BQE Software, Inc.
Consulting and Training Services Agreement

PLEASE READ THIS CONSULTING AND TRAINING SERVICES AGREEMENT (THIS "AGREEMENT") BEFORE PURCHASING OR USING THE CONSULTING SERVICES OR TRAINING SERVICES. BY USING OR PURCHASING THE CONSULTING SERVICES OR TRAINING SERVICES, YOU SIGNIFY YOUR ASSENT TO THIS AGREEMENT. IF YOU ARE ACTING ON BEHALF OF ANY ENTITY, THEN YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF SUCH ENTITY. IF YOU DO NOT ACCEPT THIS AGREEMENT, THEN YOU MUST NOT PURCHASE OR USE THE CONSULTING SERVICES OR TRAINING SERVICES.

This Agreement is by and between BQE Software, Inc., a California corporation **("BQE SOFTWARE")**, and the customer **("CUSTOMER")** identified on an ordering document incorporating this Agreement **("ORDERING DOCUMENT")**, and is effective as of the date BQE Software signs the Ordering Document **(THE "EFFECTIVE DATE")**.

1. CONSULTING SERVICES AND TRAINING SERVICES

1.1 SERVICES. Subject to the terms of this Agreement, BQE Software will provide Customer consulting services **("CONSULTING SERVICES")** and/or training services (**"TRAINING SERVICES"** and, collectively with the Consulting Services, the **"SERVICES"**) as set forth on the applicable Ordering Document entered into between the parties.

1.2 GENERAL PROVISIONS. The Services are only for Customer's internal use and Customer may not use the Services to supply any consulting services or training services to any third party. Services must be used within one (1) year of purchase. Customer will use its commercially reasonable efforts to cause its officers, managers, employees, agents and affiliates to generally cooperate with and assist BQE Software in the performance of BQE Software's duties hereunder.

2. PAYMENT

Customer will pay to BQE Software the fees and other compensation set forth in each Ordering Document. Customer will also reimburse BQE Software for all reasonable out-of-pocket travel and living expenses incurred in the provision of the Services (if the Services are performed at other than BQE Software's facilities), and any other reimbursable items set forth in each Ordering Document. All invoices must be paid in advance prior to BQE Software's performance of the Services. All payments are non-refundable and made without the right of setoff or chargeback. Customer will pay interest,

at a rate equal to the lesser of five percent (5%) per month or the maximum rate permitted by law, on any amount that remains unpaid thirty (30) days after the date of the invoice. If Customer fails to pay any amounts in accordance with this Section, BQE Software may suspend fulfilling its obligations under this Agreement until such payment is received by BQE Software. Customer will pay directly any taxes arising out of this Agreement or BQE Software's performance under this Agreement, including applicable local, state, federal and international sales taxes, value added taxes, withholding taxes, and any other taxes or duties of any kind, but excluding taxes on BQE Software's net income and all employer reporting and payment obligations with respect to BQE Software's personnel. If any applicable law requires Customer to withhold amounts from any payments to BQE Software under this Agreement, (a) Customer will effect such withholding, remit such amounts to the appropriate taxing authorities and promptly furnish BQE Software with tax receipts evidencing the payments of such amounts and/or other documents necessary to enable BQE Software to claim a foreign tax credit, if applicable. Customer will make best efforts to ensure that any taxes withheld are minimized to the full extent possible under applicable law.

3. OWNERSHIP

3.1 OWNERSHIP OF DELIVERABLES. Unless otherwise set forth in the applicable Ordering Document, Customer acknowledges that it is not obtaining any intellectual property rights from BQE Software under this Agreement. Customer acknowledges that in the course of performing its obligations under this Agreement, BQE Software may create software or other works of authorship (collectively **"WORK PRODUCT"**). Subject to Customer's rights in its Confidential Information (as defined in Section 4), BQE Software shall own all right, title and interest in such Work Product, including all intellectual property rights therein and thereto. If any Work Product is delivered to Customer pursuant to or in connection with the performance of Consulting Services (a **"DELIVERABLE"**), BQE Software shall retain all right, title and interest in such Deliverables and hereby grants to Customer a non-exclusive, non-transferable right and license to use, execute, reproduce, display and perform any such Deliverables only in connection with Customer's use of BQE Software's services or products for which the Services are being rendered.

