

MODERSYS ONLINE SOFTWARE LICENSE AND SERVICES TERMS*Version 1.0 | Last Updated: July 02, 2026*

These Modersys Online Software License and Services Terms (these "**Terms**") are issued by TC Manufacturing, Inc. d/b/a Modersys, a Delaware corporation having a principal place of business at 1100 W. Idaho Street, Suite 330, Boise, Idaho 83702 ("**Modersys**"). These Terms govern Customer's access to and use of the Software, Maintenance Services, Professional Services, Documentation, and any other Modersys products or services ordered or made available under a Quote, unless Customer and Modersys have entered into a Separate Agreement that governs the applicable Software or services.

By signing or accepting a Quote, issuing a purchase order referencing or responding to a Modersys quote or order document, clicking acceptance, downloading, installing, accessing, or using the Software, receiving Maintenance Services or Professional Services, or permitting any Authorized User to do any of the foregoing, Customer accepts these Terms. If an individual accepts these Terms on behalf of a company or other legal entity, that individual represents that they have authority to bind that entity. If Customer does not agree to these Terms or the individual accepting does not have authority to bind Customer, Customer must not download, install, access, or use the Software or receive the services.

If Customer has a separate written agreement signed by Modersys that expressly governs the same Software, Maintenance Services, or Professional Services, that separate written agreement controls over these Terms for the applicable Software or services. These Terms do not amend any such separate written agreement unless the amendment is expressly stated in a writing signed by Modersys.

These Terms include Schedule A (Maintenance Services) and Schedule B (Professional Services), each of which is incorporated into and forms part of these Terms.

1. DEFINITIONS

"Affiliate" means any entity that, directly or indirectly, controls, is controlled by, or is under common control with a Party, where 'control' means ownership of more than fifty percent (50%) of the voting interests of an entity or the power, by contract or otherwise, to direct the management and policies of an entity. An entity is an Affiliate only for so long as such control exists.

"cGMP" means current good manufacturing practices required by 21 U.S.C. § 351(a)(2)(B) and FDA regulations and guidance issued thereunder, and any comparable laws, rules, regulations, or guidelines outside the United States, in each case as amended from time to time.

"Covered Software" means an item of Software for which a Quote activates Maintenance Services.

"Customer" means the company, organization, or other legal entity identified in a Quote, or on whose behalf the Software, Maintenance Services, or Professional Services are ordered, accessed, or used.

"Customer Data" means data and content (including operational, process, and equipment data) submitted to or processed by the Software by or on behalf of Customer or its Affiliates.

"Customer Materials" means Customer's proprietary software, recipes, process control logic, manufacturing processes, business rules, specifications, and other materials provided by Customer to Modersys in connection with the Software, Maintenance Services, or Professional Services.

"Documentation" means the user, technical, installation, and operational documentation for the Software made generally available by Modersys, in any medium, including any updates issued from time to time.

"Effective Date" means, for these Terms as applied to Customer, the earliest date on which Customer accepts these Terms under the acceptance mechanism stated above or otherwise receives access to the Software or services under a Quote.

"Fees" means the fees specified in a Quote, including license fees, maintenance fees, professional services fees, and any other charges, in each case as applicable.

"License Term" means, for an item of Software, the period specified in the applicable Quote during which Customer is licensed to use that Software, including any renewal periods.

"Maintenance Services" means the software maintenance and technical support services described in Schedule A.

"Maintenance Term" means, for an item of Covered Software, the period specified in the applicable Quote during which Modersys provides Maintenance Services for that Software, including any renewal periods.

"Party" means Modersys or Customer, and **"Parties"** means both of them.

"Professional Services" means the professional, installation, configuration, customization, training, integration, consulting, or other services provided by Modersys under a Quote governed by Schedule B.

"Quote" means any Modersys quote, order form, online order, statement of work, purchase order, or other ordering document, or any combination of the foregoing, accepted by Modersys that identifies or incorporates by reference the applicable Software, Maintenance Services, Professional Services, Fees, Designated Site, term, usage parameters, scope, or other commercial terms.

"Release" means any update, upgrade, patch, fix, or new release of the Software that Modersys makes generally available to its customers receiving Maintenance Services.

"Separate Agreement" means a written agreement signed by Modersys and Customer, other than a Quote, that expressly governs the applicable Software, Maintenance Services, or Professional Services.

"Software" means the Modersys software identified in a Quote, in object code form, including any updates, patches, fixes, and Releases provided under Schedule A. Software does not include Third-Party Software.

"Third-Party Software" means software owned by a third party that Modersys may make available to Customer for use with the Software, which is licensed to Customer separately under that third party's terms (whether through a click-through license, a separate written agreement, or otherwise) and which Modersys has identified as third-party software in the Documentation, Quote, or installation materials.

2. **ORDERS; LICENSE GRANT; AFFILIATES**

2.1 **Quotes.** From time to time, Modersys may issue Quotes for Software, Maintenance Services, or Professional Services. Customer may order the Software, Maintenance Services, Professional Services, or other offerings described in a Quote by issuing a purchase order that references the applicable Quote. Each purchase order accepted by Modersys, together with the applicable Quote, is governed by and incorporates these Terms. Modersys may reject any purchase order in its discretion. No Quote or purchase order is binding on Modersys unless and until Modersys accepts the purchase order, which may occur by written confirmation, acceptance of the purchase order, making the applicable Software or services available to Customer, or any other acceptance method approved by Modersys.

2.2 **No Conflicting Terms.** Customer purchase order terms, vendor portal terms, online procurement terms, security terms, click-through terms, or other Customer-provided terms are rejected and have no force or effect, even if accepted, acknowledged, clicked through, or processed by Modersys personnel or systems. A Customer purchase order may be used to place a Quote or effect a renewal as expressly permitted by these Terms, but only for administrative and payment purposes. No Customer purchase order or other Customer document modifies these Terms unless the modification is expressly stated in a writing signed by an authorized representative of Modersys.

2.3 **Order of Precedence.** If there is a conflict between these Terms and a Quote, the Quote controls only for the commercial and scope terms expressly addressed in that Quote, such as the Software ordered, Designated Site, scope of Professional Services, Deliverables, schedule, pricing, payment terms, and usage limits. For all other matters, including legal terms, these Terms control. A Quote may modify a legal term of these Terms only if it specifically identifies the provision modified, expressly states the intent to modify it, and is signed or otherwise expressly accepted in writing by an authorized Modersys representative, in which case the modification applies only to that Quote.

2.4 **Renewal.** The initial License Term, Maintenance Term, and applicable Fees will be specified in the applicable Quote. Unless the applicable Quote provides otherwise, a Quote may renew for one or more successive renewal periods, each equal in duration to the initial term specified in the applicable Quote or such other period as Modersys states in its renewal quote, upon Modersys's receipt and

acceptance of a valid purchase order or other written acceptance from Customer referencing the applicable Modersys renewal quote and associated Fees. Fees for any renewal period will be as set forth in Modersys's applicable renewal quote. Either Party may decline renewal by providing written notice at least sixty (60) days before the end of the then-current License Term or Maintenance Term, as applicable. If Customer terminates or does not renew Maintenance Services and later wishes to reinstate them, Modersys may, in its reasonable discretion, condition reinstatement on Customer's payment of all Fees for Maintenance Services that would have accrued during the lapsed period, plus the Fees for Maintenance Services for the new renewal period.

2.5 License Grant. Subject to these Terms, the applicable Quote, and Customer's payment of all Fees due, Modersys grants Customer a non-exclusive, non-transferable, non-sublicensable license, during the License Term, to: (a) install, execute, and use the Software, in object code form, for Customer's internal business purposes at the manufacturing facility identified in the applicable Quote ("**Designated Site**") and within any user, equipment, application, platform, or other restrictions specified in the Quote; (b) make a reasonable number of copies of the Software solely for non-productive backup, archival, and disaster-recovery purposes, provided that all such copies reproduce Modersys's proprietary notices and that Customer maintains records of all copies made; (c) use the Documentation as reasonably necessary to install, operate, and support the Software in accordance with these Terms; and (d) modify any portion of the Software that the Documentation expressly identifies as user-modifiable, but only as expressly permitted by the Documentation and only for use with the Software for which it was delivered.

