

GOVERLAN

SOFTWARE LICENSE AND SUPPORT AGREEMENT

EFFECTIVE SINCE: OCTOBER 24, 2019 | VIEW PRIOR SLSA

NOTICE: PLEASE READ THIS AGREEMENT CAREFULLY.

BY CLICKING AGREE OR USING THE SOFTWARE YOU AGREE TO THIS AGREEMENT. THIS AGREEMENT IS ENFORCEABLE AGAINST YOU AND ANY LEGAL ENTITY THAT OBTAINED THE SOFTWARE AND ON WHOSE BEHALF IT IS USED (EXAMPLE, IF APPLICABLE, YOUR EMPLOYER). YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THE ENTITY ON WHOSE BEHALF THE SOFTWARE IS USED. IF YOU REJECT THE TERMS OF THIS AGREEMENT WITHIN 30 DAYS OF THE ORDER DATE, ONLY FOR A NEW LICENSE PURCHASE, DO NOT USE THE SOFTWARE AND CONTACT GOVERLAN FOR TERMS OF RETURNING THE SOFTWARE FOR A REFUND.

This agreement is between Goverlan, LLC., a Delaware corporation (**Goverlan**) and the customer entering into this agreement (**Customer**). The Goverlan software, updates and upgrades (if enrolled in support), and documentation provided to Customer (**Software**) are licensed and are not sold.

1. **SCOPE.** This agreement describes the licensing of the Software and support provided to Customer under an order.
2. **LICENSE.** Subject to the other terms of this agreement, Goverlan grants Customer, under an order, a limited, non-exclusive, for the duration specified on the order (perpetual or term based), worldwide license to operate the Software in object code form up to the license capacity purchased.
3. **RESTRICTIONS.** Customer may not:
 - a. Transfer, assign, sublicense, rent, create derivative works of the Software, or use it in any type of service provider environment;
 - b. Reverse engineer, decompile, disassemble, or translate the Software; or
 - c. Evaluate the Software for the purpose of competing with Goverlan.
4. **PAYMENT.** Customer will pay all fees due on receipt of an invoice, unless otherwise provided on an order, plus applicable sales, use and other similar taxes. If any withholding type tax is levied on a payment to Goverlan, then Customer must increase the amount paid to Goverlan so that the amount received after the withholding tax is deducted is the full amount Goverlan would have received if no withholding deduction had been made.
5. **PROPRIETARY RIGHTS AND MUTUAL CONFIDENTIALITY.**
 - a. **Proprietary Rights.** The Software, workflow processes, user interface, designs, and other technologies provided by Goverlan as part of the Software are the proprietary property of Goverlan and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Goverlan and its licensors. The Software is protected by applicable copyright and other intellectual property laws. Customer may not remove any product identification, copyright, trademark or other notice from the Software. Goverlan reserves all rights not expressly granted.
 - b. **Mutual Confidentiality.** Recipient may not disclose Confidential Information of Discloser to any third party or use the Confidential Information in violation of this agreement.

Confidential Information means all information that is disclosed to the recipient (Recipient) by the discloser (Discloser), and includes, among other things.

- any and all information relating to products or services provided by a Discloser, software code, flow charts, techniques, specifications, development and marketing plans, strategies, and forecasts;
- as to Goverlan, the Software and the terms of this agreement, including without limitation, all pricing information.

Confidential Information excludes information that:

- was rightfully in Recipient's possession without any obligation of confidentiality before receipt from the Discloser;
- is or becomes a matter of public knowledge through no fault of Recipient;
- is rightfully received by Recipient from a third party without violation of a duty of confidentiality; or
- is independently developed by or for Recipient without use or access to the Confidential Information

Recipient may disclose Confidential Information if required by law or legal process, but it will attempt to provide notice to the Discloser in advance so it may seek a protective order. Each party acknowledges that any misuse of the other party's Confidential Information may cause irreparable harm for which there is no adequate remedy at law. Either party may seek immediate injunctive relief in such event.

