



## Solartis Subscription Services Agreement

### Terms of Service

**1. ATTENTION! THE FOLLOWING TERMS AND CONDITIONS WILL BE LEGALLY BINDING ON CUSTOMER UPON EXECUTION OF THE SOLARTIS STANDARD SUBSCRIPTION SERVICES AGREEMENT. CUSTOMER SHOULD CAREFULLY READ THE FOLLOWING TERMS OF SERVICE BEFORE EXECUTING THE AGREEMENT.**

**2. Terms of Service.** Customer acknowledges and agrees to the following terms of service, which together with the terms of the Solartis Subscription Services Agreement entered into between Customer and Solartis, shall govern Customer's access and use of the Service (the "Agreement"). Capitalized terms not otherwise defined herein shall have the meaning given to them in Section 9 (Definitions) below. In addition, Customer agrees that unless explicitly stated otherwise, any new features that augment or enhance the Service, and/or any new service(s) subsequently procured by the Customer will be subject to this Agreement.

**2.1. Customer Must Have Internet Access.** DSL, cable or another high speed Internet connection is required for proper transmission of the Service. Customer is responsible for procuring and maintaining the network connections that connect the Customer network to the Service, including, but not limited to, "browser" software that supports protocol used by Solartis, including Secure Socket Layer (SSL) protocol or other protocols accepted by Solartis, and to follow logon procedures for services that support such protocols. Solartis is not responsible for notifying Customer of any upgrades, fixes or enhancements to any such software, or for any compromise of data transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned or operated by Solartis. Solartis assumes no responsibility for the reliability or performance of any connections as described in this Section.

**2.2. Accuracy of Customer's Contact Information.** Customer shall provide accurate, current and complete information on Customer's legal business name, address, email address, and phone number, and maintain and promptly update this information if it should change.

**2.3. Users: Passwords, Access, And Notification.** Customer shall authorize access to and assign unique passwords and user names. User logins are for designated Users and cannot be shared or used by more than one User, but any User login may be reassigned to another User as needed. Customer will be responsible for the confidentiality and use of User's passwords and user names. Customer will also be responsible for all Electronic Communications, including those containing business information, account registration, account holder information, financial information, Customer Data, and all other data of any kind contained within emails or otherwise entered electronically through the Service or under Customer's account. Solartis will act as though any Electronic Communications it receives under Customer's passwords, user name, and/or account number will have been sent by Customer. Customer shall use commercially reasonable efforts to prevent unauthorized access to or use of the Service and shall promptly notify Solartis of any unauthorized access or use of the Service and any loss or theft or unauthorized use of any User's password or name and/or Service account numbers.

**2.4. Customer's Lawful Conduct.** The Solartis Cloud Service allows Customer to send Electronic Communications directly to Solartis and to third parties. Customer shall comply with all applicable local, state, federal, and foreign laws, treaties, regulations, and conventions in connection with its use of the Service, including without limitation those related to privacy, electronic communications and anti-spam legislation. Customer is responsible for ensuring that its use of the Solartis Cloud Service to store or process credit card data complies with applicable Payment Card Industry Data Security Standards ("PCI DSS") requirements. Customer shall comply with the export laws and regulations of the

# Solartis Subscription Services Agreement

## Terms of Service

United States and other applicable jurisdictions in using the Solartis Cloud Service and obtain any permits, licenses and authorizations required for such compliance. Without limiting the foregoing, (i) Customer represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, (ii) Customer shall not permit Users to access or use the Solartis Cloud Service in violation of any U.S. export embargo, prohibition or restriction, and (iii) Customer shall comply with all applicable laws regarding the transmission of technical data exported from the United States and the country in which its Users are located. Customer will not send any Electronic Communication from the Solartis Cloud Service that is unlawful, harassing, libelous, defamatory or threatening. Except as permitted by this Agreement, no part of the Solartis Cloud Service may be copied, reproduced, distributed, republished, displayed, posted or transmitted in any form or by any means. Customer agrees not to access the Solartis Cloud Service by any means other than through the interfaces that are provided by Solartis. Customer shall not do any "mirroring" or "framing" of any part of the Solartis Cloud Service, or create Internet links to the Solartis Cloud Service which include log-in information, user names, passwords, and/or secure cookies. Customer will not in any way express or imply that any opinions contained in Customer's Electronic Communications are endorsed by Solartis. Customer shall ensure that all access and use of the Solartis Cloud Service by Users is in accordance with the terms and conditions of this Agreement, including but not limited to those Users that are contractors and agents, and Customer's Affiliates. Any action or breach by any of such contractors, agents or Affiliates shall be deemed an action or breach by Customer and Customer waives all of those defenses that Customer may have as to why Customer should not be liable for Customer's contractors', agents' or Affiliates' acts, omissions and noncompliance with this Agreement.