3.2 TRAINING MATERIALS. Customer acknowledges and agrees that Customer is not obtaining any intellectual property rights in or to any training materials provided by BQE Software to Customer in connection with the provision to Customer of Training Services (**"TRAINING MATERIALS"**), other than the rights of use specifically granted in this Agreement. Customer will be entitled to keep and use all Training Materials provided by BQE Software to Customer, but without any other license to exercise any of the intellectual property rights therein, all of which are hereby strictly reserved to BQE Software. In particular and without limitation, Training Materials may not be modified, translated, re-distributed, disclosed to third parties, lent, hired out, made available to the public, sold, offered for sale, shared, or transferred in any other way. During the term of this Agreement, Customer may copy the Training Materials for its internal use only. All BQE Software trademarks, trade names, logos and notices present on the Training Materials must be preserved.

3.3 RESIDUAL RIGHTS. Notwithstanding the above, Customer agrees that BQE Software, its employees and agents will be free to use and employ their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of any Services performed under this Agreement, subject to its obligations respecting Customer's Confidential Information pursuant to Section 4.

3.4 CUSTOMER'S MATERIALS. Customer grants to BQE Software a non-exclusive, non-transferable, royalty-free license to use materials provided by Customer to BQE Software during the term of this Agreement solely for the purpose of performing the Services for Customer.

4. CONFIDENTIAL INFORMATION

Each party (the **"RECIPIENT"**) shall, during the term of this Agreement and thereafter, (a) hold the Confidential Information of the other party (the **"DISCLOSING PARTY"**) in trust and confidence and avoid the disclosure or release thereof to any other person or entity by using the same degree of care as it uses to avoid unauthorized use, disclosure or dissemination of its own Confidential Information of a similar nature, but not less than reasonable care, and (b) not use the Confidential Information for any purpose whatsoever except as expressly contemplated under this Agreement. The Recipient shall disclose the Confidential Information only to those of its employees and contractors having a need to know such Confidential Information and shall ensure that such employees and contractors comply with the provisions of this Section. The obligations of the Recipient under this Section shall not apply to information that the Recipient can demonstrate (i) was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public, or after disclosure becomes generally available to the public, through no breach of any agreement or other wrongful act by the Recipient, (iii) has been received from a third party without restriction on disclosure and without breach of any agreement by the Recipient, or (iv) is independently developed by the Recipient without regard or reference to the Disclosing Party's Confidential Information. In addition, the Recipient may disclose Confidential Information of the Disclosing Party as required to comply with binding orders of governmental entities that have jurisdiction over it; provided that the Recipient promptly gives the Disclosing Party written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy, discloses only such Confidential Information as is required by the governmental entity, and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information disclosed. As used in this Agreement, **"CONFIDENTIAL INFORMATION"** of a Disclosing Party means any and all information or proprietary materials (in every form and media) not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by the Disclosing Party to the Recipient in connection with the transactions contemplated under this Agreement including, but not limited to, (i) all trade secrets, (ii) existing or contemplated services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any related information, and (iii) information relating to business plans, pricing, sales or marketing methods and customer lists or requirements. In addition, the content of this Agreement,

and of the parties' discussions pertaining to it, are confidential, and each party will not disclose or allow the disclosure of any information concerning this Agreement (including pricing and other terms under each Ordering Document), except that this Agreement may be disclosed by either party to its attorney(s), accountant(s) and/or financial planner(s) and, as required, to governmental taxing authorities or to enforce the rights contained in this Agreement in an appropriate legal proceeding.

5. TERM AND TERMINATION

The term of this Agreement will commence on the Effective Date and will remain and continue in effect, unless sooner terminated as provided under this Agreement. This Agreement may be terminated in whole or in part by each party (the **"NON-BREACHING PARTY"**) upon written notice to the other party if any of the following events occur by or with respect to such other party (the **"BREACHING PARTY"**): (a) the Breaching Party commits a material breach of any of its obligations under this Agreement and fails to cure such breach within thirty (30) days after receipt of written notice to do so by the Non-Breach Party; or (b) any insolvency of the Breaching Party, any filing of a petition in bankruptcy by or against the Breaching Party, any appointment of a receiver for the Breaching Party, or any assignment for the benefit of the Breaching Party's creditors. Upon termination, BQE Software will be entitled to recover payment for all Services and related expenses rendered through the date of termination, including for work in progress. In the event of termination or upon expiration of this Agreement, Sections 2, 3, 4, 5, 6, 7, 8 and 9 will survive and continue in full force and effect.

