

TSANet DATABASE LICENSE AND MEMBER ACCEPTANCE AGREEMENT

TSANet, INC. (“**TSANet**”) IS WILLING TO LICENSE NON-EXCLUSIVE ACCESS TO THE TSANet DATABASE TO YOU AS A MEMBER OF TSANet (ALTERNATIVELY “**MEMBER**” or “**YOU**” or “**YOUR**”) FOR THE PERIOD OF MEMBERSHIP IN TSANet, AND ONLY UPON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS CONTAINED IN THIS LICENSE AGREEMENT (herein the “**AGREEMENT**”). PLEASE READ THE AGREEMENT CAREFULLY. BY ACCESSING THE TSANet DATABASE, YOU ACCEPT THE TERMS OF THE AGREEMENT. IF YOU ARE WILLING TO BE BOUND BY ALL THE TERMS, INDICATE ACCEPTANCE BY SELECTING THE “**ACCEPT**” BUTTON AT THE BOTTOM OF THE AGREEMENT. IF YOU ARE NOT WILLING TO BE BOUND BY ALL THE TERMS, SELECT THE “**DECLINE**” BUTTON AT THE BOTTOM OF THE AGREEMENT AND THE MEMBER APPLICATION PROCESS WILL NOT CONTINUE.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt of which is hereby acknowledged, TSANet and Member agree, upon Member’s acceptance below:

- 1. BINDING ORGANIZATIONAL DOCUMENTS.** TSANet, Inc. (“**TSANet**”) is a not-for-profit membership trade organization based in the United States. TSANet serves a growing membership with operations that span the globe. Members agree to participate in one or more relationships within TSANet as a condition to their membership. All members, as a condition of joining into TSANet agree to abide by the TSANet <**Bylaws**>, <**Code of Conduct**>, <**Competition Compliance Policy Manual**>, and other organizational documents of TSANet in the course of their participation in TSANet, each of which are updated periodically in a manner consistent with the processes identified in the TSANet Bylaws. In the event of any conflict between and among these documents, Member agrees the more specific provision in a document shall be given preference.
- 2. RELATED DEFINED TERMS.** The term “**Database**” means the TSANet Member Contact Database in which members of TSANet have provided pertinent information of the contributing member regarding the handling or escalation of qualified support events in machine readable format together with supporting materials about programs or processes of that member (including, but not limited to, contacts, libraries, source files, header files, and data files), any updates or error corrections provided by the member or TSANet, and any user manuals, programming guides and/or other documentation or data provided to You by TSANet under this Agreement, together with any proprietary software of TSANet (“**Software**”) to enable or support operability and use of the database by Member. The Database, any solutions and Software may contain source code (“**Source Code**”) that, unless expressly licensed for other purposes, is provided solely for reference purposes pursuant to the terms of this Agreement. Source Code developed by or for TSANet may not be redistributed unless expressly provided for in this Agreement.
- 3. LICENSE TO USE.** Subject to the terms and conditions of this Agreement, and so long as Member is current with the payment of its membership fees, TSANet grants You a fee-

free non-exclusive, non-transferable, limited license to access and use internally the Database and Software for the sole purpose of membership activities and to obtain information in support of TSANet mutual customer problem resolution.

4. **RESTRICTIONS.** Title to the Software code constituting the Database, and any information contained in the Database together with all associated intellectual property rights are retained by TSANet and/or its licensors, except that any information provided by Member which is contained in the Database together with all associated intellectual property rights therein, is retained by Member. Unless enforcement is prohibited by applicable law, You may not modify, decompile, or reverse engineer the Software code constituting the Database or any Software enabling the database. You acknowledge that i) the Database is not designed or intended for use in the design, construction, operation or maintenance of any other operations; ii) TSANet disclaims any express or implied warranty of fitness for such uses; and iii) that no right, title or interest in or to any trademark, service mark, logo or trade name of TSANet or its licensors is granted to Member under this Agreement.
5. **LIMITED WARRANTY.** TSANet warrants to You that it will periodically update the Database with membership contact information, but disclaims any knowledge about the information supplied to it by TSANet members for use in call escalation, it being understood that such information has been received from each such member's representative(s) and has not been independently verified, nor updated except with information supplied by the member. Except for the foregoing, the Database and any Software enabling the Database is provided "AS IS." Your exclusive remedy and TSANet's entire liability under this limited warranty will be at TSANet's option to enable access to the Database as and when such Database may be made available for access by the Membership. This limited warranty gives You specific legal rights. You may have other rights, which vary from state to state or region to region.
6. **DISCLAIMER OF WARRANTY.** UNLESS SPECIFIED IN THIS AGREEMENT, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT ARE DISCLAIMED, EXCEPT TO THE EXTENT THAT THESE DISCLAIMERS ARE HELD TO BE LEGALLY INVALID.
7. **LIMITATION OF LIABILITY.** TO THE EXTENT PERMITTED BY LAW:

7.1 IN NO EVENT WILL TSANET OR ITS LICENSORS BE LIABLE TO MEMBER FOR ANY LOST PROFITS, REVENUE, DATA, OR OTHER DAMAGES ASSOCIATED WITH MEMBERSHIP PARTICIPATION, WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE OF ANY NATURE OR TYPE, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO THE USE OF OR INABILITY TO USE THE DATABASE, MEMBER'S MEMBERSHIP OR PARTICIPATION IN TSANET, OR ANY CLAIM, ACTION OR PROCEEDING FOR

INJURY, DAMAGE OR LOSS ARISING FROM TSANET MEMBERSHIP, REGARDLESS OF THE BASIS OF SUCH CLAIM, WHETHER UNDER THIS AGREEMENT, THE TSANET BYLAWS, THE CODE OF CONDUCT, THE COMPETITION COMPLIANCE POLICIES OF TSANET OR AS A RESULT OF ANY OTHER PARTICIPATION AS A MEMBER IN TSANET.

7.2 TSANET'S LIABILITY TO MEMBER SHALL FURTHER BE LIMITED IN ALL EVENTS, AND SHALL NOT EXCEED THE GREATER OF A) THE AMOUNT PAID OR PAYABLE BY MEMBER FOR MEMBERSHIP DUES, FEES AND ACCESS TO THE DATABASE UNDER THIS AGREEMENT FOR THE THEN-CURRENT MEMBERSHIP YEAR, OR B) EIGHTY THOUSAND DOLLARS (\$80,000).

7.3 IN NO EVENT SHALL MEMBER OR ITS SUBSIDIARIES OR AFFILIATES BE LIABLE TO ANY OTHER MEMBER OR TSANET FOR ANY LOST PROFITS, REVENUE, DATA, OR OTHER DAMAGES ASSOCIATED WITH MEMBERSHIP PARTICIPATION, WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE OF ANY NATURE OR TYPE, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR IN CONNECTION THEREWITH, INCLUDING BUT NOT LIMITED TO THE USE OF OR INABILITY TO USE THE DATABASE, MEMBER'S MEMBERSHIP OR PARTICIPATION IN TSANET, OR ANY CLAIM, ACTION OR PROCEEDING FOR INJURY, DAMAGE OR LOSS ARISING FROM TSANET MEMBERSHIP, REGARDLESS OF THE BASIS OF SUCH CLAIM, WHETHER UNDER THIS AGREEMENT, THE TSANET BYLAWS, THE CODE OF CONDUCT, THE COMPETITION COMPLIANCE POLICIES OF TSANET OR AS A RESULT OF ANY OTHER PARTICIPATION AS A MEMBER IN TSANET.

7.4 THE LIMITATION OF MEMBER'S LIABILITY IN SECTION 7.3 SHALL NOT APPLY TO ANY COSTS OR DAMAGES FINALLY AWARDED AGAINST YOU BY A COURT OF COMPETENT JURISDICTION WITH RESPECT TO CLAIMS BROUGHT BY AN AGGRIEVED MEMBER OR TSANET ALLEGING THAT YOU VIOLATED APPLICABLE LAW IN CONNECTION WITH YOUR MEMBERSHIP IN TSANET ("GENERAL CLAIMS"). AN AWARD OF COSTS AND DAMAGES AGAINST YOU WITH RESPECT TO GENERAL CLAIMS SHALL BE LIMITED HOWEVER TO A RECOVERY FOR DIRECT DAMAGES AND THEN ONLY TO THE EXTENT THAT A COURT OR TRIBUNAL DETERMINES YOUR OWN ACTS OR OMISSIONS RESULTED IN HARM TO SUCH MEMBER OR TSANET, AND IN NO EVENT SHALL YOUR LIABILITY FOR ANY SUCH GENERAL CLAIMS TO ANY OTHER MEMBER OR TSANET EXCEED THE GREATER OF A) EIGHTY THOUSAND DOLLARS (\$80,000), OR B) THE AMOUNT PAID OR PAYABLE BY YOU IN ANNUAL MEMBERSHIP DUES, FEES AND ACCESS TO THE DATABASE UNDER THIS AGREEMENT FOR THE THEN-CURRENT MEMBERSHIP YEAR, AND PROVIDED FURTHER THAT NO MEMBER SHALL BE RESPONSIBLE FOR LIABILITY TO THE EXTENT SUCH LIABILITY RESULTS FROM THE ACTS OR OMISSIONS OF ANOTHER MEMBER.