2.6 Mobile Application. If Modersys provides a mobile application as part of the Software, whether identified in a Quote, made available for download, or otherwise provided to Customer or its Authorized Users ("**Mobile Application**"), the following additional terms apply: (a) unless Modersys expressly agrees otherwise in writing, the Mobile Application will be distributed to Customer's Authorized Users through Customer's own enterprise distribution or mobile device management (MDM) facilities, and not through any public application marketplace; (b) the Mobile Application is a client application that connects to a web/server, desktop, or other installation of the Software within Customer's environment, and Customer Data accordingly remains within Customer's environment; (c) Customer is responsible for enrolling, configuring, managing, and securing the mobile devices on which the Mobile Application is installed, managing Authorized Users' access and credentials, promptly removing the Mobile Application and revoking access on any lost, stolen, replaced, or decommissioned device, and configuring or disabling any push notifications it elects to enable; and (d) Customer is responsible for installing updates to the Mobile Application, including updates deployed through Customer's MDM, and for ensuring that applicable device operating-system, security, connectivity, and other requirements stated in the Documentation are met. Except as stated in this Section 2.6, the Mobile Application is subject to these Terms in the same manner as the Software.

2.7 Restrictions. Customer will not, and will not permit any user, Affiliate, contractor, or other third party to: (a) use the Software outside the scope of the license granted in Section 2.5 or beyond the usage parameters specified in the applicable Quote; (b) sublicense, sell, rent, lease, distribute, transfer, or otherwise make the Software available to any third party, or use the Software in any service bureau, time-sharing, or hosting arrangement, or to provide products or services to any third party; (c) reverse engineer, decompile, or disassemble the Software, or attempt to derive the source code, underlying ideas, file formats, algorithms, or trade secrets embodied in the Software, except to the extent expressly required to be permitted by applicable law notwithstanding this restriction (and then only after providing Modersys with prior written notice and an opportunity to provide alternatives); (d) modify, adapt, translate, or create derivative works of the Software, except for permitted modifications to user-modifiable code as described in Section 2.5(d); (e) merge or combine the Software with other software in a manner that would alter, dilute, or expose the Software's proprietary elements (it being understood that integrating the Software with Customer's other systems through documented APIs and interfaces in accordance with the Documentation is permitted); (f) remove, obscure, or alter any proprietary, copyright, trademark, patent, or confidentiality notices in or on the Software, the Documentation, or any output thereof; (g) publish, disclose, or distribute any benchmark, performance, or comparative test or analysis of the Software without Modersys's prior written consent; (h) use the Software in violation of applicable law, including export control and sanctions laws; or (i) circumvent, disable, or attempt to circumvent any activation, license key, copy protection, or technical access-control mechanism in the Software.

2.8 **Affiliates.** Customer's Affiliates may use the Software at the Designated Site for Customer's and its Affiliates' internal business purposes, provided that: (a) Customer remains responsible for and liable for any breach of these Terms by any Affiliate as if the breach were Customer's own; (b) any Affiliate accessing the Software is bound by terms no less protective of Modersys than these Terms; and (c) any Affiliate that wishes to enter into its own Quote under these Terms may do so subject to Modersys's acceptance and reasonable creditworthiness review. Modersys may use its Affiliates to perform any obligations under these Terms and any Quote.

2.9 **Authorized Users.** Customer may authorize Customer's and its Affiliates' employees, and its on-site contractors who are bound by written confidentiality obligations no less protective than Section 5, to use the Software (collectively, "**Authorized Users**"). Customer is responsible for: (a) the acts and omissions of all Authorized Users; (b) ensuring that each Authorized User complies with these Terms and the Documentation; (c) maintaining accurate records of Authorized Users; and (d) using commercially reasonable efforts to prevent unauthorized access to or use of the Software, and promptly notifying Modersys in writing of any actual or suspected unauthorized access or use.

2.10 **Third-Party Software.** Third-Party Software is licensed to Customer directly by the applicable third-party licensor under that licensor's separate terms. Modersys makes no representations or warranties regarding Third-Party Software and has no liability for it under these Terms but will use commercially reasonable efforts to pass through the benefit of any third-party warranties to the extent assignable. Customer is responsible for compliance with all third-party license terms applicable to Third-Party Software.

2.11 **Reservation of Rights.** The Software is licensed, not sold. Modersys and its licensors reserve all right, title, and interest in and to the Software, the Documentation, and all related intellectual property rights, including all copies, modifications, derivative works, and improvements, regardless of who creates them, except for Customer Materials and Customer IP, which are owned by Customer as provided in Section 7 of Schedule B. No rights or licenses are granted by implication, estoppel, exhaustion, or otherwise, except as expressly set forth in these Terms.

2.12 **Software Activation.** Certain Software may require activation, license keys, or periodic re-authentication for continued use. Customer will cooperate with Modersys's reasonable activation and authentication procedures and acknowledges that the Software may cease to operate if these procedures are not followed.

3. **DELIVERY AND CUSTOMER OBLIGATIONS**

3.1 **Delivery.** Unless a Quote provides otherwise, Modersys will make the Software, any applicable associated software key, and accompanying Documentation available to Customer electronically. The Software is deemed accepted upon delivery, subject to Modersys's warranty obligations in Section 6.

3.2 **Customer Operating Environment.** Customer is responsible, at its own expense, for: (a) procuring, installing, configuring, and maintaining all hardware, operating systems, networks, third-party software other than Third-Party Software provided by Modersys, power, environmental controls, mobile devices, device management systems, and other infrastructure required to operate the Software in accordance with the Documentation; (b) implementing and maintaining backup, redundancy, and disaster-recovery procedures appropriate to the criticality of Customer's use of the Software; (c) obtaining and maintaining any third-party software maintenance and support plans recommended by Modersys for software that may impact use of the Software; and (d) ensuring that Authorized Users are appropriately trained.

3.3 **Customer Compliance and cGMP Representations.** Customer represents, warrants, and covenants that: (a) Customer's use of the Software, and the manufacture, design, testing, validation, release, distribution, and sale of any product of Customer or its Affiliates manufactured in whole or in part using the Software (each, a "**Customer Product**"), comply and will at all times comply with cGMP and all applicable laws, regulations, orders, and guidance, including 21 CFR Part 11 to the extent applicable to Customer's industry, operations, or use of the Software; (b) Customer holds, and will maintain throughout the term of these Terms, all licenses, approvals, registrations, and regulatory authorizations required for

Customer Products and Customer's operations, including any required from the U.S. Food and Drug Administration and any comparable agency outside the United States; (c) Customer has and will retain all necessary rights, permissions, licenses, and consents to provide Modersys with all Customer Data and Customer Materials, and Modersys's permitted use of those materials will not infringe, misappropriate, or otherwise violate the intellectual property or privacy rights of any third party; (d) Customer is solely responsible for the validation, qualification, and regulatory acceptance of Customer's use of the Software in any GxP environment, including any installation qualification, operational qualification, and performance qualification activities; and (e) neither Customer nor any of its officers, directors, or employees performing duties relevant to these Terms is or will be, during the term of these Terms, debarred under §306 of the U.S. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 335a, or otherwise excluded from participation in any federal healthcare program. Modersys has no responsibility for, and makes no representations or warranties about, Customer Products, the regulatory or commercial sufficiency of Customer's manufacturing operations, or the validation status of Customer's deployment of the Software.

3.4 Cooperation. Customer will cooperate reasonably with Modersys in the performance of Modersys's obligations under these Terms, including by providing reasonable access to information, personnel, equipment, networks, and facilities as necessary. Modersys is not responsible for any delay or failure of performance to the extent caused by Customer's failure to provide such cooperation.

3.5 Safe and Compliant Use. The Software is a tool to assist Customer's operations and is not a substitute for Customer's own validation, quality systems, process controls, safety and fail-safe systems, human oversight, or regulatory compliance. Customer is responsible for designing, implementing, and maintaining appropriate safeguards, fail-safes, alarms, manual overrides, and human supervision for any process or equipment that uses or relies on the Software, and will not rely on the Software as the sole control for any safety-critical or regulated function. Customer remains solely responsible for the safe operation of its facilities and for compliance with all applicable laws and cGMP.