6. WARRANTIES

6.1 LIMITED WARRANTY. With respect to any Services, BQE Software warrants that Services rendered under this Agreement will be performed by qualified personnel; and the Services performed will substantially conform to any applicable requirements set forth in the applicable Ordering Document.

6.2 REMEDIES. In the event that any Services fail to conform to the foregoing limited warranty in any material respect, the sole and exclusive remedy of Customer will be for BQE Software, at its expense, to re-perform the applicable Services within a reasonable period of time. The foregoing warranty is expressly conditioned upon (a) Customer providing BQE Software with written notice of any claim thereunder within three (3) business days of delivery of the affected Services, which notice must identify with particularity the non-conformity; (b) Customer's full cooperation with BQE Software in all reasonable respects relating thereto, including, in the case of modified software, assisting BQE Software to locate and reproduce the non-conformity; and (c) with respect to any Deliverable, the absence of any alteration or other modification of such Deliverable by any person or entity other than BQE Software. Without limiting the foregoing, in the event that the Services include data migration or conversion services, Customer must verify the accuracy of the data migrated or converted within three (3) business days after completion of such services and provide BQE Software with written notice of any warranty claim under this Section within such three (3) business day-period. Customer acknowledges and agrees that Customer will not be entitled to any credits

towards the renewal of, or an extension of any subscription period for, other BQE Software services or products (such as BQE CORE software-as-a-service products) on the basis that a certain amount is required for BQE Software to complete the Services.

6.3 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 6.1, BQE SOFTWARE DOES NOT MAKE OR GIVE ANY REPRESENTATION OR WARRANTY OR CONDITION OF ANY KIND, WHETHER SUCH REPRESENTATION, WARRANTY OR CONDITION BE EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY, TITLE, QUALITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION, WARRANTY OR CONDITION FROM COURSE OF DEALING OR USAGE OF TRADE.

7. LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCE WILL BQE SOFTWARE BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF INCOME OR LOSS OF BUSINESS ADVANTAGE), WHETHER OR NOT FORESEEABLE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL BQE SOFTWARE'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING THIS AGREEMENT (UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STATUTE, TORT, OR OTHERWISE) EXCEED THE TOTAL AMOUNT PAID TO BQE SOFTWARE UNDER THE APPLICABLE ORDERING DOCUMENT THAT IS THE SUBJECT OF THE CLAIM DURING THE TWELVE (12)-MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THESE LIMITATIONS OF LIABILITY WILL REMAIN IN FULL FORCE AND EFFECT, REGARDLESS OF WHETHER EITHER PARTY'S REMEDIES HEREUNDER ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THE PROVISIONS OF THIS SECTION 7 ALLOCATE RISKS UNDER THIS AGREEMENT BETWEEN CUSTOMER AND BQE SOFTWARE AND THE FEES CHARGED FOR THE SERVICES REFLECT THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

8. MEDIATION AND BINDING ARBITRATION

BQE Software will make every reasonable effort to informally resolve any complaints, disputes or disagreements that Customer may have with BQE Software. If those efforts fail, Customer agrees that any complaint, dispute or disagreement Customer may have against BQE Software, and any claim that BQE Software may have against Customer, arising out of, relating to, or connected in any way with this Agreement, any purchases or other transactions or relationships with BQE Software, or Customer's use of or interaction with the Service and any related services or content (collectively, **"BQE TRANSACTIONS OR RELATIONSHIPS"**) will be settled, first, by mediation to take place within thirty (30) days of the written notice of such dispute and, second, if the parties are unable to settle such dispute by mediation in such thirty (30)-day period, then by binding arbitration (**"ARBITRATION"**) administered by JAMS or its successor (**"JAMS"**) and conducted in accordance with the JAMS Streamlined Arbitration Rules And Procedures in effect at the time the Arbitration is initiated or, if the amount in controversy exceeds $100,000, in accordance with the JAMS Comprehensive Arbitration Rules And Procedures then in effect (respectively, the "Applicable

Rules"). The Applicable Rules can be found at www.jamsadr.com. If JAMS is no longer in existence, the Arbitration shall be administered by the American Arbitration Association or its successor (the **"AAA"**) instead, and conducted in accordance with the AAA Commercial Arbitration Rules in effect at that time (which shall be the **"APPLICABLE RULES"** in such circumstances). You further agree to the following:

(a) The Arbitration shall be conducted before a single arbitrator selected in accordance with the Applicable Rules or by mutual agreement between Customer and BQE Software (the "Arbitrator").