**2.5. Third Party Web Sites, Products and Services.** Solartis may offer certain Third Party Applications for sale under Estimate/Order Forms. Any procurement of such Third Party Applications by Customer shall be subject to the terms specified in such Estimate/Order Forms.

In addition, Solartis or third party providers may offer Third Party Applications or services, including implementation, customization and other consulting services related to Customers' use of the Solartis Cloud Service. Except as set forth in the Estimate/Order Form, Solartis does not warrant any such Third Party Applications or services, regardless of whether or not such Third Party Applications or services are provided by a third party that is a member of a Solartis partner program or otherwise designated by Solartis as "certified," "approved" or "recommended." Any procurement by Customer of any Third Party Applications or services is solely between Customer and the applicable third party provider.

Solartis is not responsible for any other aspect of such Third Party Applications or services that Customer may procure or connect to through the Solartis Cloud Service, or any descriptions, promises or other information related to the foregoing. If Customer installs or enables Third Party Applications or services for use with the Solartis Cloud Service, Customer agrees that Solartis may allow such third party providers to access Customer Data as required for the interoperation of such Third Party Applications with the Solartis Cloud Service, and any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider. Solartis shall not be responsible for any disclosure, modification or deletion of Customer Data resulting from any such access by Third Party Applications or third party providers. No procurement of such Third Party Applications or services is required to use the Solartis Cloud Service.

**2.6. Transmission of Data.** Customer understands that the technical processing and transmission of Customer's Electronic Communications is fundamentally necessary to use of Solartis Cloud and Outsourcing Services. Customer expressly consents to Solartis's interception and storage of Electronic Communications and/or Customer Data, and Customer acknowledges and understands that Customer's Electronic Communications will involve transmission over the Internet, and over various networks, only part of which may be owned and/or operated by Solartis. Customer further acknowledges and understands that Electronic Communications may be accessed by unauthorized parties when communicated across the Internet, network communications facilities, telephone or other electronic means. Solartis is not responsible for any Electronic Communications and/or Customer

# Solartis Subscription Services Agreement

## Terms of Service

Data which are delayed, lost, altered, intercepted or stored during the transmission of any data whatsoever across networks not owned and/or operated by Solartis, including, but not limited to, the Internet and Customer's local network.

**2.7. Service Level.** During the Term, the Solartis Cloud Service will meet the service level specified in the "Service Level Commitment" listed on the Solartis website located at [www.Solartis.com/slc](http://www.Solartis.com/slc), or such other URL as specified by Solartis, which is hereby incorporated by reference.

For Solartis Outsourcing Services the Parties shall agree, within 60 calendar days after the Contract Effective Date, to the

(1) service levels that Vendor shall meet in the performance of the Services and;

(2) time period during which the Service Levels shall be measured. If the applicable Service fails to achieve the service level, then Customer will be entitled, as its sole and exclusive remedy, to a credit for the applicable Service in accordance with the terms set forth in the Service Level Commitment.

The respective Service's system logs and other records shall be used for calculating any service level events.

**2.8. Solartis's Support.** As part of the Solartis Cloud Service, Solartis will provide Customer with Help Documentation and other online resources to assist Customer in its use of the Service. Solartis also offers optional and "for fee" training classes, professional services consultation and support services. If you have procured Solartis Support Services, the current Solartis URL Terms for support services are located at [www.Solartis.com/supportterms](http://www.Solartis.com/supportterms), or such other URL as specified by Solartis, which are hereby incorporated by reference. Customer acknowledges that Solartis has extensive experience helping Customers improve utilization and realization of benefits of the Solartis Cloud Service, and that not following the advice of Solartis and/or not engaging Solartis or other Solartis authorized implementation partner in the provision of professional services may substantially limit Customer's ability to successfully utilize the Solartis Cloud Service or to enjoy the power and potential of the Solartis Cloud Service.