4. FEES, EXPENSES, AND TAXES

4.1 Fees. Customer will pay all Fees specified in each Quote. Except as expressly provided in these Terms, all Fees are non-cancellable and non-refundable. Fees are due in the amounts and on the payment schedule specified in the applicable Quote. Unless the applicable Quote provides otherwise, recurring Fees are due in advance of the period to which they relate.

4.2 Invoicing and Payment Terms. All invoices are payable within thirty (30) days after the invoice date in U.S. dollars by wire transfer or such other method as Modersys may reasonably designate. Time is of the essence with respect to payment. Late payments accrue interest, from the original due date until paid in full, at the rate of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law, whichever is less. Customer will reimburse Modersys's reasonable costs of collection, including attorneys' fees, court costs, and collection agency fees.

4.3 Disputed Charges. Customer must notify Modersys in writing of any disputed charge, with reasonable detail regarding the dispute, within thirty (30) days after the invoice date. Customer waives any right to dispute charges not noticed within that period. Customer will pay all undisputed amounts on the original due date. The Parties will work in good faith to resolve any dispute promptly; on resolution, the disputed amount (or any portion found payable) will be paid promptly together with any applicable interest.

4.4 Suspension for Non-Payment. If any undisputed Fees are more than thirty (30) days overdue, Modersys may, after providing at least ten (10) days' prior written notice, suspend Customer's access to or use of the Software, the Maintenance Services, or the Professional Services (or any combination of them) until full payment is received. Suspension under this Section is without prejudice to Modersys's other rights and remedies and does not relieve Customer of any payment obligation. Modersys has no liability to Customer for any suspension under this Section.

4.5 Taxes. Fees are exclusive of all sales, use, value-added, excise, import, export, customs, withholding, and similar taxes, duties, levies, and government charges, in each case other than taxes imposed on Modersys's net income (collectively, "**Taxes**"). Customer is responsible for all Taxes and will reimburse Modersys for any Taxes Modersys is required to collect or pay. If Customer claims a tax exemption, Customer will provide Modersys with a valid exemption certificate. If Customer is required by

law to withhold any tax from a payment to Modersys, Customer will provide Modersys with official receipts or other documentation evidencing the withholding.

5. CONFIDENTIALITY

5.1 **Use and Protection. "Confidential Information"** means non-public documents, data, and information relating to the business, operations, products, or plans disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), in any form, that is identified as confidential, marked as confidential, or that a reasonable person would understand to be confidential given its nature or the circumstances of its disclosure. The Software (including its source and object code), the Documentation, Modersys's pricing, technical roadmap, security architecture, benchmark and test results, and any non-public information about Modersys's products and services are Modersys's Confidential Information regardless of marking. Customer Data, Customer Materials, Customer's manufacturing processes, recipes, and control logic are Customer's Confidential Information regardless of marking. The Receiving Party will: (a) use the Disclosing Party's Confidential Information only to exercise its rights and perform its obligations under these Terms; (b) protect the Confidential Information using at least the same degree of care it uses to protect its own confidential information of like importance, and in no event less than reasonable care; and (c) limit access to its and its Affiliates' employees, contractors, professional advisors, and (in the case of Customer) Authorized Users who have a need to know for purposes of these Terms and who are bound by written or professional confidentiality obligations no less protective than this Section. The Receiving Party is responsible for any breach of this Section by any of its representatives. These publicly posted Terms are not Confidential Information, but non-public Quotes, pricing, implementation details, technical information, security information, and negotiated terms are Confidential Information of the applicable Disclosing Party or of both Parties, as the case may be.

5.2 **Restricted Recipients.** Notwithstanding Section 5.1, the Receiving Party will not disclose the Disclosing Party's Confidential Information to any direct competitor of the Disclosing Party or its Affiliates without the Disclosing Party's prior written consent and will inform each recipient of the confidential nature of the information.

5.3 **Exceptions.** The obligations in this Section do not apply to information that the Receiving Party can demonstrate by contemporaneous written records: (a) was known to it without obligation of confidence before disclosure by the Disclosing Party; (b) is or becomes generally known to the public other than through breach of these Terms by the Receiving Party; (c) was rightfully received from a third party without confidentiality obligations and without breach of any duty owed to the Disclosing Party; or (d) was independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

5.4 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information to the extent required by law, court order, subpoena, or order of a regulatory or governmental authority, provided that, to the extent permitted by law, the Receiving Party: (a) gives the Disclosing Party prompt prior written notice of the requirement; (b) reasonably cooperates, at the Disclosing Party's expense, with any effort by the Disclosing Party to obtain a protective order, confidential treatment, or similar relief; and (c) discloses only the portion of the Confidential Information legally required to be disclosed. Information disclosed under this Section remains Confidential Information for all other purposes.

5.5 **Sensitive Materials.** If Confidential Information consists of internal standard operating procedures, manufacturing processes, or recipes designated by the Disclosing Party as particularly sensitive, the Receiving Party will, on request: (a) review such materials only on the Disclosing Party's premises or via the Disclosing Party's secure portal; and (b) refrain from photocopying, printing, or otherwise replicating those materials. This Section applies in addition to, and not in lieu of, the other provisions of this Section 5.

5.6 **Survival.** Each Party's confidentiality obligations under this Section continue for five (5) years after termination or expiration of these Terms, except that obligations with respect to information that constitutes a trade secret under the Defend Trade Secrets Act of 2016 (18 U.S.C. § 1836 et seq.), or under the comparable trade secret law of any applicable jurisdiction, continue for so long as such information qualifies as a trade secret under applicable law.

5.7 **Return or Destruction.** On the Disclosing Party's written request following expiration or termination of these Terms, a Quote, or earlier if the Confidential Information is no longer needed for any continuing obligation under these Terms, the Receiving Party will, at the Receiving Party's option, return or destroy the Disclosing Party's Confidential Information in its possession or control, and on request will certify the destruction in writing. The foregoing does not apply to copies retained in routine, automated electronic backups not readily accessible in the ordinary course (which remain subject to this Section until deleted in the ordinary course) or as required to be retained by law or regulation.

5.8 **Residuals.** Notwithstanding any other provision of these Terms, Modersys and its personnel may use for any purpose any Residuals resulting from access to or work with Customer's Confidential Information, provided that Modersys will not disclose such Confidential Information except as permitted under this Section 5. **"Residuals"** means information in non-tangible form (i.e., not written or otherwise fixed in any medium) that is incidentally retained in the unaided memory of Modersys personnel who have had authorized access to Customer's Confidential Information in the ordinary course of performing under these Terms, where such retention is without intentional memorization or reference to the Confidential Information. This Section 5.8 does not grant Modersys any license under any patent, copyright, trademark, or other intellectual property right of Customer, and does not limit Customer's rights or remedies for any disclosure of its Confidential Information that is not expressly permitted by this Section 5.8. Customer is not granted any reciprocal right with respect to Modersys's Confidential Information; Modersys's Confidential Information remains subject to the restrictions in Sections 5.1 through 5.7 without any residuals carve-out.

6. WARRANTIES AND DISCLAIMER

6.1 **Authority.** Each Party represents and warrants that: (a) it has the legal power and authority to enter into and perform these Terms; (b) these Terms, when accepted as provided above, will be its valid and binding obligation enforceable against it in accordance with their terms; and (c) its acceptance and performance of these Terms will not breach any other agreement to which it is a party or violate any applicable law. Customer further represents and warrants that each individual accepting these Terms, placing a Quote, or administering Customer's account on Customer's behalf has authority to bind Customer.

6.2 **Software Warranty.** Modersys warrants that, for ninety (90) days after delivery of an item of Software ("**Warranty Period**"): (a) the Software, when used in accordance with these Terms and the Documentation in the operating environment specified in the Documentation, will conform in all material respects to the Documentation; (b) Modersys has the right to grant the licenses in Section 2.5; and (c) Modersys has used virus-scanning and other practices generally accepted in Modersys's industry, designed so that the Software, as delivered, does not contain known viruses, trojans, or other malicious code.