(b) The Arbitrator, and not any federal, state or local court or agency, shall have the exclusive authority to resolve any dispute arising under or relating to the validity, interpretation, applicability, enforceability or formation of this Agreement and/or these arbitration provisions in this Section 8, including but not limited to any claim that all or any part of this Agreement is void or voidable.

(c) The Arbitration shall be conducted in the English language and held either: (i) in Los Angeles County, California, U.S.A.; or (ii) at such other location as may be mutually agreed upon by Customer and BQE; or (iii) at Customer's election, if the only claims in the arbitration are asserted by Customer and are for less than $10,000 in aggregate, by telephone or by written submission.

(d) The Arbitrator (i) shall entertain any motion to dismiss, motion to strike, motion for judgment on the pleadings, motion for complete or partial summary judgment, motion for summary adjudication, or any other dispositive motion consistent with California or federal rules of procedure, as applicable; (ii) shall honor claims of privilege recognized at law; and (iii) shall have authority to award any form of legal or equitable relief.

(e) The Arbitration can resolve only Customer's and/or BQE Software's individual claims, and the Arbitrator shall have no authority to entertain or arbitrate any claims on a class or representative basis, or to consolidate or join the claims of other persons or parties who may be similarly situated.

(f) The Arbitrator shall issue a written award supported by a statement of decision setting forth the Arbitrator's complete determination of the dispute and the factual findings and legal conclusions relevant to it (an **"AWARD"**). Judgment upon the Award may be entered by any court having jurisdiction thereof or having jurisdiction over the relevant party or its assets. The prevailing party shall be entitled to recover its reasonable attorneys' fees and its share of the costs of the arbitration, as the Arbitrator determines. In no event will the Arbitrator have the authority to award punitive damages or any other damages expressly limited by this Agreement.

(g) Notwithstanding anything to the contrary contained in this Section 8, a party may seek equitable relief by court action before or after instituting arbitration, including, without limitation, seeking and obtaining temporary restraining orders, injunctions or other provisional, ancillary or equitable remedies, and the institution and maintenance of any such action shall not constitute a waiver of the right to arbitrate any controversy or claim.

(h) Notwithstanding the foregoing, Customer and BQE Software adopt and agree to implement the JAMS Optional Arbitration Appeal Procedure with respect to any final Award in the Arbitration.

(i) CUSTOMER ACKNOWLEDGES AND AGREES THAT CUSTOMER AND BQE SOFTWARE ARE EACH WAIVING THE RIGHT TO TRIAL BY JURY OR TO PARTICIPATE AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPOSED CLASS ACTION OR REPRESENTATIVE PROCEEDING IN ANY FORUM.

9. MISCELLANEOUS

9.1 ENTIRE AGREEMENT; AMENDMENTS. This Agreement (together with each applicable Ordering Document) constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes all prior or contemporaneous discussions, proposals and agreements between the parties relating to the subject matter hereof. No amendment, modification or waiver of any provision of this Agreement shall be effective unless in writing and signed by both parties. In the event of a conflict between the terms of this Agreement and an Ordering Document, the terms of this Agreement will prevail. A statement of work signed by BQE Software and Customer and incorporating this Agreement may serve as an Ordering Document under this Agreement. It is expressly agreed that the terms of this Agreement shall supersede the terms in any purchase order or other document issued by Customer and no terms included in such purchase order or other document shall apply to the Services ordered by Customer.

9.2 INDEPENDENT CONTRACTOR. The parties are independent contractors. This Agreement shall not establish any relationship of partnership, joint venture, employment, franchise or agency between Customer and BQE Software. Each of Customer and BQE Software shall be responsible for paying for its own employees, including employment related taxes and insurance.