**2.9. Security.** Solartis shall maintain reasonable administrative, physical and technical safeguards for the protection, confidentiality and integrity of Customer Data. During the Term, Solartis shall maintain PCI DSS compliance for the portions of the Solartis Service that store and process credit card data and shall ensure performance of an annual SSAE 16 (SOC 1) / ISAE 3402 Type II Report\*. No more than once per year, Customer may request a copy of Solartis's final SSAE 16 (SOC 1) / ISAE 3402 Type II Report\* that covers the prior calendar year.

\*or similar third party audit to an established industry standard selected by Solartis.

**2.10. Confidentiality.** For purposes of this Agreement, "Confidential Information" shall include the terms of this Agreement, Customer Data, each party's proprietary technology, business processes and technical product information, designs, issues, all communication between the Parties regarding the Service and any information that is clearly identified in writing at the time of disclosure as confidential.

Notwithstanding the foregoing, Confidential Information shall not include information which: (1) is known publicly; (2) is generally known in the industry before disclosure; (3) has become known publicly, without fault of the Receiving Party; (4) the Receiving Party becomes aware of from a third party not bound by non-disclosure obligations to the Disclosing Party and with the lawful right to disclose such information to the Receiving Party; or (5) is aggregate data regarding use of Solartis's products and services that does not contain any personally identifiable or Customer-specific information.

**Each party agrees:** (a) to keep confidential all Confidential Information; (b) not to use or disclose Confidential Information except to the extent necessary to perform its obligations or exercise rights under this Agreement or as directed by Customer; (c) to protect the confidentiality thereof in the same manner

# Solartis Subscription Services Agreement

## Terms of Service

as it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of such Confidential Information, including but not limited to inputting credit card data and social security numbers only in the fields designated for such data in the Solartis Cloud Service) and to make Confidential Information available to authorized persons only on a "need to know" basis. Either party may disclose Confidential Information on a need to know basis to its contractors and service providers who have executed written agreements requiring them to maintain such information in strict confidence and use it only to facilitate the performance of their services in connection with the performance of this Agreement. Notwithstanding the foregoing, this Section will not prohibit the disclosure of Confidential Information to the extent that such disclosure is permitted by law or order of a court or other governmental authority or regulation.

**2.11. Initial Term and Renewal.** The Initial Term commences on the Contract Effective Date. Upon the expiration of the Initial term, this Agreement will automatically renew for successive one-year terms at Solartis's then current fees. Either party may terminate this Agreement or reduce the Services selected, effective only upon the expiration of the then current License Term, by notifying the other party in writing at least ninety (90) calendar days prior to the expiration of the term. In the case of free trials, notifications provided through the Service indicating the remaining number of days in the free trial shall constitute notice of termination.

**2.12. Ownership of Customer Data.** As between Solartis and Customer, all title and intellectual property rights in and to the Customer Data is owned exclusively by Customer.

Customer acknowledges and agrees that in connection with Service, Solartis as part of its standard Solartis Cloud Service offering makes daily backup copies of the Customer Data in Customer's account and stores and maintains such data for a period of time consistent with Solartis standard business processes, which period shall not be less than five years.

**2.13. Solartis Intellectual Property Rights.** Customer agrees that all rights, title and interest in and to all intellectual property rights in the Solartis Cloud Service are owned exclusively by Solartis or its licensors. Except as provided in this Agreement, the license granted to Customer does not convey any rights in the Solartis Cloud Service, express or implied, or ownership in the Solartis Cloud Service or any intellectual property rights thereto.

In addition, Solartis shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, and perpetual license to use or incorporate into the Solartis Cloud Service any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including users, relating to the operation of the Solartis Cloud Service.

