

TEAMCENTRAL
SaaS
MASTER LICENSE AGREEMENT

This SaaS Master License Agreement (“Agreement”) is entered into effective _____, 20____ (“Effective Date”), by and between TeamCentral, Inc, a Delaware company with its principal place of business at 1215 Lyons Road, Building F, Dayton, Ohio 45458 (“Licensor”), and _____, a _____ with its principal place of business at _____ (“Licensee”).

For good and valuable consideration, the parties hereby agree as follows:

1. DEFINITIONS

- (a) “**TeamCentral Software**” means the TeamCentral software (including any applicable fixes, patches, updates or upgrades which Licensor may receive pursuant to the terms of this Agreement) specifically identified in one or more separately executed SOWs. Exhibit A contains a description of the TeamCentral Software.
- (b) “**Fees**” means any and all fees due and payable to Licensor under a SOW.
- (c) “**Service(s)**” means all services that may be provided by Licensor including, but not limited to, Consulting Services as defined herein.
- (d) “**Statement of Work**” or “**SOW**” means one or more separately executed statements of work executed by the parties.
- (e) “**Term**” means the period in which Licensee subscribes (including payment thereof) to the TeamCentral Software as set forth in a SOW.
- (f) “**Third-Party Material(s)**” means any services (including hosting services if Licensee decides to host the TeamCentral itself or through a third-party), software, or goods provided, manufactured or created by any other party other than Licensor, regardless of whether Licensor is a reseller of said services, software, or other goods, or recommends the use of said services, software, or other goods.

2. NON-EXCLUSIVE LICENSE

Subject to compliance with the terms of this Agreement and payment of all applicable Fees, during the Term of this Agreement Licensor grants Licensee a non-exclusive license to use the TeamCentral Software for Licensee’s internal business purposes.

The Licensee shall not assign, transfer, sublicense, lease, rent or share any license granted hereunder. Licensee shall not disassemble, re-manufacture, modify the source code, create derivative works of the source code, decompile, reverse engineer, or otherwise misappropriate any of the intellectual property of Licensor and/or its suppliers or licensors. By using the TeamCentral Software, the Licensee and its employees and agents agree to be bound by the terms of this Agreement.

3. OTHER LICENSOR OFFERINGS

- (a) Exhibit B contains a description of the Services currently offered by Licensor. Licensor reserves the right to discontinue any Service offering prior to execution of a SOW. In the event that Consulting Services include any customization work, subject to payment of all applicable Fees, Licensor grants Licensee a perpetual non-exclusive license to use the customization work for Licensee’s internal business purposes.
- (b) The applicable SOW will reflect any Third-Party Material, which is being purchased through Licensor.

4. PAYMENT

Licensee shall pay Licensor the Fees in the manner specified in the applicable SOW. All amounts specified in the SOW are exclusive of any applicable value added, use, sales, service, property or other taxes or contributions, which Licensee will pay in addition to the amount due and payable.

5. LICENSEE OBLIGATIONS AND ACKNOWLEDGMENTS

- (a) Licensee shall use commercially reasonable efforts to promptly provide to Licensor reasonable information, documentation and access to Licensee’s facilities, equipment, hardware and personnel as requested by Licensor to facilitate Licensor’s performance hereunder.
- (b) The Licensee shall be responsible for the application, operation, maintenance, and support of its systems, hardware, internet connection, wifi connection, and software and all components thereof including, but not limited to, the implementation of appropriate procedures, training, and safeguards.
- (c) Licensee shall ensure that only authorized personnel access the TeamCentral Software.

6. WARRANTY AND REMEDY

- (a) **Limited Warranty.** Licensor warrants that (i) Licensor has all right, title and interest to grant the licenses hereunder (including any Third-Party

Materials incorporated into the TeamCentral Software) and (ii) the Services provided by Licensor will be performed in a professional and workerlike manner for a period of sixty (60) days from the date of performance of the Services. Notwithstanding the foregoing, Licensee acknowledges and agrees that the use of the TeamCentral Software may not be uninterrupted or error-free.

- (b) **Third-Party Materials.** With respect to any Third-Party Materials purchased from Licensor, Licensor shall pass through any warranty provided by the applicable manufacturer. Licensee shall be responsible for any Third-Party Materials not covered by manufacturer warranty.

- (c) **Exclusive Remedy.** In case of breach of the warranty set forth in Section 6(a)(i), Licensor will indemnify Licensee pursuant to Section 8. In case of breach of the warranty set forth in Section 6(a)(ii), Licensor will re-perform the defective Services or, at its option, terminate the applicable SOW and refund to Licensee an amount equal to the Fees actually paid to Licensor for the defective Services. Licensee acknowledges that this Section 6(c) sets forth Licensee’s exclusive remedy, and Licensor’s exclusive liability, for any breach of warranty or other duty related to the Services or the quality, functionality, operation or performance of the TeamCentral Software.

- (d) **Disclaimers.** EXCEPT AS EXPRESSLY STATED IN SECTION 6(A), LICENSOR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

7. OWNERSHIP

All trademarks, service marks, patents, copyrights, trade secrets and other proprietary rights in or related to the TeamCentral or the Third-Party Materials provided by Licensor are and shall remain the exclusive property of Licensor and/or its suppliers or licensors, whether or not specifically recognized or perfected under local applicable law. Licensee shall not take any action that jeopardizes Licensor’s and/or its suppliers’ or licensors’ proprietary rights, including, but not limited to, altering or removing any patent, copyright or trademark notice. Licensee acknowledges and agrees that it acquires no right in the TeamCentral Software, except the limited use rights set forth herein.

