



## Support Subscription Agreement

This Support Subscription Agreement (this “*Agreement*”) is a legal contract between (“*you*” or “*your*”), to receive Support Services from Acumatica, Inc. (“*Acumatica*” or the “*Company*”).

READ THE TERMS OF THIS AGREEMENT CAREFULLY.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU ACCEPT AND AGREE TO BE BOUND BY ITS TERMS. THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT BETWEEN YOU AND ACUMATICA CONCERNING SUPPORT SERVICES, AND THIS AGREEMENT SUPERSEDES AND REPLACES ANY PRIOR PROPOSAL, REPRESENTATION, OR UNDERSTANDING YOU MAY HAVE HAD WITH ACUMATICA CONCERNING OR RELATING TO THE SUPPORT SERVICES.

**1. Support Services.** During the Initial Term and any Renewal Term of this Agreement, as defined in Section 3, Acumatica will provide to you the services set forth in this Section 1 (the “*Support Services*”):

**a. General Description of Support Services:**

Acumatica will provide you the Basic and Premier Support Services, as further defined in <https://www.acumatica.com/support/direct-support/> that you subscribed to in a professional and workmanlike manner in accordance with industry standards. Support Services, in connection with Cases (as hereinafter defined) shall include direct response to you with respect to specific questions and issues (“*Issues*”) related to the following described software: Acumatica ERP (“*Software*”). Support Services do not include or replace Professional or Implementation Services. The parties agree that Acumatica shall have no obligation to provide any Professional or Implementation Services under this Agreement. Support Services are intended only for clients that are past the implementation phase, are operational and using the system in a live environment.

**b. Cases**

Each instance in which you contact Acumatica for Support Services shall be considered a “*Case*” and shall be assigned a unique Case number. You must have an active Support Subscription as provided in this Agreement to be eligible to register a Case with Acumatica and receive Support Services.

### **c. Issue Response**

Acumatica shall use its reasonable commercial efforts to respond to Cases reported by you. The terms and conditions of Acumatica's Service Level Commitment for responding to reported Issues are published on the Acumatica Support Portal under "Support and SLA policy." Notwithstanding anything herein to the contrary, Acumatica makes no guarantee that: (i) all Issues will be resolved, (ii) that any version of the Software will be error free, or (iii) it will correct or attempt to correct all Issues. The decision whether to correct any particular Issue shall be made in Acumatica's sole discretion. The Software is designed to work with certain third party software and in cases where Acumatica has isolated an Issue as being caused by a certain third party product, Acumatica may require that you work with the support personnel of such third party software vendor. In the resolution of certain Cases, you may be required to: (i) provide Acumatica a listing of output and other data, including databases and backup systems, that Acumatica may need in order to reproduce operating conditions similar to those present when the Issue occurred; (ii) assist by eliminating any hardware, operating system software, and application software deficiencies or conflicts; (iii) provide any requested diagnostic information to allow Acumatica to further diagnose the Issue; and (iv) implement recommended corrective or workaround procedure(s).

### **d. Methods of Assistance**

Premier support customers will have access to Support Services by and through the Acumatica Support Portal website, web chat and phone during premier support hours as published on the Acumatica Support Portal under "Support and SLA policy".. based upon the Support Level you've subscribed to.

Basic support customers will have access to Support Services by and through the Acumatica Support Portal only during Acumatica business hours as published on the Acumatica Support Portal under "Support and SLA policy." The terms for after-hours support can be found on the Acumatica Portal.

### **e. Supported Versions**

Acumatica provides Support Services for all supported versions of the Software as set forth in the Product Support Lifecycle Policy published on the Acumatica Support Portal. Retired versions are not supported under this Agreement.

### **f. Service Limitations**

Acumatica promotes mutually respectful dialog between our employees and our clients. Repeated verbal abuse of Acumatica employees and contractors may be



deemed as cause to immediately terminate this Agreement and deny you any future Support Services.

**g. Online Resources; Disclaimer**

Your access to Support Services under this Agreement shall also include access to Acumatica's support knowledgebase, online documentation, and the product suggestion system. ACUMATICA EXPRESSLY DISCLAIMS ALL WARRANTIES REGARDING INFORMATION IN THE ACUMATICA KNOWLEDGEBASE AND SUPPORT FORUMS, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**h. Client Support Contacts**

You will designate authorized support contact(s) for Support Services (the "*Support Contact*") who is trained and knowledgeable in the use of the Software and to whom all Support Services shall be delivered. Two (2) authorized Support Contract is included with Basic Support. Four (4) authorized Support Contacts are included with Premier Support Services You may change the identity of the Support Contact from time to time on the Acumatica Support Portal.

**i. Remote Support - Premier Support only**

In certain cases, where you have subscribed to Premier Support and Acumatica is unable to diagnose or resolve a Case reported by you, Acumatica may request access to your server or computer(s) experiencing issues in order to continue providing Support Services. In order to provide such support services, you will need to have Remote Desktop ("RDP") capabilities on the systems that need to be accessed. In such cases, you authorize Acumatica to remotely access your systems and data solely for the purpose of providing Support Services with respect to the Case and you agree to backup all of your data prior to providing Acumatica access to your applicable computer(s).