Any rights not expressly granted herein are reserved by Solartis. Solartis service marks, logos and product and service names are marks of Solartis (the "Solartis Marks"). Customer agrees not to display or use the Solartis Marks in any manner without Solartis's express prior written permission. The trademarks, logos and service marks of Third Party Application providers ("Marks") are the property of such third parties. Customer is not permitted to use these Marks without the prior written consent of such third party which may own the Mark.

**2.14. Federal Government End User Provisions.** If User is the US Federal Government, Solartis provides the Solartis Cloud Service, including related software and technology, in accordance with the following: Government technical data and software rights related to the Service include only those rights customarily provided to the public as defined in this Agreement. This customary license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation).

If a government agency has a need for rights not conveyed under these terms, it must negotiate with Solartis to determine if there are acceptable terms for transferring such rights, and a mutually

# Solartis Subscription Services Agreement

## Terms of Service

acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

**2.15. Dispute Resolution.** Each party agrees that before it or any employee, agent or representative of the party files a claim or suit with a federal or state agency or court or other public forum, it shall provide thirty (30) days prior written notice to the other and that, within such thirty (30) day period (or longer, if extended by mutual desire of the parties), authorized representatives of the parties shall meet (or confer by telephone) at least once in a good faith attempt to resolve the perceived dispute.

### 3. Warranties

**3.1. Warranty of Functionality.** Solartis warrants that (i) the Solartis Cloud Service will achieve in all material respects the functionality described in the Help Documentation applicable to the Solartis Cloud Service procured by Customer, and (ii) such functionality of the Solartis Cloud Service will not be materially decreased during the Term. Customer's sole and exclusive remedy for Solartis's breach of this warranty shall be that Solartis shall be required to use commercially reasonable efforts to modify the Solartis Cloud Service to achieve in all material respects the functionality described in the Help Documentation and if Solartis is unable to restore such functionality, Customer shall be entitled to terminate the Agreement and receive a prorata refund of the subscription fees paid under the Agreement for its use of the Solartis Cloud Service for the terminated portion of the Term. Solartis shall have no obligation with respect to a warranty claim unless notified of such claim within sixty (60) days of the first instance of any material functionality problem, and such notice must be sent to [billing@Solartis.com](mailto:billing@Solartis.com). The warranties set forth in this Section 3.1 are made to and for the benefit of Customer only. Such warranties shall only apply if the applicable Solartis Cloud Service has been utilized in accordance with the Help Documentation, this Agreement and applicable law.

**3.2. No Virus Warranty.** Solartis warrants that the Solartis Cloud Service will be free of viruses, Trojan horses, worms, spyware, or other such malicious code ("Malicious Code"), except for any Malicious Code contained in Customer-uploaded attachments or otherwise originating from Customer.

**4. Disclaimer of Warranties.** EXCEPT AS STATED IN SECTION 3 ABOVE, SOLARTIS DOES NOT REPRESENT THAT CUSTOMER'S USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICE AND/OR DOCUMENTATION WILL BE CORRECTED OR THAT THE OVERALL SYSTEM THAT MAKES THE SERVICE AVAILABLE (INCLUDING BUT NOT LIMITED TO THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER'S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE WARRANTIES STATED IN SECTION 3 ABOVE ARE THE SOLE AND EXCLUSIVE WARRANTIES OFFERED BY SOLARTIS. THERE ARE NO OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. EXCEPT AS STATED IN SECTIONS 2.7, 3.1, and 3.2 ABOVE, THE SERVICE IS PROVIDED TO CUSTOMER ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND IS FOR COMMERCIAL USE ONLY. CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICE OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSES.

**5. Limitations of Liability.** CUSTOMER AGREES THAT THE CONSIDERATION WHICH SOLARTIS IS CHARGING HEREUNDER DOES NOT INCLUDE CONSIDERATION FOR ASSUMPTION BY SOLARTIS OF THE RISK OF CUSTOMER'S INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO ANYONE FOR LOST PROFITS OR REVENUE OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, COVER, SPECIAL, RELIANCE OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND HOWEVER CAUSED, WHETHER FROM BREACH OF WARRANTY, BREACH OR REPUDIATION OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL CAUSE OF ACTION FROM OR IN CONNECTION WITH THIS

# Solartis Subscription Services Agreement

## Terms of Service

AGREEMENT (AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES TO THE MAXIMUM EXTENT PERMITTED BY LAW) OR OTHERWISE SHALL IN NO EVENT EXCEED THE DIRECT DAMAGE LIMITATIONS AS SET FORTH IN SECTION 5.