6. DISCLAIMER OF WARRANTIES. THE SOFTWARE IS PROVIDED 'AS IS'. GOVERLAN DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER UNDERSTANDS THAT THE SOFTWARE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED. GOVERLAN DISCLAIMS ANY LIABILITY IF THE SECURITY TO THE SOFTWARE IS COMPROMISED BY ANY THIRD PARTY OR EMPLOYEE OF CUSTOMER.

7. ADDITIONAL SPECIFIC TERMS.

- Pre-release Software Additional Terms.** If the Software is pre-commercial release or beta software (**Pre-release Software**), then this additional section applies. The Pre-release Software does not represent the final software and may contain bugs, errors, and other problems that could cause system or other failures or data loss. Goverlan may not commercially release the Pre-release Software. A Pre-release Software license is terminable at any time upon notice by Goverlan or sooner upon Goverlan's commercial release of such Software. CUSTOMER'S USE OF PRE-RELEASE SOFTWARE IS AT ITS OWN RISK. PRE-RELEASE SOFTWARE AND ITS DOCUMENTATION IS PROVIDED "AS IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND.
- Tryout, Product Sampler, NFR, Additional Terms.** If the Software is tryout, starter, software sampler, or NFR software (**Tryout Software**), then the following additional section applies. The Tryout Software may contain limited functionality and is to be used for demonstration and evaluation purposes only and not for production purposes. A Tryout Software license is terminable at any time upon notice from Goverlan. CUSTOMER'S USE OF TRYOUT SOFTWARE IS AT ITS OWN RISK. TRYOUT SOFTWARE AND ITS DOCUMENTATION IS PROVIDED "AS IS" AND WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND.
- Remote Access.** The Software has a feature that allows it to remotely communicate with servers at Goverlan regarding license compliance. Customer consents to the operation of this remote feature. If for any reason the Software is blocked from remotely calling the servers of Goverlan, then the Software will stop operating within 7 days.

8. TERMINATION. This agreement expires at the end of the license period specified in the applicable order. Either party may terminate this agreement upon a material breach of the other party after a 30 days notice/cure period, if the breach is not cured during such time period. Upon termination of this agreement or a license, Customer must discontinue using the Software, de-install and destroy or return the Goverlan software and all copies, within 5 days. Upon Goverlan's request, Customer will provide written certification of such compliance.

9. **ANNUAL SUPPORT.** Support provides technical support and access to new product updates/fixes (**Support**) included with term licenses and for purchase on an annual basis for perpetual licenses, subject to Goverlan Support policies. If Customer does not extend Support coverage, upon expiration, Customer will not have access to new software updates & fixes and may only be entitled to receive 24/7 on-line technical support through Goverlan Technical Forums, Knowledgebase and User Manuals. More information is on Goverlan's Support policies and programs is located on Exhibit A to this agreement.

10. **LIMIT ON LIABILITY.** There may be situations in which (as a result of material breach or other liability) Customer is entitled to make a claim against Goverlan. In each situation (regardless of the form of the legal action (e.g. contract or tort claims), Goverlan is not responsible for any damage and does not have any liability beyond the greater of the amount paid or payable by Customer to Goverlan within the 12 months prior to the event that gave rise to the claim. Even if it knows of the possibility of such damage or liability, in no circumstance is Goverlan responsible for any: loss of, or damage to, data or information; lost profits, revenue, or anticipated cost savings; or other special, consequential, incidental or indirect damages.