6.3 **Warranty Remedy.** As Customer's sole and exclusive remedy and Modersys's sole liability for breach of the warranty in Section 6.2(a), Customer must report the non-conformity in writing to Modersys during the Warranty Period with sufficient detail for Modersys to reproduce it, and Modersys will use commercially reasonable efforts to correct the reproducible non-conformity through a workaround, patch, or new Release. If, after a reasonable number of attempts, Modersys is unable to correct the non-conformity, then on Customer's written request, Modersys will refund the Fees paid for the non-conforming Software (or, for Software licensed on a recurring basis, the prepaid, unused Fees for the non-conforming Software), the affected Quote will terminate with respect to the non-conforming Software, and Customer will return or destroy the affected Software and Documentation.

6.4 **Warranty Exclusions.** The warranty in Section 6.2 does not apply to non-conformities or issues arising from or related to: (a) use of the Software outside the scope of these Terms, the applicable Quote, or the Documentation, including any failure to maintain the operating environment specified in the Documentation; (b) modification, alteration, or repair of the Software by anyone other than Modersys, or any combination of the Software with hardware, software, services, processes, devices, or systems not provided or approved in writing by Modersys, where the issue would not have arisen but for the modification or combination; (c) Customer Materials, Customer Data, or specifications, designs, or instructions provided by Customer; (d) Third-Party Software, third-party services, or third-party hardware; (e) any version of the Software more than one (1) Release behind the then-current Release, where the non-conformity would

have been corrected by installation of a Release made available to Customer; or (f) any Force Majeure Event described in Section 12.6 (Force Majeure).

6.5 Customer Warranties. Customer represents and warrants to Modersys that, in addition to the matters in Section 3.3: (a) Customer has and will maintain all rights, permissions, and licenses necessary to provide Customer Materials and Customer Data to Modersys and to grant Modersys the rights granted under these Terms; (b) Customer's use of the Software, the Maintenance Services, and the Professional Services will at all times comply with applicable laws, including privacy and data security laws applicable to Customer's activities and territories; and (c) Customer will not provide Modersys with any 'protected health information' as defined under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) or the Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH), special-category personal data, sensitive personal data, or other regulated personal data, except for the business contact, account administration, system, service log, management, and usage data described in Section 12.11 (Personal Data; Data Processing), unless the Parties have first entered into a separate written agreement governing that processing.

6.6 Disclaimer. EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THESE TERMS AND ANY APPLICABLE SCHEDULE, THE SOFTWARE, THE DOCUMENTATION, THE MAINTENANCE SERVICES, AND THE PROFESSIONAL SERVICES ARE PROVIDED 'AS IS' AND 'AS AVAILABLE,' AND MODERSYS AND ITS LICENSORS DISCLAIM ALL OTHER WARRANTIES, REPRESENTATIONS, AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, QUIET ENJOYMENT, AND FREEDOM FROM HARMFUL CODE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE. MODERSYS DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE, THAT IT WILL MEET CUSTOMER'S REQUIREMENTS, THAT ALL ERRORS WILL BE CORRECTED, OR THAT ITS USE WILL ENSURE COMPLIANCE WITH cGMP, 21 CFR PART 11, OR ANY OTHER REGULATORY REQUIREMENT. NO STATEMENT BY MODERSYS'S EMPLOYEES, AGENTS, OR REPRESENTATIVES WILL BE DEEMED TO CREATE ANY WARRANTY UNLESS SET FORTH IN A WRITING SIGNED BY AN AUTHORIZED OFFICER OF MODERSYS.

7. INDEMNIFICATION

7.1 Modersys Indemnity. Modersys will defend Customer and its Affiliates and their respective officers, directors, employees, and agents (collectively, "**Customer Indemnitees**") from and against any third-party claim, action, demand, suit, or proceeding (each, a "**Claim**") alleging that: (a) the Software, when used in accordance with these Terms and the Documentation, infringes a U.S. patent, U.S. copyright, or U.S. trademark, or misappropriates a trade secret of a third party (an "**IP Claim**"); or (b) the death of, or bodily injury to, any person, or damage to any tangible personal property, was caused by the negligence or willful misconduct of Modersys or its personnel while performing Professional Services on Customer's premises; and Modersys will pay damages, costs, and reasonable attorneys' fees finally awarded against any Customer Indemnitee, or agreed in settlement by Modersys, in connection with such Claim.

7.1.1 Mitigation of IP Claims. If any item of Software becomes, or in Modersys's reasonable opinion is likely to become, the subject of an IP Claim, Modersys may, at its option and expense: (a) procure for Customer the right to continue using the affected Software; (b) modify or replace the affected Software so that it is non-infringing while preserving substantially equivalent functionality; or (c) if neither (a) nor (b) is reasonably available on commercially reasonable terms, terminate the affected Quote on written notice and, as Customer's sole compensation for the termination, refund any unused, prepaid Fees for the affected Software and, to the extent Customer paid a one-time Fee for the affected Software, the unamortized portion of such Fee, calculated on a straight-line basis over five (5) years from the date of delivery.

7.1.2 IP Indemnity Exclusions. Modersys has no obligation under Section 7.1(a) to the extent an IP Claim arises from or is based on: (a) modification, alteration, or enhancement of the Software by anyone other than Modersys, or by Modersys at Customer's direction or based on Customer's

specifications; (b) combination or use of the Software with products, software, services, processes, devices, or systems not provided or approved in writing by Modersys, where the Claim would not have arisen but for the combination or use; (c) use of the Software outside the scope of these Terms, the applicable Quote, or the Documentation; (d) Customer Materials, Customer Data, or specifications, designs, instructions, or methodologies provided by or on behalf of Customer; (e) continued use of the Software by Customer after Modersys has notified Customer to discontinue use due to an IP Claim or has provided a non-infringing version, modification, or workaround; (f) use of the Software by an unauthorized third party or by an Authorized User outside the scope of these Terms; (g) any process, business method, or software algorithm patent claim; or (h) Third-Party Software. This Section 7 states Modersys's entire liability and Customer's sole and exclusive remedy with respect to any actual or alleged infringement of intellectual property rights by the Software or any related materials.

7.2 Customer Indemnity. Customer will defend Modersys and its Affiliates and their respective officers, directors, employees, and agents (collectively, "**Modersys Indemnitees**") from and against any Claim arising out of or relating to: (a) Customer's breach of any representation, warranty, or covenant in Section 3.3 (Customer Compliance and cGMP Representations) or Section 6.5 (Customer Warranties); (b) any claim for personal injury, death, illness, product malfunction, lost wages, medical expenses, or damage to property arising out of or relating to any Customer Product, regardless of theory of liability and including claims based on negligence, strict liability, product liability, design defect, manufacturing defect, failure to warn, regulatory violation, or fraud (a "**Product Liability Claim**"); (c) Customer Materials, Customer Data, or any specification, design, instruction, or methodology provided by or on behalf of Customer to Modersys, including any Claim that the foregoing infringes or misappropriates third-party intellectual property or violates third-party privacy or contractual rights; (d) Customer's or any Authorized User's use of the Software in violation of these Terms or applicable law (including export control, sanctions, and privacy laws); or (e) any subpoena, governmental, regulatory, or judicial inquiry directed to a Modersys Indemnatee that relates to Customer or to Customer's use of the Software, the Maintenance Services, or the Professional Services and to which Modersys is not itself a party (and Customer will reimburse the Modersys Indemnatee for reasonable fees and expenses, including attorneys' and expert witness fees, incurred in responding); and Customer will pay damages, costs, and reasonable attorneys' fees finally awarded against any Modersys Indemnatee, or agreed in settlement by Customer, in connection with such Claim.

7.3 Procedure. As a condition of the indemnifying Party's obligations under this Section, the indemnified Party will: (a) give the indemnifying Party prompt written notice of the Claim (provided that failure to give prompt notice will not relieve the indemnifying Party of its obligations except to the extent it is materially prejudiced by the delay); (b) provide the indemnifying Party with sole control of the defense and settlement of the Claim, except that the indemnifying Party may not settle any Claim that admits liability of, imposes any obligation on, or restricts the rights of any indemnified Party (other than payment of money to be paid by the indemnifying Party) without the indemnified Party's prior written consent (not to be unreasonably withheld); (c) provide reasonable cooperation in the defense and settlement, at the indemnifying Party's expense; and (d) use commercially reasonable efforts to mitigate any loss, damage, or cost related to the Claim. The indemnified Party may participate in the defense at its own expense with counsel of its choice, provided that participation does not interfere with the indemnifying Party's control of the defense.

