers in as many locations as you wish for the purpose of interacting with the licensed Server Software.
- vi. *Backup Server Installation.* If the Server Software is installed on a computer for which you maintain a passive fail-over or backup server, you may RUN the Server Software on a temporary basis on that backup server, for backup support only, without obtaining an additional license.

b. *“Evaluation” Software.* If the SOFTWARE PRODUCT is labeled “Evaluation” or “Trial” or was provided to you by Arcana Development or its agents as evaluation software, and/or if you have not obtained a license for the SOFTWARE PRODUCT as described in 1.a above, the SOFTWARE PRODUCT is considered “EVALUATION SOFTWARE” (and you are considered an “EVALUATION USER”) and you may RUN the SOFTWARE PRODUCT on any number of computers for up to 60 days for demonstration, test, or evaluation purposes. Your evaluation period commences at the time you first install a copy of the SOFTWARE PRODUCT; installing the SOFTWARE PRODUCT on a different computer or reinstalling the SOFTWARE PRODUCT on the same computer does not extend this evaluation period. At the end of the evaluation period you must either legally obtain a license to the SOFTWARE PRODUCT or uninstall and destroy all copies of the SOFTWARE PRODUCT in your possession.

c. *“Bundled” Software.* If the SOFTWARE PRODUCT was provided to you (by Arcana Development or one of its licensees) with or as part of another software application (the “CONTAINING APPLICATION”), the SOFTWARE PRODUCT is considered “BUNDLED SOFTWARE” and you may install the SOFTWARE PRODUCT only as part of the CONTAINING APPLICATION. You are licensed to use the SOFTWARE PRODUCT only as long as you are licensed to use the CONTAINING APPLICATION.

d. *Reservation of Rights.* All rights not expressly granted are reserved by Arcana Development.

2. Description of Other Rights and Limitations.

a. *Version Limitation.* Your license is for a specific version number. This AGREEMENT permits you to install the same or a lower version of the SOFTWARE PRODUCT as the version number specified on the license certificate. If you have obtained this SOFTWARE PRODUCT as an upgrade to a previous version for which you have a license you are permitted to RUN the SOFTWARE PRODUCT even though it may have a later version number than is specified on your

license certificate, provided you meet all eligibility requirements for the upgrade as described in section 3.

b. *Non-Production License.* If your license is designated as a “Non-Production” license, the SOFTWARE PRODUCT is licensed only for non-production use, such as development, testing, or cold standby. Production use, such as ongoing use in support of normal business operations, is prohibited. The SOFTWARE PRODUCT may impose additional limitations, such as limitations on how long it can be run continuously.

c. *Limitations on Reverse Engineering, Decompilation, and Disassembly.* You may not reverse engineer, decompile, disassemble, or modify the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

d. *Separation of Components.* The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one computer except for the separation of Server Software and Client Software as provided in this AGREEMENT.

e. *Rental.* You may not rent, lease, or lend the SOFTWARE PRODUCT or use of the SOFTWARE PRODUCT.

f. *Multi-User Environment.* If the SOFTWARE PRODUCT is installed and used in a Terminal Services or other multi-user environment that allows more than one user to interact with the SOFTWARE PRODUCT at a time, then a separate license must be purchased for each user who has access to the SOFTWARE PRODUCT.

g. *Support Services.* Arcana Development may provide you with support services related to the SOFTWARE PRODUCT (“SUPPORT SERVICES”). Use of SUPPORT SERVICES is governed by the Arcana Development policies and programs described in the user manual, in “online” documentation, and/or in other materials provided by Arcana Development. Any supplemental software code provided to you as part of the SUPPORT SERVICES shall be considered part of the SOFTWARE PRODUCT and subject to the terms and conditions of this AGREEMENT. With respect to technical information you provide to Arcana Development as part of the SUPPORT SERVICES, Arcana Development may use such information for its business purposes, including for product support and development. Arcana Development will not utilize such technical information in a form that personally identifies you.

h. *Software Transfer.* The initial LICENSEE of the SOFTWARE PRODUCT may make a one-time permanent transfer of this AGREEMENT and SOFTWARE PRODUCT only directly to an end user. This transfer must include all of the SOFTWARE PRODUCT (including all component parts, the media and printed materials, any upgrades, this AGREEMENT, and, if applicable, the printed and/or electronic license certificate). Such transfer may not be by way of consignment or any other indirect transfer. The transferee of such one-time transfer must agree to comply with the terms of this AGREEMENT, including the obligation not to further transfer this AGREEMENT and SOFTWARE PRODUCT. Site licenses and unlimited use licenses may not be transferred without the consent of Arcana Development. BUNDLED SOFTWARE may not be transferred except as part of a transfer of the CONTAINING APPLICATION, if such a transfer is allowed under your license for that software.

i. *Assignment.* Either party to this AGREEMENT may assign the AGREEMENT to any entity who acquires (through purchase, merger, government action, or otherwise) the assigning party or substantially all of the assigning party’s assets as they relate to this AGREEMENT.

j. *Termination.* Without prejudice to any other rights, Arcana Development may terminate this AGREEMENT if you fail to comply with the terms and conditions of this AGREEMENT. In such event, you must destroy all copies of the SOFTWARE PRODUCT and all of its component parts.

3. **Upgrades.** If the SOFTWARE PRODUCT is labeled as an upgrade, you must be properly licensed to use a product identified by Arcana Development as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements (and may disable) the product that formed the basis for your eligibility for the upgrade. You may use the resulting upgraded product only in accordance with the terms of this AGREEMENT. If the SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that you licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.