11. **DEFENSE OF THIRD PARTY CLAIMS.** Goverlan will defend or settle any third party claim against Customer to the extent that such claim alleges that the Software violates a copyright, patent, trademark or other intellectual property right, if Customer, promptly notifies Goverlan of the claim in writing, cooperates with Goverlan in the defense, and allows Goverlan to solely control the defense or settlement of the claim. **Costs.** Goverlan will pay its infringement claim defense costs incurred as part of its obligations above, and Goverlan negotiated settlement amounts, and court awarded damages. **Process.** If such a claim appears likely, then Goverlan may modify the Software, procure the necessary rights, or replace it with the functional equivalent. If Goverlan determines that none of these are reasonably available, then Goverlan may terminate the Software and refund (as applicable) any prepaid support fees and any prepaid and unused license fee (for perpetual licenses, a refund amortized over a 5-year period from the date of the order).

12. **GOVERNING LAW AND EXCLUSIVE FORUM.** This agreement is governed by the laws of the State of Delaware (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts of Delaware and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in litigation is entitled to recover its attorneys' fees and costs from the other party.

13. OTHER TERMS.

- a. **Entire Agreement.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise or inducement not included in this agreement is binding.
- b. **Non-Assignment.** Neither party may assign or transfer this agreement to a third party, nor delegate any duty, except that the agreement and all orders may be assigned, without the consent of the other party, as part of a merger, or sale of all or substantially all of the business or assets, of a party.
- c. **Independent Contractors.** The parties are independent contractors with respect to each other.
- d. **Enforceability.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect.
- e. **Survival of Terms.** Any terms that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive (including without limitation, the confidentiality terms). The UN Convention on Contracts for the International Sale of Goods does not apply.

- f. **Modification Only in Writing and Force Majeure.** No modification or waiver of any term of this agreement is effective unless signed by both parties. Goverlan is not liable for events beyond its reasonable control, including without limitation, force majeure events.
- g. **Export Compliance.** Customer must comply with all applicable export control laws of the United States, foreign jurisdictions and other applicable laws and regulations.
- h. **US GOVERNMENT RESTRICTED RIGHTS.** If Customer is a United States government agency or acquired the license to the Software hereunder pursuant to a government contract or with government funds, then as defined in FAR §2.101, DFAR §252.227-7014(a)(1) and DFAR §252.227-7014(a)(5) or otherwise, all Software provided in connection with this agreement are “commercial items,” “commercial computer software” or “commercial computer software documentation.” Consistent with DFAR §227.7202 and FAR §12.212, any use, modification, reproduction, release, performance, display, disclosure or distribution by or for the United States government is governed solely by the terms of this agreement and is prohibited except to the extent permitted by the terms of this agreement.
- i. **No PO Terms.** Goverlan rejects additional or conflicting terms of a Customer's form-purchasing document.

EXHIBIT A

Process. Email, telephone, and internet-based Live Chat support (during Goverlan business hours). Internet-based support system is available 7/24, subject to routine maintenance.

Errors. Goverlan will use commercially reasonable efforts to cure reported and reproducible errors in its Software.

Resolution. Goverlan will engage staff during business hours until a mutually acceptable resolution is achieved.

Third Party Technology Support.

- If a technical issue with the Software is the end-result of a conflict or incompatibility with another software product (**Third Party Product**) which was not provided by Goverlan nor included in its documentation and which was implemented at Customer site, then the vendor of the Third Party Product must assist Goverlan in the resolution of the technical issue.
- If the vendor of the Third-Party Product is not available or does not provide commercially reasonable assistance in the resolution process, then Goverlan may not be able to resolve the issue.

SUPPORT EXCEPTIONS.

- the operation of the Software in environmental conditions or configurations outside those prescribed in the user manual or other Goverlan documentation for the Software,
- Customer's material failure to maintain the Software in accordance with the standards prescribed in the user manual or other documentation,
- maintenance of the Software by anyone other than Goverlan or a third party authorized by Goverlan,
- causes unrelated to the Software as delivered to Customer by Goverlan, including, without limitation, unauthorized modifications to the Software made by Customer or on Customer's behalf, or
- Software or customization of the Software with regard to the Customer's unique application requirements.

Support for Prior Versions. Goverlan may terminate support for previous versions upon the availability of a new Software release or update.