Except with regard to amounts due under this Agreement, and a party's breach of Section 2.10 (Confidential Information), the maximum liability of either party to any person, firm or corporation whatsoever arising out of or in the connection with any license, use or other employment of the Service, whether such liability arises from any claim based on breach or repudiation of contract, breach of warranty, negligence, tort, statutory duty, or otherwise, shall in no case exceed the equivalent of 12 months in subscription fees applicable at the time of the event, and in the event of a breach of Section 2.10 (Confidential Information) of this Terms of Service, such maximum liability of either party shall be an amount equal to three (3) times the equivalent of 12 months of subscription fees applicable at the time of the event. Notwithstanding the previous sentence, neither party shall be liable to the other party to the extent such liability would not have occurred but for the other party's failure to comply with the terms of this Agreement. The essential purpose of this provision is to limit the potential liability of the parties arising from this Agreement. The parties acknowledge that the limitations set forth in this Section are integral to the amount of fees charged in connection with making the Service available to Customer and that, were Solartis to assume any further liability other than as set forth herein, such fees would of necessity be set substantially higher.

THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL NOT APPLY TO EITHER PARTY'S INDEMNITY OBLIGATIONS EXCEPT AS SET FORTH IN SECTION 6 BELOW. Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitations of liability for incidental or consequential damages, so the exclusions set forth above may not apply to Customer.

### 6. Indemnification.

**6.1. Infringement.** Solartis shall, at its own expense and subject to the limitations set forth in this Section 6, defend Customer from and against any and all allegations, threats, claims, suits, and proceedings brought by third parties alleging that the Service, as used in accordance with this Agreement, infringes third party copyrights, trade secrets or trademarks (collectively "Claims") and shall hold Customer harmless from and against liability, damages, and costs finally awarded or entered into in settlement (including, without limitation, reasonable attorneys' fees) (collectively, "Losses") to the extent based upon such a Claim.

Excluded from the above indemnification obligations are Claims to the extent arising from (a) use of the Service in violation of this Agreement or applicable law, (b) use of the Service after Solartis notifies Customer to discontinue use because of an infringement claim, (c) modifications to the Service not made by Solartis, or (d) use of the Service in combination with any software, application or service made or provided other than by Solartis.

If a Claim is brought or threatened, Solartis shall, at its sole option and expense, use commercially reasonable efforts either (a) to procure a license that will protect Customer against such Claim without cost to Customer; (b) to modify or replace all or portions of the Service as needed to avoid infringement, such update or replacement having substantially similar or better capabilities; or (c) if (a) and (b) are not commercially feasible, terminate the Agreement and refund to the Customer a pro-rata refund of the subscription fees paid for under the Agreement for the terminated portion of the Term. The rights and remedies granted Customer under this Section 6.1 state Solartis's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party.

### 6.2. Disclosure of Customer Data.

Solartis shall, at its own expense and subject to the limitations set forth in this Section 6, defend Customer from and against any Claims that arise out of or result directly from Solartis's gross negligence or willful misconduct in preventing unauthorized access to confidential Customer Data, as determined by

# Solartis Subscription Services Agreement

## Terms of Service

a court of competent jurisdiction in connection with a Claim alleging a breach of confidentiality, and shall hold Customer harmless from and against liability for any Losses to the extent based upon such Claims.

When Solartis is at fault but such fault does not rise to the level of gross negligence or willful misconduct, Solartis shall, at its own expense and subject to the limitations set forth in this Section 6 and the amount of liability set forth in Section 5 applicable in the event of a breach of Section 2.10, defend Customer from and against any Claims, and shall hold Customer harmless from and against liability for any Losses to the extent based upon Claims, arising out of or relating to Solartis's breach of Section 2.10 (Confidential Information) of this Terms of Service.

Provided that Solartis complies with this Section 6.2, Customer shall be entitled as its sole and exclusive remedy to terminate the Agreement and receive a pro-rata refund of the subscription fees paid for under the Agreement for the terminated portion of the Term.