4. **Copyright.** All title and copyrights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, and text incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by Arcana Development or its suppliers. If this SOFTWARE PRODUCT contains documentation that is provided only in electronic form, you may print as many copies as you wish of such electronic documentation, provided that it is for your use only. You may not copy the printed materials accompanying the SOFTWARE PRODUCT.

5. **Copies.** You may make as many copies as you wish of the installation media (if provided) or downloaded installation package, for the purpose of installing the SOFTWARE PRODUCT on computers for which you have obtained a license. After installation of the SOFTWARE PRODUCT pursuant to this AGREEMENT, you may keep the original media on which the SOFTWARE PRODUCT was provided by Arcana Development for backup or archival purposes. Except as expressly provided in this AGREEMENT, you may not otherwise make copies of the SOFTWARE PRODUCT or the printed materials accompanying the SOFTWARE PRODUCT.

6. **Redistribution of Software.** Copies of the SOFTWARE PRODUCT (including evaluation copies) may not be given, sold, or otherwise transferred to others without the prior permission of Arcana Development (except in the case of a license transfer as provided in section 2.h above). Software download web sites and other similar distribution services are permitted to redistribute evaluation copies provided that an evaluation copy or listing request was submitted to the service by an authorized agent of Arcana Development.

7. **U.S. Government License Rights.** This SOFTWARE PRODUCT is provided to the U.S. Government with the commercial rights and restrictions described elsewhere herein.

8. **Export Restrictions.** You may not export or re-export the SOFTWARE PRODUCT or any part thereof to any country, person or entity except in compliance with U.S. export restrictions. You specifically agree not to export or re-export any of the SOFTWARE PRODUCT (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the SOFTWARE PRODUCT back to such country; (ii) to any person or entity who you know or have reason to know will utilize the SOFTWARE PRODUCT in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. You warrant and represent that neither the BXA nor any other U.S. federal agency has suspended, revoked or denied your export privileges.

9. Use in Hazardous Environments. THIS SOFTWARE PRODUCT IS NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR RESALE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, SUCH AS IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, DIRECT LIFE SUPPORT MACHINES, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SOFTWARE PRODUCT COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

10. Warranty; Disclaimer of Warranty. THIS SOFTWARE PRODUCT IS PROVIDED “AS IS.” TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ARCANA DEVELOPMENT AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, WITH REGARD TO THE SOFTWARE PRODUCT, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHERS, WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION.

BECAUSE OF THE VARIOUS HARDWARE AND SOFTWARE ENVIRONMENTS INTO WHICH AND USES TO WHICH THE SOFTWARE PRODUCT MAY BE PUT, NO WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE IS OFFERED. GOOD DATA PROCESSING PROCEDURE DICTATES THAT ANY SOFTWARE PROGRAM BE THOROUGHLY TESTED WITH NON-CRITICAL DATA BEFORE RELYING ON IT. THE USER MUST ASSUME THE ENTIRE RISK OF USING THE SOFTWARE PRODUCT.

11. LIMITATION OF LIABILITY. To the maximum extent permitted by applicable law, in no event shall Arcana Development or its suppliers be liable for any special, incidental, indirect, or consequential damages whatsoever (including, without limitation, damages for loss of business profits, business interruption, loss of business information, or any other pecuniary loss) arising out of the use of or inability to use the SOFTWARE PRODUCT or the provision of or failure to provide Support Services, even if Arcana Development has been advised of the possibility of such damages. In any case, Arcana Development’s entire liability under any provision of this AGREEMENT shall be limited to the total amount received by Arcana Development for the software license during the twelve month period immediately preceding the date on which the relevant claim arose. Because some states and jurisdictions do not allow the exclusion or limitation of liability, the above limitation may not apply to you.

12. Indemnification. Except where prohibited by applicable law, Arcana Development shall defend you against any third-party claim that the SOFTWARE PRODUCT (excluding open source software) infringes or misappropriates that third party’s intellectual property rights (including copyright, patent, or trade secret rights).

- a. In the event of a claim that Arcana Development believes is likely to result in an adverse ruling, that Arcana Development cannot reasonably defend against, or if Arcana Development determines such actions are reasonably necessary to avoid material liability, then Arcana Development may at its discretion:
 - i. obtain a right for you to continue using such Software,
 - ii. modify the SOFTWARE PRODUCT so that it no longer infringes on the other party’s claim,
 - iii. replace the SOFTWARE PRODUCT with a non-infringing substitute, or

- iv. terminate this AGREEMENT and provide a pro-rata refund of the license fees paid by you over the previous five years.
- b. Arcana Development shall have no obligation to defend against claims arising from:
 - i. modifications of the SOFTWARE PRODUCT that were not performed by or on behalf of Arcana Development;
 - ii. your unauthorized use of the SOFTWARE PRODUCT;
 - iii. your use of the SOFTWARE PRODUCT in connection with a third-party product, software or service, where the combined use causes the claimed infringement; or
 - iv. your failure to install updates or upgrades to the SOFTWARE PRODUCT that would have avoided the alleged infringement.
- c. Arcana Development's duty to indemnify and defend you is contingent upon you providing Arcana Development:
 - i. prompt and timely written notice of the third-party claim,
 - ii. the right to solely control the investigation, defense, and settlement of the claim, and
 - iii. your reasonable assistance in the investigation and defense of the claim.
- d. This Section states your exclusive remedies for any third-party intellectual property claim or action, and nothing in this AGREEMENT or elsewhere will obligate Arcana Development to provide any greater indemnity to you.
- e. You, at your expense, shall defend and indemnify Arcana Development against any claim, action, or proceeding brought against Arcana Development which arises from your breach of any provision of this AGREEMENT or from any modification or use described in section 12.b.