8. LIMITATION OF LIABILITY

8.1 Liability Cap and Exclusion. IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR OTHER INDIRECT DAMAGES, OR FOR ANY LOST PROFITS, LOST REVENUE, LOST DATA, LOST OR INTERRUPTED USE, BUSINESS INTERRUPTION, OR REPUTATIONAL HARM, ARISING OUT OF OR RELATED TO THESE TERMS, REGARDLESS OF THE THEORY OF LIABILITY (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, EQUITY, STATUTE, OR OTHERWISE) AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S TOTAL AGGREGATE LIABILITY, REGARDLESS OF THE THEORY OF LIABILITY, FOR ANY CLAIM, BREACH, OR DEFAULT UNDER THESE TERMS WILL BE LIMITED TO PROVEN DIRECT DAMAGES INCURRED

AND WILL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER UNDER THE ORDER GIVING RISE TO THE CLAIM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO LIABILITY. THESE LIMITATIONS ARE CUMULATIVE AND WILL NOT BE INCREASED BY THE EXISTENCE OF MORE THAN ONE CLAIM OR INCIDENT. THE AFOREMENTIONED LIMITATIONS SHALL NOT APPLY TO: (A) THE EXTENT SUCH LIMITATIONS ARE PROHIBITED BY APPLICABLE LAW; (B) CUSTOMER'S BREACH OF SECTION 2.7 (RESTRICTIONS) OR ANY INFRINGEMENT, MISAPPROPRIATION, OR OTHER VIOLATION BY CUSTOMER OF MODERSYS'S INTELLECTUAL PROPERTY RIGHTS; (C) CUSTOMER'S PAYMENT OBLIGATIONS UNDER THESE TERMS; OR (D) A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD.

8.2 Material Allocation of Risk. The Parties acknowledge that the disclaimer of warranties and the limitations and exclusions of liability in these Terms are a material inducement and consideration for each Party to enter into these Terms and reflect the Fees Modersys has agreed to charge under these Terms. These limitations apply even if any limited remedy fails of its essential purpose.

9. AUDITS

9.1 Customer Audit. During the term of these Terms, upon reasonable prior written notice and at mutually agreed times during Modersys's regular business hours, Customer may, no more than once per calendar year and at Customer's expense, audit records directly related to Modersys's performance of Professional Services for Customer or Modersys's provision of the Software to Customer, and, where reasonably necessary for that audit, inspect Modersys's owned or controlled facilities at which the applicable Professional Services are performed. Any such audit excludes the Software's source code, internal audit reports, vulnerability assessments, penetration testing reports, security-sensitive materials, information relating to Modersys's other customers, Modersys's other Confidential Information not directly relevant to the audit, and Modersys's general corporate, financial, personnel, tax, and business records. Customer may conduct one additional follow-up audit if the initial audit identifies material non-compliance. Any audit must be conducted in a manner that does not disrupt Modersys's normal business operations and is subject to Modersys's reasonable safety, security, confidentiality, and facility-access requirements. Audit results are Modersys's Confidential Information, except to the extent they contain Customer's Confidential Information. Within thirty (30) days after completion of the audit, Customer will provide Modersys with a written report detailing the audit results. If Customer engages a third-party auditor to perform an audit, the auditor must first enter into a confidentiality agreement with Modersys on terms reasonably acceptable to Modersys and may not be a competitor of Modersys. Customer's Affiliates are not considered third-party auditors. Modersys may charge Customer for reasonable fees and expenses associated with audits performed by or on behalf of Customer and for customer-requested reviews, questionnaires, audits, or other assessments.

9.2 Regulatory Access. Modersys will permit any regulatory authority with jurisdiction over Customer or the applicable Professional Services, to the extent legally required and upon reasonable prior notice where permitted by law, to: (a) inspect Modersys's owned or controlled facilities where the Professional Services have been or are being performed; (b) monitor or audit the conduct of the Professional Services at such facilities; and (c) inspect and audit documents, source documents, work product, and required licenses, certificates, and accreditations, in each case solely to the extent directly related to the Software licensed or otherwise provided to Customer or the Professional Services performed for Customer. Any such regulatory inspection or audit excludes the Software's source code, Modersys's other Confidential Information, information relating to Modersys's other customers, and any records or materials not legally required to be made available to the applicable regulatory authority. Customer will reimburse Modersys for reasonable costs incurred in connection with any regulatory inspection, inquiry, or audit directed to Customer or Customer's use of the Software or services, except to the extent caused by Modersys's uncured material breach of these Terms.

9.3 Modersys Usage Audit. Once per twelve (12) month period, upon reasonable written notice and at times mutually agreed upon by the Parties, and during normal business hours, Modersys may audit Customer's use of the Software (including by requiring a signed certification of compliance from Customer) to verify Customer's compliance with these Terms and the applicable Quote. Audits will be conducted in a manner that minimizes disruption to Customer's operations. If an audit reveals that Customer

has used the Software outside the scope of the licenses granted, Modersys may invoice Customer for the additional Fees that would have been payable for that use, plus interest under Section 4.2, and Customer will pay the invoice promptly. If the audit reveals an underpayment of more than five percent (5%) of the Fees that should have been paid for the audited period, Customer will also reimburse Modersys for the reasonable costs of the audit. The remedies in this Section are without prejudice to Modersys's other rights and remedies.

10. TERM AND TERMINATION

10.1 Term. These Terms begin on the Effective Date and continue until terminated as provided in this Section. Each Quote has the term specified in it. Termination or expiration of these Terms does not, by itself, terminate any then-current Quote; these Terms will continue to govern such Quote until it terminates or expires in accordance with its own terms.

10.2 Termination for Cause. Either Party may terminate these Terms or a Quote for cause, by written notice to the other Party, if the other Party: (a) materially breaches these Terms or the Quote and fails to cure the breach within thirty (30) days after receipt of written notice describing the breach with reasonable detail (or, in the case of non-payment, fails to cure within ten (10) days after receipt of written notice); or (b) becomes insolvent or unable to pay its debts as they fall due, makes an assignment for the benefit of creditors, becomes the subject of a voluntary or involuntary bankruptcy, receivership, liquidation, or similar proceeding (and, if involuntary, the proceeding is not dismissed within sixty (60) days), or admits in writing its inability to perform its obligations.

10.3 Effect of Termination. On expiration or termination of these Terms or a Quote: (a) all licenses granted under the affected Quote terminate, and Customer will cease all use of the affected Software and (on Modersys's request) certify in writing the destruction or return of all copies of the Software and Documentation; provided that, on termination by Customer for Modersys's uncured material breach, any license for which Customer has paid a one-time Fee for the affected Software in full will continue for the remainder of its License Term, subject to Customer's continued compliance with these Terms, but Modersys will have no further obligation to provide Maintenance Services or Professional Services with respect to such Software unless Customer has prepaid for those services; (b) all Fees accrued before the effective date of termination, and all Fees for non-cancellable third-party expenses incurred by Modersys for Customer's benefit, are immediately due and payable; (c) Modersys will, on Customer's written request made within thirty (30) days after termination, make Customer Data in Modersys's possession available to Customer in Modersys's then-standard export format, after which Modersys may delete the Customer Data subject to Section 5.7 and Modersys's data retention policies and applicable law; and (d) the Receiving Party will return or destroy the Disclosing Party's Confidential Information in accordance with Section 5.7.

10.4 Suspension. In addition to its rights under Section 4.4 (Suspension for Non-Payment), Modersys may immediately suspend Customer's or any Authorized User's access to the Software, on written notice, if Modersys reasonably believes that Customer or the Authorized User: (a) is using the Software in violation of applicable law or in a manner that infringes the rights of any third party; or (b) is in breach of Section 2.7 (Restrictions) or Section 5 (Confidentiality). Such suspension will continue until Customer demonstrates compliance to Modersys's reasonable satisfaction. Modersys has no liability to Customer for any such suspension.