**6.3. Customer's Indemnity.** Customer shall, at its own expense and subject to the limitations set forth in this Section 6, defend Solartis from and against any and all Claims (i) alleging that the Customer Data or any trademarks or service marks other than Solartis Marks, or any use thereof, infringes the intellectual property rights or other rights, or has caused harm to a third party, or (ii) arising out of Customer's breach of Section 2.4 (Customer's Lawful Conduct) or 2.10 (Confidential Information) above and shall hold Solartis harmless from and against liability for any Losses to the extent based upon such Claims.

**6.4. Indemnification Procedures and Survival.** In the event of a potential indemnity obligation under this Section 6, the indemnified party shall: (i) promptly notify the indemnifying party in writing of such Claim; (ii) allow the indemnifying party to have sole control of its defense and settlement; and (iii) upon request of the indemnifying party, cooperate in all reasonable respects, at the indemnifying party's cost and expense, with the indemnifying party in the investigation, trial, and defense of such Claim and any appeal arising therefrom. The indemnification obligations under this Section 6 are expressly conditioned upon the indemnified party's compliance with this Section 6.4 except that failure to notify the indemnifying party of such Claim shall not relieve that party of its obligations under this Section 6 but such Claim shall be reduced to the extent of any damages attributable to such failure. The indemnification obligations contained in this Section 6 shall survive termination of this Agreement for one year.

## 7. Suspension/Termination.

**7.1. Suspension for Delinquent Account.** Solartis reserves the right to suspend Customer's and any Customer Affiliates' access to and/or use of the Service for any accounts (i) for which any payment is due but unpaid but only after Solartis has provided Customer two (2) delinquency notices, and at least thirty (30) days have passed since the transmission of the first notice, or (ii) for which Customer has not paid for the renewal term and has not notified Solartis of its desire to renew the Service by the End Date of the then current term. The suspension is for the entire account and Customer understands that such suspension would therefore include Affiliate sub-accounts. Customer agrees that Solartis shall not be liable to Customer or to any Customer Affiliate or other third party for any suspension of the Service pursuant to this Section 7.1.

**7.2. Suspension for Ongoing Harm.** Customer agrees that Solartis may with reasonably contemporaneous telephonic notice to Customer suspend access to the Service if Solartis reasonably concludes that Customer's Service is being used to engage in denial of service attacks, spamming, or illegal activity, and/or use of Customer's Service is causing immediate, material and ongoing harm to Solartis or others. In the extraordinary event that Solartis suspends Customer's access to the Service, Solartis will use commercially reasonable efforts to limit the suspension to the offending portion of the Service and resolve the issues causing the suspension of Service. Customer further agrees that Solartis shall not be liable to Customer nor to any third party for any suspension of the Service under such circumstances as described in this Section 7.2.

# Solartis Subscription Services Agreement

## Terms of Service

**7.3. Termination for Cause, Expiration.** Either party may immediately terminate this Agreement and all Estimates/Order Forms issued hereunder in the event the other party commits a material breach of any provision of this Agreement which is not cured within thirty (30) days of written notice from the non-breaching party.

Such notice by the complaining party shall expressly state all of the reasons for the claimed breach in sufficient detail so as to provide the alleged breaching party a meaningful opportunity to cure such alleged breach and shall be sent to the General Counsel of the alleged breaching party at the address listed in the heading of this Agreement (or such other address that may be provided pursuant to this Agreement) ("Notice"). Upon termination or expiration of this Agreement, Customer shall have no rights to continue use of the Service. If this Agreement is terminated by Customer for any reason other than a termination expressly permitted by this Agreement, then Solartis shall be entitled to all of the fees due under this Agreement for the entire Term. If this Agreement is terminated as a result of Solartis's breach of this Agreement, then Customer shall be entitled to a refund of the pro rata portion of any subscription fees paid by Customer to Solartis under this Agreement for the terminated portion of the Term.