9.3 SUBCONTRACTORS. BQE Software may engage third parties to furnish services in connection with the Services, provided that such third parties have executed appropriate confidentiality agreements with BQE Software. In addition, Services may be performed by affiliates of BQE Software. No engagement of a subcontractor will relieve BQE Software from any of its obligations under this Agreement.

9.4 NON-SOLICITATION. Neither party may hire, or directly or indirectly solicit or employ, any employee or contractor of the other party during the term of this Agreement and for twelve (12) months after the termination of this Agreement; provided, however, that nothing contained herein

will prevent a party from hiring any such employee or contractor who responds to a general hiring program conducted in the ordinary course of business or who approaches such party on a wholly unsolicited basis.

9.5 SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable, the remaining portions shall remain in full force and effect and such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed to the extent necessary to make such provision valid and enforceable.

9.6 WAIVER. The failure of any party hereto to enforce any provision(s) of this Agreement shall not in any way be construed as a waiver of any such provision(s) or prevent that party thereafter from enforcing such provision(s) and each and every other provision of this Agreement.

9.7 FORCE MAJEURE. Except payment of monies due, neither party shall be liable to the other for any delay or failure to perform due to unforeseen circumstances or to causes beyond the obligating party's reasonable control, including but not limited to, an act of war, hostility or sabotage; act of God; electrical, internet or telecommunication outage that is not caused by the obligating party; governmental restrictions; embargo; riots, strikes or labor disputes; power blackout; shortages of transportation, facilities, fuel, energy, labor or materials; or failure of equipment or technology (such as computer breakdown or failure not within the obligating party's reasonable control).

9.8 NO THIRD-PARTY BENEFICIARIES. The terms of this Agreement are intended to be and are solely for the benefit of BQE Software and Customer and do not create any right in favor of any third party.

9.9 GOVERNING LAW. This Agreement shall be governed by the internal laws of the State of California, without reference to its principles of conflicts of law or, to the extent (if any) that federal law prevails, shall apply the law of the United States, irrespective of any conflict of law principles. The provisions of the Uniform Computerized Information Transactions Act and United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

9.10 JURISDICTION. Subject to the arbitration provisions above, any action or proceeding arising out of or relating to this Agreement or any other BQE Transactions or Relationships must be brought exclusively in the state and federal courts located in Los Angeles County, State of California, USA, and Customer irrevocably consents to the personal jurisdiction of such courts and agrees that it is a convenient forum and that Customer will not seek to transfer such action or proceeding to any other forum or jurisdiction, under the doctrine of *forum non conveniens* or otherwise, and Customer agrees to waive any bond, surety or other security that might be required of any other party with respect thereto.

9.11 NOTICES. All notices to be given hereunder must be in writing and shall be effective (a) when personally delivered, (b) on the reported delivery date if sent by a recognized international or overnight courier, or (c) five (5) business days after sent by registered or certified mail (or ten (10)

days for international mail), return receipt requested, all fees prepaid. All written notices directed to BQE Software shall be sent to: BQE Software, Inc., 3825 Del Amo Boulevard, Torrance, California 90503, USA, and all written notices directed to Customer will sent to Customer's address listed on the applicable Ordering Document.

9.12 ASSIGNMENT. Customer may not assign this Agreement or any of Customer's rights or obligations hereunder without BQE Software's prior written consent. Subject to the foregoing, this Agreement shall be binding upon the and inure to the benefit of the parties' respective successors, heirs, executors, administrators, personal representatives and permitted assigns.

9.13 GOVERNMENT REGULATION. Customer acknowledges that the Deliverables may be subject to export restrictions by the U.S. government and import restrictions by certain foreign governments. Customer may not export or re-export the Deliverables except in compliance with the U.S. Export Administration Act and the related rules and regulations and similar non-U.S. government restrictions, if applicable. Customer shall not and shall not allow any third party to remove or export from the United States or allow the export or re-export of any Deliverables or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. Customer agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Deliverables are further restricted from being used for: (i) terrorist activity, or (ii) the design or development of nuclear, chemical, or biological weapons or missile technology, without the prior permission of the U.S. government. The Deliverables and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Deliverables and Documentation by the U.S. government shall be governed solely by the terms of this Agreement.

9.14 HEADINGS. Section headings are included in this Agreement for convenience only and shall not be considered in interpreting this Agreement.

Last revised: June 14, 2017