10.5 Survival. Sections 1 (Definitions), 2.7 (Restrictions), 2.11 (Reservation of Rights), 3.3 (Customer Compliance and cGMP Representations), 4 (with respect to amounts accrued before termination), 5 (Confidentiality), 6.6 (Disclaimer), 7 (Indemnification), 8 (Limitation of Liability), 10.3 (Effect of Termination), 10.5 (Survival), and 12 (General) survive expiration or termination of these Terms, together with any provision that, by its nature, is intended to survive.

11. ONLINE TERMS VERSIONING AND UPDATES

11.1 Version Control. Modersys will identify these Terms by version number and last-updated date. Modersys's version records, including archived copies of prior versions maintained by Modersys, will be used to determine which version of these Terms was posted and in effect for a particular Quote or renewal absent manifest error.

11.2 Updates. Modersys may update these Terms from time to time by posting an updated version. Unless Modersys states otherwise, the version of these Terms in effect when Modersys accepts a Quote governs that Quote for its then-current License Term or Maintenance Term. For any renewal, the version referenced in Modersys's renewal quote governs the renewal period; if the renewal quote does not reference a version, the then-current posted version governs the renewal period. Updated Terms apply prospectively and do not retroactively amend an existing Quote unless Customer agrees, the applicable Quote states otherwise, or the change is required by law, addresses security, activation, support, or operational requirements, or does not materially reduce Customer's rights or materially increase Customer's obligations for the then-current term.

11.3 Product Notice. The Software may present a notice stating that use of the Software is governed by these Terms unless Customer has a separate written agreement signed by Modersys and Customer that governs the Software. Customer's installation, access, or use after presentation of that notice constitutes acceptance of these Terms, subject to any applicable Separate Agreement.

12. GENERAL

12.1 Governing Law and Venue. These Terms are governed by, and will be construed in accordance with, the laws of the State of Delaware, without regard to its conflict-of-laws principles. The U.N. Convention on Contracts for the International Sale of Goods does not apply. The state and federal courts located in Delaware have exclusive jurisdiction over any dispute, claim, or proceeding arising out of or relating to these Terms, and each Party irrevocably consents to the personal jurisdiction and venue of those courts and waives any objection based on forum non conveniens. Notwithstanding the foregoing, either Party may seek temporary, preliminary, or permanent injunctive or other equitable relief in any court of competent jurisdiction to protect or enforce its intellectual property rights or its rights under Section 5 (Confidentiality), and such action will not be considered inconsistent with the venue selection in this Section.

12.2 Equitable Relief. Each Party acknowledges that breach of Section 2.7 (Restrictions), Section 5 (Confidentiality), or any infringement of the other Party's intellectual property rights may cause irreparable harm for which monetary damages may be an inadequate remedy. Accordingly, each Party agrees that the non-breaching Party is entitled to seek injunctive and other equitable relief, without the requirement of posting a bond or proving actual damages, in addition to any other remedies available at law or in equity.

12.3 Dispute Escalation. Before initiating litigation other than for injunctive or other equitable relief, the Parties will attempt in good faith to resolve any dispute by escalating it to senior executives of each Party with authority to settle the dispute. If the dispute is not resolved within ten (10) business days after such escalation, either Party may proceed to litigation in the venue specified in Section 12.1.

12.4 Assignment. Neither Party may assign these Terms without the prior written consent of the other Party; provided, however, that: (a) either Party may assign these Terms to a successor in interest without the consent of the other Party in the event of a merger or acquisition of all or substantially all of its assets; and (b) either Party may assign, with reasonable notice, any of its rights or delegate any of its obligations under these Terms to one or more of its Affiliates.

12.5 Notices. Notices under these Terms must be in writing. Notices to Modersys must be delivered to TC Manufacturing, Inc. d/b/a Modersys, 1100 W. Idaho Street, Suite 330, Boise, Idaho 83702, Attention: Legal, or to such other address or email address as Modersys designates in a Quote or on its website. Notices to Customer may be delivered to the address or email address identified in the applicable Quote, Customer account, purchase order, or Customer's records. Notices are effective: (a) on personal delivery; (b) on receipt confirmed by an overnight courier service; (c) five (5) business days after deposit in the mail, postage prepaid, certified or registered with return receipt requested; or (d) on confirmed receipt of email, except that notices of breach, termination, indemnity claims, or litigation must also be delivered by one of the foregoing non-email methods unless the receiving Party acknowledges receipt in writing.

12.6 Force Majeure. Neither Party will be liable for any failure or delay in the performance of its obligations under these Terms, other than payment obligations under Section 4 and the Parties' obligations under Section 5, caused by events beyond its reasonable control, including acts of God, pandemics, epidemics, war, terrorism, civil unrest, embargoes, governmental action, labor disputes, fire, flood, storm,

earthquake, shortages of supplies, third-party hacking and other criminal or malicious activities, failures of third-party hardware, software, networks, or telecommunications, and utility brownouts (each, a "**Force Majeure Event**"). The affected Party will notify the other Party promptly of the Force Majeure Event and use commercially reasonable efforts to resume performance. If a Force Majeure Event continues for more than ninety (90) days, either Party may terminate the affected Quote on written notice without liability.

12.7 Independent Contractors. The Parties are independent contractors. Nothing in these Terms creates a partnership, joint venture, employment, agency, or fiduciary relationship between the Parties. Neither Party has authority to bind the other or to incur obligations on the other's behalf, and neither Party will represent that it has such authority.

12.8 Personnel Non-Solicitation. During the term of these Terms and for twelve (12) months thereafter, neither Party will, directly or indirectly, knowingly solicit for employment or engagement any employee or contractor of the other Party who was substantively involved in the performance of a Quote or the parties' relationship under these Terms. This Section does not restrict either Party from: (a) general solicitations of employment not directed at the other Party's personnel, such as job postings, advertisements, or use of executive search firms not specifically directed to solicit the other Party's personnel; or (b) hiring any person who responds to such general solicitation or who initiates contact with the hiring Party without solicitation.

12.9 Export Compliance. Each Party will comply with all applicable export, re-export, sanctions, and trade control laws and regulations, including those administered by the U.S. Department of Commerce, the U.S. Department of State, and the U.S. Department of the Treasury's Office of Foreign Assets Control. Customer represents that it (and its Affiliates and Authorized Users) are not, and will not become, the subject of any sanctions, export controls, or denied-party designations, and are not located in or organized under the laws of any embargoed or sanctioned country or region (currently including Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk, Luhansk, Kherson, and Zaporizhzhia regions of Ukraine). Customer will not export, re-export, or release the Software or the Documentation in violation of any applicable law and will not permit any Authorized User to do so.

12.10 U.S. Government End Use. The Software is 'commercial computer software' as defined in 48 C.F.R. § 2.101 and is provided to U.S. Government end users (whether civilian or Department of Defense) only with the rights set forth in these Terms, in accordance with 48 C.F.R. §§ 12.211, 12.212, and 227.7202 and their successors. Any use, modification, reproduction, release, or disclosure by or for the U.S. Government is subject to the restrictions in these Terms. This Section supersedes any conflicting FAR, DFARS, or other clause or provision addressing U.S. Government rights in computer software or technical data.

12.11 Personal Data; Data Processing. Except as otherwise agreed in a separate written data processing agreement approved by Modersys, Modersys does not process personal data as a processor on behalf of Customer in providing the Software, Maintenance Services, or Professional Services. Customer will not provide to Modersys, make accessible to Modersys, or cause Modersys to process any regulated personal data, special-category personal data, sensitive personal data, or 'protected health information' as defined under HIPAA or HITECH, except for the business contact, account administration, system, service log, management, and usage data described in this Section, unless the Parties have first entered into a data processing agreement governing that processing. Any personal data Customer provides to Modersys, including the names and business contact details of Customer's business contacts, technical and operational staff, accounts payable representatives, and Authorized Users for purposes of administering these Terms and operating the Software, together with system, service log, management, and usage data generated through use of the Software, will be processed by Modersys as an independent controller in accordance with applicable data protection law.