**7.4. Handling of Customer Data In The Event Of Termination.** Customer agrees that following termination of Customer's account and/or use of the Service, Solartis may immediately deactivate Customer's account and that following a reasonable period of not less than 90 days shall be entitled to delete Customer's account from Solartis's "live" site. During this 90 day period and upon Customer's request, Solartis will grant Customer limited access to the Service for several days for the sole purpose of permitting Customer to retrieve Customer Data, provided that Customer has paid in full all good faith undisputed amounts owed to Solartis. Customer further agrees that Solartis shall not be liable to Customer nor to any third party for any termination of Customer access to the Service or deletion of Customer Data, provided that Solartis is in compliance with the terms of this Section 7.4.

## 8. Modification; Discontinuation of The Service.

**8.1 To the Service.** Solartis may make modifications to the Service or particular components of the Service from time to time and will use commercially reasonable efforts to notify Customer of any material modifications. Solartis reserves the right to discontinue offering the Service at the conclusion of Customer's then current Term. Solartis shall not be liable to Customer nor to any third party for any modification of the Service as described in this Section 8.1

**8.2 To Applicable Terms.** If Solartis makes a material change to any applicable URL Terms, then Solartis will notify Customer by either sending an email to the notification email address or posting a notice in the Administrator's instance of Customer's account. If the change has a material adverse impact on Customer and Customer does not agree to the change, Customer must so notify Solartis via [legal@solartis.com](mailto:legal@solartis.com) within thirty days after receiving notice of the change. If Customer notifies Solartis as required, then Customer will remain governed by the URL Terms in effect immediately prior to the change until the end of the then current term for the affected Service. If the affected Service is renewed, it will be renewed under Solartis's then current URL Terms.

## 9. Definitions.

**"Affiliates"** means any entity which directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with Customer, by way of majority voting stock ownership or the ability to otherwise direct or cause the direction of the management and policies of Customer.

**"Customer Data"** means data, information, or material provided or submitted to the Service by Customer or its Affiliates.



# Solartis Subscription Services Agreement

## Terms of Service

**“Electronic Communications”** means any transfer of signs, signals, text, images, sounds, data or intelligence of any nature transmitted in whole or part electronically received and/or transmitted through the Service.

**“Estimate/Order Form”** means a Solartis estimate, renewal notification or order form in the name of and executed by Customer or its Affiliate and accepted by Solartis which specifies the Service and implementation services to be provided by Solartis subject to the terms of this Agreement.

**“Help Documentation”** means the online help center documentation describing the Service features, including User Guides which may be updated from time to time.

**“Initial Term”** means the initial period during which the Customer is obligated to pay for the Service.

**“Service(s)”** collectively, Solartis’s insurance industry cloud and outsourcing services (the “Solartis Service”) and modules as described in the applicable Help Documentation that are procured by Customer from Solartis in the Estimate/Order Form and any subsequent Estimate/Order Form from time to time, including associated offline components, but excluding Third Party Applications and implementation services.

**“SolartisApps.com”** means the Solartis online directory of applications that interoperate with the Service, located at <http://www.Solartis.com/solartisApps> or at any successor websites.

**“Solartis Cloud”** means the suite of insurance software applications developed, operated, and maintained by Solartis, accessible via <https://www.solartis.net> or another designated website or OP address, to which the Customer is being granted access under this Agreement.

**“Solartis Outsourcing”** means insurance business process professional services developed, operated and managed by Solartis, provided to Customers primarily by Solartis offshore insurance professionals, to which the Customer is subscribing under this Agreement.

**“Third Party Applications”** means online, Web-based applications or services and offline software products that are provided by third parties, and interoperate with the Service, including but not limited to those listed on SolartisApps.com.

**“Users”** means individuals who are authorized by Customer to use the Service, and who have been supplied user identifications and passwords by Customer (or by Solartis at Customer’s request). Users may include but are not limited to Customer’s and Customer’s Affiliates’ employees, consultants, contractors, agents, insured’s or applicants for insurance.

**“User Guides”** means the online user guides for the Service, accessible via login at <http://www.Solartis.com> (under Help), as updated from time to time. Customer acknowledges that it has had the opportunity to review the User Guide through a free trial account made available by Solartis.

**“URL Terms”** means the terms with which Customer must comply, which are located at a URL and referenced in this Agreement.