8. INDEMNITY

Licensor hereby agrees to indemnify and hold harmless Licensee and its employees, directors, and agents against any third-party claim of patent, copyright, trademark, trade secret, mask work or other intellectual property infringement made against Licensee on account of the TeamCentral Software, provided that Licensee notifies Licensor promptly in writing of the claim, provides reasonable assistance in connection with the defense and settlement thereof, and permits Licensor to have sole control of the defense and settlement thereof. Licensor will indemnify and hold Licensee harmless against any loss, damage, award or expense (including reasonable attorneys’ fees) resulting from such claim. Licensor will have no liability to the extent the alleged infringement is caused by (a) any modification of the TeamCentral Software, except for modifications made by Licensor (b) any combination of the TeamCentral Software with any third-party software, services, equipment, data or materials, (c) where Licensee continues the allegedly infringing activity after being notified thereof or of modifications in accordance with this section that would have avoided the alleged infringement, or (d) where Licensee’s use of the TeamCentral Software is not in accordance with this Agreement. In the event of an infringement action against Licensee with respect to the TeamCentral Software, or in the event Licensor believes such a claim is likely, Licensor may, at its option (i) appropriately modify the TeamCentral Software, or substitute other non-infringing software; (ii) obtain a license with respect to the applicable third-party intellectual property rights; or (iii) if neither (i) nor (ii) is commercially reasonable in Licensor’s opinion, terminate this Agreement.

9. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES SHALL LICENSOR AND/OR ITS SUPPLIERS OR LICENSORS BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF GOODWILL, LOSS OF USE, OR LOSS OF DATA OR INFORMATION OF ANY KIND, HOWEVER CAUSED, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES WAS DISCLOSED TO LICENSOR OR COULD HAVE BEEN REASONABLY FORESEEN BY LICENSOR. LICENSOR'S LIABILITY, IF ANY, ON ANY CLAIM FOR DAMAGES ARISING OUT OF THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES AND SHALL NOT EXCEED THE AMOUNT WHICH HAS BEEN PAID TO LICENSOR BY LICENSEE FOR THE ONE YEAR PERIOD PRECEDING THE DATE ON WHICH THE CAUSE OF ACTION AROSE.

10. ASSIGNMENT

Licensee shall not assign, delegate or otherwise transfer (whether by operation of law or not) this Agreement or any of its rights or obligations hereunder without Licensor's prior written approval. Licensor may assign this Agreement.

11. RELATIONSHIP OF THE PARTIES

Neither this Agreement, nor any of its attachments, or any other agreement shall create a partnership, joint venture, employee-employer relationship, master-servant, principal-agent, or other relationship whatsoever between the parties hereto.

12. SEVERABILITY

Each provision of this Agreement is severable. If a provision is found to be unenforceable, such finding does not affect the enforceability of the remaining provisions, terms, or conditions of this Agreement.

13. ENTIRE AGREEMENT

This Agreement and all attachments, including all Exhibits and Statements of Works, constitute the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements, purchase orders, understandings, and negotiations, whether oral or written, between the parties. Any terms and conditions of any unilateral letter, memorandum, purchase order or other writing issued by Licensee shall not be binding on Licensor.

14. NOTICES

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and do each hereby warrant and represent that its signatory whose signature appears below has been and is on the date of this Agreement duly authorized by all necessary and appropriate corporate action to execute this Agreement.

TeamCentral, Inc ("Licensor")

By: _____

Name: _____

Title: _____

All notices, requests, demands, or other communications under this Agreement shall be in writing and shall be delivered by hand or mailed by certified mail, return receipt requested, postage prepaid to the party's address set forth above. Notice shall be effective upon receipt.

15. DATA OWNERSHIP, USE, AND REMOVAL

Licensee shall own all of its data and retain all right, title, and interest in the data Licensee stores in the TeamCentral Software. Notwithstanding the foregoing, Licensor shall have the right to use all such data to (a) perform its duties under this Agreement, (b) use the data on an aggregated basis to improve the TeamCentral Software and the Services offered by Licensor. During the Term and for a period of thirty (30) days thereafter, Licensee shall have the right to transfer its data; provided that if Licensor assistance is needed, pricing for said Services shall be based on the then current standard hourly rates of Licensor.

16. MISCELLANEOUS

Any waiver or modification of this Agreement will not be effective unless executed in writing and signed by an authorized representative of Licensor and Licensee. The waiver by either party of one breach or default of the other party or any delay in exercising any rights shall not constitute a waiver of any subsequent breach or default.

This Agreement is binding upon and shall inure to the benefit of the parties hereto and their permitted successors and assigns.

Neither party shall be responsible or liable to the other party for nonperformance or delay in performance due to acts or occurrences beyond the control of the nonperforming or delayed party, including, but not limited to, acts of God, acts of government, wars, riots, strikes or other labor disputes, shortages of labor or materials, electrical outages, fires, and floods.

This Agreement shall be governed by the laws of the State of Ohio, without giving effect to the conflict of law provisions thereof. The parties submit to the exclusive jurisdiction of the state and federal courts located in Montgomery County, Ohio, to resolve any disputes arising from or relating to this Agreement.

The person signing this Agreement or any SOW on behalf of the Licensee represents and warrants that he or she has the right and authority to execute said agreements.

This Agreement and any applicable SOWs may be executed in multiple counterparts, all of which, taken together, shall constitute one and the same instrument.

_____ ("**Licensee**")

By: _____

Name: _____

Title: _____