12.12 Aggregated Data. Customer grants Modersys a non-exclusive, worldwide, royalty-free, perpetual, irrevocable, sublicensable, non-transferable license to collect, use, store, and process: (a) data and statistics derived from Customer's use of the Software that do not identify Customer or contain Customer's Confidential Information (including system, performance, usage, telemetry, and service log data), for purposes of providing, securing, supporting, and improving Modersys's products and services; and (b) aggregated and de-identified information derived from such data, for any lawful business purpose,

including industry benchmarking and analytics, provided that any aggregation and de-identification will be implemented in a manner reasonably designed to prevent re-identification of Customer or any individual. In no event will Modersys use or disclose under this Section any of Customer's Confidential Information, Customer Materials, or Customer's recipes, formulations, control logic, or manufacturing processes, or any data from which Customer or any individual can reasonably be re-identified.

12.13 Feedback. If Customer provides any suggestions, ideas, enhancement requests, recommendations, or other feedback regarding the Software, the Maintenance Services, or the Professional Services (collectively, "**Feedback**"), Customer grants Modersys a perpetual, irrevocable, worldwide, royalty-free, fully paid-up, sublicensable license to use, reproduce, modify, distribute, create derivative works of, and otherwise exploit the Feedback for any lawful business purpose, including incorporation into Modersys's products and services, without any obligation of compensation, attribution, or accounting to Customer. Feedback does not include Customer Data, Customer Materials, Customer IP, Customer's Confidential Information, Customer's recipes, formulations, manufacturing processes, control logic, configurations, business rules, or specifications that disclose any of the foregoing. Nothing in this Section limits Modersys's obligations under Section 5 (Confidentiality), transfers ownership of Customer Materials or Customer IP, or grants Modersys any license to use Customer's Confidential Information except as expressly permitted under these Terms. For the avoidance of doubt, Customer retains ownership of the underlying results derived from its own use of the Software.

12.14 Publicity. Neither Party will issue any press release or public statement about a Quote, or use the other Party's name, marks, or logos in advertising or marketing materials, without the other Party's prior written consent (which Customer will not unreasonably withhold). Notwithstanding the foregoing: (a) Modersys may identify Customer as a customer in customer lists, presentations, and similar materials, including a general description of the products or services Customer has licensed or received; and (b) either Party may make disclosures regarding these Terms or a Quote that its counsel determines are required by applicable law or regulatory authority. Each Party's use of the other Party's marks will comply with the other Party's branding guidelines provided in writing, and all goodwill arising from such use inures solely to the benefit of the trademark owner.

12.15 Severability. If any provision of these Terms is held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, the provision will be modified, to the minimum extent necessary, to render it valid, legal, and enforceable while preserving the Parties' original intent to the maximum extent permitted by law. If the provision cannot be so modified, it will be severed from these Terms, and the remaining provisions will continue in full force and effect.

12.16 Waiver. No waiver of any provision of these Terms is effective unless in writing and signed by an authorized representative of the waiving Party. A Party's failure or delay in enforcing any provision is not a waiver of that or any other provision, then or in the future. No usage of trade or course of dealing will be deemed to modify, supplement, or interpret these Terms.

12.17 Construction. Section headings are for convenience only and do not affect interpretation. 'Including' and similar terms mean 'including without limitation.' 'Will' and 'shall' each have the same mandatory meaning. 'May' indicates a permissive (not mandatory) act. References to a Section or Schedule are to a Section of these Terms or a Schedule attached to them. No rule of construction resolving ambiguities against the drafter applies.

12.18 Entire Agreement. These Terms, together with the Schedules and any Quote entered into under them, are the entire agreement between the Parties regarding their subject matter and supersede all prior or contemporaneous communications, proposals, and agreements, whether oral or written, including any prior non-disclosure or evaluation agreements between the Parties as to the subject matter addressed in these Terms, except to the extent such prior agreements expressly survive or a Separate Agreement controls under the introductory provisions above. No amendment may be effected through Customer's purchase order, an online ordering form, a click-through, vendor portal, or other administrative document.

12.19 Third-Party Beneficiaries. These Terms are for the sole benefit of the Parties and their permitted successors and assigns. Nothing in these Terms, express or implied, is intended to confer on any other person any rights or remedies, except that the Modersys Indemnitees and Customer Indemnitees are intended third-party beneficiaries of Section 7 (Indemnification).

12.20 **Electronic Records and Signatures.** Quotes and other documents under these Terms may be signed electronically or accepted through electronic means approved by Modersys. Each Party waives any defense or right to challenge the validity of these Terms or any Quote based on electronic acceptance, electronic signature, or retention in electronic form.

SCHEDULE A MAINTENANCE SERVICES

This Schedule A is incorporated into these Terms and applies when a Quote activates Maintenance Services for Covered Software. Capitalized terms used in this Schedule A and not defined here have the meanings given in these Terms.

1. **Maintenance Services.** Subject to Customer's payment of the applicable Fees for Maintenance Services and Customer's compliance with these Terms, during the Maintenance Term, Modersys will provide Maintenance Services for the Covered Software consisting of the services described below. Maintenance Services do not include Professional Services unless expressly set forth in a Quote.

1.1 **Error Correction.** Modersys will use commercially reasonable efforts to correct verifiable, reproducible failures of the Covered Software to conform in material respects to the Documentation (each, an "**Error**"). Modersys will deliver corrections through workarounds, patches, fixes, or new Releases, in Modersys's reasonable discretion. Error corrections may be cumulative; Customer's installation of a correction may require installation of prior Releases.

1.2 **Releases.** Modersys will make generally available to Customer all Releases for the Covered Software. Releases are part of the Software and are licensed to Customer under these Terms. Modersys is not obligated to provide new modules, new products, or significantly new functionality that Modersys markets as a separately priced product or chargeable upgrade.

1.3 **Technical Support.** Modersys will provide remote technical support for the Covered Software through Modersys's designated support channels, which may include telephone, email, or online ticketing portal, Monday through Friday, excluding company holidays, from 9:00 a.m. to 5:00 p.m. in the time zone of the Designated Site. Technical support is limited to investigation, diagnosis, and resolution of Errors and to assistance with the installation and operation of Releases. Modersys will respond to support requests by the end of the next business day for issues representing a critical loss of functionality and within a commercially reasonable time for all other issues.

2. **CUSTOMER RESPONSIBILITIES.** With respect to Maintenance Services, Customer will: (a) designate one or more named technical contacts ("Designated Contacts") who are authorized to submit support requests, and notify Modersys of any change in writing; Modersys is not obligated to respond to support requests from anyone other than a Designated Contact; (b) report Errors in writing with sufficient detail (including reproduction steps, error messages, and operating environment information) for Modersys to reproduce and diagnose them; (c) provide Modersys with reasonable cooperation, information, and (where necessary) remote or on-site access to the affected systems for diagnosis and resolution; (d) install Releases promptly after they are made available, in any event no later than ninety (90) days after delivery, recognizing that delayed installation may impair Modersys's ability to provide effective support and may impair the validation status of Customer's deployment; and (e) maintain the Covered Software in the operating environment specified in the Documentation.

3. **EXCLUSIONS.** Maintenance Services do not include, and Modersys has no obligation to support: (a) Software that has been modified, altered, or repaired by anyone other than Modersys, or that has been combined with hardware, software, services, or systems not approved by Modersys in writing; (b) Software used outside the scope of these Terms, the applicable Quote, or the Documentation; (c) Errors caused by Customer's hardware, third-party software (including Third-Party Software), networks, operating environment, devices, device management systems, or operator error; (d) any version of the Software more than one (1) Release behind the then-current Release, where the Error would have been resolved by installation of a Release made available to Customer; (e) support of any Customer-developed customizations, scripts, integrations, or modifications, or any failure caused by them; (f) Third-Party Software (Modersys will, where reasonably possible, pass through the benefit of any third-party support or warranties); (g) support requests of Customer personnel who repeatedly request assistance for matters that can be found in the Documentation or that are not directly related to the operation of the Software (in which case Modersys may charge additional support fees at Modersys's then-current rates); or (h) any Error or other issue caused by a Force Majeure Event described in Section 12.6 (Force Majeure) of these Terms.