Remote support is not available for Basic support customers.

**j. Developer, Testing and Non-Production Acumatica Licenses - Premier Support Only**



If you have subscribed to Premier Support, then you will be granted, subject to the terms of Acumatica's end-user license agreement, one (1) Acumatica Subscription-On-Premise license for purposes of development, testing, and nonproduction use. This license may have no more than 20 named users.

**k. Developer Support – Premier and Basic**

If you have subscribed to Premier or Basic Support Acumatica will provide an unlimited number of developer support cases ("*Developer Support*"). Developer support policy is published at Acumatica portal under "Support and SLA policy" section Assigned contacts for submitting developer support cases should undergo through necessary developer trainings at Acumatica Open University.

**2. Disclaimers; Limitation of Liability.**

**a. Disclaimer.**

EXCEPT AS EXPRESSLY PROVIDED IN SECTIONS 1a. AND 1d., ACUMATICA DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**b. Limitation of Liability.**

**1. Limitation on Consequential Damages.** IN NO EVENT SHALL ACUMATICA BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, BUSINESS INTERRUPTION, OR LOSS OF INFORMATION), REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED ON BREACH OF CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), STRICT LIABILITY, BREACH OF WARRANTY, FAILURE OF ESSENTIAL PURPOSE OR OTHERWISE, OR WHETHER IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES

**2. Limitation on Cumulative Liability.** ACUMATICA'S CUMULATIVE LIABILITY TO YOU OR ANY PARTY RELATED TO YOU FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF FEES PAID TO ACUMATICA BY YOU UNDER THIS AGREEMENT FOR THE PAST 12 MONTHS. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION OR CLAIMS IN THE



AGGREGATE, INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND OTHER TORTS.

### **3. Term; Termination.**

#### **a. Term.**

The initial term of this Agreement commences as provided in the Acumatica Order Form you signed when you subscribed to the Support Services from your Authorized Acumatica Reseller or Acumatica (the “*Acumatica Order Form*”). The length of the initial term of this Agreement for the Support Services (the “*Initial Term*”) is set forth in your Acumatica Order Form. Unless you renew this Agreement for an additional term (each a “Renewal Term”), this Agreement will expire at the end of the Initial Term or any Renewal Term. It is your responsibility to contact your Authorized Acumatica Reseller or Acumatica regarding any potential expiration that you deem inappropriate. Acumatica is not liable for any damages or costs incurred in connection with expiration of the Support Services.

#### **b. Termination**

In addition to expiration of this Agreement as described in Section 3.a, this Agreement may be terminated by either party if the other party commits a material breach or default of any obligation described in this Agreement, including your failure to pay invoices issued pursuant to this Agreement, which is not cured within 30 days following written notice of the breach or default.

### **4. Fees and Billings.**

#### **a. Charges for Services:**

The fee for the Initial Term and any Renewal Terms shall be governed by Acumatica’s standard published price list and amount invoiced to you by your Authorized Acumatica Reseller or Acumatica.

#### **b. Out-of-Pocket Expenses:**

You will also pay your Authorized Acumatica Reseller or Acumatica all reasonable out-of-pocket expenses (including without limitation, travel expenses), if any, incurred by Acumatica in the course of providing Support Services to you. Acumatica will obtain prior approve from you for expenditures greater than \$250.

#### **c. Payment.**



Your Authorized Acumatica Reseller, or Acumatica, will invoice you for fees as set forth in Section 3a upon the commencement of the Initial Term and each Renewal Term. All invoices are due upon receipt. You shall be responsible for all taxes (including sales taxes) imposed as a result of the Support Services, excluding only taxes based on the net income of Your Authorized Acumatica Reseller, or Acumatica. Any amount not paid within thirty (30) days of the date of each invoice shall be subject to an interest charge equal to the lesser of 1.5% monthly or the maximum interest charge permissible under applicable law, payable on demand. Any charges not disputed by you in good faith within ten (10) days of the receipt of an invoice will be deemed approved and accepted by you.

## **5. Additional Terms.**

### **a. Governing Law:**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Washington, without regard to the conflicts of law rules thereof.

### **b. Severability:**

If any term or provision of this Agreement is declared void or unenforceable in a particular situation, by any judicial or administrative authority, this declaration shall not affect the validity or enforceability of the remaining terms and provisions of this Agreement or the validity or enforceability of that term or provision in any other situation.

### **c. Survival:**

Sections 2 and 4 of this Agreement shall survive the termination of this Agreement, regardless of the cause for termination, and shall remain valid and binding indefinitely.

### **d. No Waiver:**

The failure of either party to enforce any rights granted under this Agreement or to take action against the other party in the event of any breach of this Agreement shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.