Services outside the scope of the Maintenance Services described in this Schedule are subject to separate written agreement and Modersys's then-current professional services rates.

4. **DISCONTINUATION OF MAINTENANCE SERVICES.** Modersys may discontinue Maintenance Services for an obsolete Release on at least twelve (12) months' prior written notice. During the notice period, Modersys will continue to provide Maintenance Services for the discontinued Release in accordance with this Schedule. If Modersys makes available a successor Release of the Covered Software as part of Maintenance Services, Customer is responsible for installing that successor Release in accordance with Section 2 of this Schedule. Modersys may condition future Maintenance Services on Customer's use of then-supported Releases of the Covered Software and may adjust the Fees for Maintenance Services for any future Maintenance Term to reflect the discontinuation.

SCHEDULE B PROFESSIONAL SERVICES

This Schedule B is incorporated into these Terms and applies when Customer orders Professional Services under a Quote. Capitalized terms used in this Schedule B and not defined here have the meanings given in these Terms.

1. **Quotes.** Modersys may provide Professional Services under a Quote. Each Quote will describe the Professional Services to be performed, including, as applicable: (a) the scope and tasks; (b) any deliverables ("**Deliverables**") and acceptance criteria; (c) the schedule and any milestones; (d) the Fees, payment milestones, and pre-approved expense categories; (e) any on-site work requirements; and (f) any other applicable terms. Professional Services Quotes are subject to these Terms; in the event of conflict, the Quote prevails for the matters expressly addressed in that Quote (such as scope, schedule, and pricing for that engagement), and these Terms and this Schedule prevail for all other matters.

2. **Performance.** Modersys will perform Professional Services using qualified personnel in a professional and workmanlike manner. Modersys may, in its discretion, perform Professional Services on-site, remotely, or through a combination, and may use Affiliates and subcontractors who are bound by confidentiality obligations no less protective than these Terms; Modersys remains responsible for their performance and for compliance with these Terms. Modersys personnel performing on-site work will comply with Customer's reasonable site, safety, security, and access policies that have been provided to Modersys in writing in advance.

3. **Customer Cooperation.** Customer will provide the cooperation, information, access, decisions, and resources reasonably necessary for Modersys to perform the Professional Services. Where on-site work is required, Customer will provide Modersys personnel with reasonable workspace, network and system access, and other facilities as necessary. Modersys is not responsible for any delay, increase in cost, or other adverse impact to the extent caused by Customer's failure to provide timely cooperation, decisions, or required materials. The Parties will document any such delay or impact and adjust the schedule and Fees accordingly through a change order under Section 6 of this Schedule B.

4. **Acceptance.** If a Quote specifies acceptance criteria for a Deliverable: (a) Customer will have fifteen (15) days after delivery to test the Deliverable against those criteria and notify Modersys in writing of any material non-conformity, with reasonable detail; (b) if Customer does not deliver such notice within fifteen (15) days, the Deliverable is deemed accepted; and (c) if Customer timely reports a verifiable, material non-conformity, Modersys will correct it at Modersys's expense and re-submit the Deliverable for acceptance under the same procedure. If a Quote does not specify acceptance criteria, the Deliverable is deemed accepted on delivery. Once a Deliverable is accepted (or deemed accepted), any further changes are subject to a change order under Section 6 of this Schedule B.

5. **Fees and Expenses.** Customer will pay the Fees specified in each Quote in accordance with Section 4 of these Terms. Unless a Quote provides otherwise, Modersys will invoice fixed fees on completion of the milestone or task to which they relate and time-and-materials fees monthly in arrears. Customer will reimburse Modersys, at actual cost, for reasonable, pre-approved travel and out-of-pocket expenses (with receipts for amounts over \$25.00). If Modersys personnel are required to travel for Customer's project, Customer will also pay for travel time at Modersys's then-standard rates.

6. **Changes.** Any change to the scope, schedule, Deliverables, or Fees of a Quote must be made by a written change order, amendment, accepted quote, purchase order accepted by Modersys, or other written approval method accepted by Modersys. Modersys is not obligated to perform work outside the scope of the applicable Quote. Pricing is based on information available and assumptions in effect at acceptance; material changes to information or assumptions may require a change order, or amended Quote. Work outside the scope of a Quote that Customer requests will be billed at Modersys's then-current hourly rates.

7. **Ownership of Deliverables and Work Product.**

7.1 **Customer Materials.** Customer Materials, including any of Customer's Confidential Information embedded in them, are and remain owned solely by Customer. Customer grants Modersys a non-exclusive, royalty-free, worldwide license, exercisable through Modersys's Affiliates and

subcontractors, to use, reproduce, modify, and create derivative works of Customer Materials solely as necessary to perform the Professional Services. No other license is granted by Customer.

7.2 **Customer IP.** As between the Parties, Customer exclusively owns, and Modersys hereby assigns to Customer, all right, title, and interest in and to: (a) Customer's proprietary recipes, control logic, manufacturing processes, business rules, and configurations disclosed by Customer in performance of these Terms, including any derivative works of those that do not contain or incorporate any Modersys intellectual property; and (b) any modifications to user-modifiable code that consist solely of the foregoing (collectively, "**Customer IP**"). For the avoidance of doubt, Customer IP does not include the underlying Software or Work Product.

7.3 **Work Product.** Except for Customer Materials and Customer IP, Modersys exclusively owns, and Customer hereby assigns to Modersys, all right, title, and interest in and to all software, deliverables, methodologies, models, tools, scripts, algorithms, know-how, processes, designs, documents, templates, and other materials created, conceived, or developed by Modersys (alone or with Customer or third parties) in connection with the Professional Services, including all intellectual property rights in them (collectively, "**Work Product**"). Work Product constitutes Modersys's Confidential Information. On Customer's full payment of all Fees due under the applicable Quote, Modersys grants Customer a non-exclusive, non-transferable, non-sublicensable, paid-up license to use the Deliverables identified in that Quote solely for Customer's internal business purposes in connection with Customer's licensed use of the Software, on the same restrictions as apply to the Software in Section 2.7 of these Terms. The Software is licensed under these Terms and a Quote, not under any Deliverable.

8. **Recommendations.** Any suggestion, idea, enhancement request, recommendation, or other feedback provided by Customer in connection with the Professional Services is Feedback governed by Section 12.13 of these Terms. For clarity, this Section does not transfer ownership of Customer Materials or Customer IP and does not grant Modersys any right to use Customer's Confidential Information, Customer Data, recipes, formulations, manufacturing processes, control logic, configurations, business rules, or specifications except as expressly permitted by these Terms.

9. **Warranty.** Modersys warrants that, for ninety (90) days after performance of any Professional Services, the Professional Services will be performed in a professional and workmanlike manner and the Deliverables will conform in all material respects to the applicable Quote. Modersys further represents and warrants that, in performing the Professional Services, it will comply with applicable laws and regulations applicable to Modersys's business, and that no Modersys employee, agent, or subcontractor performing Professional Services is or will be (during the term of these Terms), debarred under §306 of the U.S. Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 335a. As Customer's sole and exclusive remedy and Modersys's sole liability for breach of this warranty, on Customer's timely written notice during the warranty period, Modersys will re-perform the non-conforming Professional Services or correct the non-conforming Deliverable. If Modersys is unable to do so after a reasonable number of attempts, Modersys will refund the Fees paid for the non-conforming Professional Services or Deliverables, and the affected portion of the Quote will terminate. Otherwise, all Professional Services and Deliverables are provided as set forth in Section 6.6 (Disclaimer) of these Terms.

10. **Termination of Professional Services.** Either Party may terminate Professional Services under a Quote for cause as provided in Section 10.2 of these Terms. On termination of Professional Services for any reason: (a) Customer will pay Modersys for all Professional Services performed and non-cancellable expenses incurred through the effective date of termination, plus, for fixed-price or milestone-based Quotes, the percentage of work completed as of the termination date; and (b) on payment, Modersys will deliver to Customer all then-completed Deliverables and works-in-progress as of the termination date. Sections 5, 7, 8, and 9 of this Schedule B, and any other provisions that by their nature should survive, will survive termination of Professional Services.