- 8. TERMINATION.** You may terminate this Agreement at any time by notifying TSANet of Your termination. This Agreement shall also terminate in accordance with the TSANet Bylaws, TSANet Code of Conduct and/or TSANet relationship documents applicable to Member, as amended. If You fail to comply with any provision of this Agreement or cease to be a member of TSANet, the benefits of the license specified in Section 3 herein may, at TSANet's option, terminate immediately upon notice to You. If the reason for Member's non-compliance is subject to cure in the reasonable discretion of TSANet, Member may within ten (10) days of receipt of such notice, request the opportunity to cure such noncompliance within an additional twenty (20) days, which opportunity to cure shall not be unreasonably withheld or denied. Either party may terminate this Agreement immediately should the Database or any Software become, or in either party's opinion be likely to become, the subject of a claim of infringement of any intellectual property right. Upon termination for any reason, You agree to destroy all copies of information derived from the Database.

Upon Member's termination from TSANet for any reason, TSANet agrees that it will take prompt action to make the information concerning You in the Database unavailable to and shall not disclose such information to, any other member or third party, except to the extent that i) You consent to such disclosure by providing prior approval to TSANet in writing signed by an authorized representative of Member, or ii) such disclosure is required in direct response to a valid judicial or governmental subpoena or order; provided that, prior to such disclosure, TSANet shall notify, and reasonably cooperate with, Member in advance of any such disclosure so that Member may have an opportunity to request a protective order, confidential treatment or other protection. Upon Member's termination from TSANet for any reason, TSANet also agrees to destroy all Your information from the Database in accordance with TSANet's document retention policy, except that TSANet shall have the right to retain invoice and payment information concerning Member for such period of time as TSANet is required by applicable law. TSANet shall, in addition, have the right to notify active TSANet members of a member's termination.

- 9. GOVERNMENTAL REGULATIONS.** TSANet and Member agree to comply with all applicable laws and regulations. All technical data or information concerning contacts within the Database delivered under this Agreement may be subject to laws and regulations respecting privacy and dissemination in the U.S. and abroad.
- 10. TAXES.** Member agrees to be responsible for, remain compliant with, and pay sales taxes, Value Added Taxes ("VAT") or other similar charges assessed in a particular geography on Member's membership dues in TSANet, on services or on benefits, other than taxes based on or measured by net income of TSANet and corporate franchise taxes ("Applicable Taxes") arising from or associated with membership. Member shall also be responsible for Applicable Taxes arising from or associated with Member's participation in the organization, or Member's receipt of benefits in connection with membership in TSANet or Member's supply of benefits or services to the participants of any group sponsored by Member. By way of example, all sales taxes, Value Added Taxes ("VAT") or other similar charges assessed in a particular geography on Member's membership

dues in TSANet, services or benefits shall be the sole responsibility of the Member, and Member agrees to account for and pay such charges.

- 11. TRADEMARKS AND LOGOS.** You acknowledge and agree as between You and TSANet that TSANet either has licensed or owns the TSANet word mark and all rights in and to any TSANet trademarks, service marks, logos and other brand designations (“TSANet Marks”), and You agree to comply with the TSANet Trademark Usage Guide as disclosed on the TSANet website, and periodically updated. Any use You make of the TSANet Mark(s) inures to TSANet’s benefit.
- 12. SPONSORED GROUP RELATIONSHIPS.** In certain instances, TSANet has agreed to make available an opportunity for members to participate in group relationships sponsored by a particular member. Members should [<contact a TSANet staff representative>](#) before proceeding to participate in such group relationships in order to obtain a copy of any agreements required to participate in such group relationships.
- 13. MEMBERSHIP INFORMATION PROVIDED TO TSANET.** TSANet and Member agree that Member contact information provided by Member for use in the Database is subject to the terms and conditions specified under the Confidentiality section of the Code of Conduct, and each other Code of Conduct or Addendum applicable to a relationship to which the Member is a party. Member agrees that TSANet may disclose Member contact information to other members in accordance with the TSANet policies and procedures applicable to such member’s participation, so long as such member has accepted the unmodified confidentiality terms as specified in Confidentiality Section of the Code of Conduct or Addendum applicable to each such relationship. You agree not to share information about Your representatives or contact information with TSANet for use in the Database unless you first have appropriate consent to provide TSANet with such information.
- 14. SEVERABILITY.** If any provision of this Agreement is held to be unenforceable, this Agreement will remain in effect with the provision omitted, unless omission would frustrate the intent of the parties, in which case this Agreement will immediately terminate.
- 15. INTEGRATION.** This Agreement, the TSANet Bylaws, TSANet Code of Conduct, and any addendums to the Code of Conduct (“Addendums”) respecting membership are the entire agreement between You and TSANet relating to its subject matter. It and they supersede all prior or contemporaneous oral or written communications, proposals, representations and warranties and shall prevail over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the parties relating to its subject matter during the term of this Agreement.
- 16. MODIFICATION OF THIS AGREEMENT.** This Agreement shall not be modified or assigned in the absence of acceptance via electronic “Click to Accept” means by TSANet and Member, or such parties mutual written consent; provided however the parties further agree that TSANet shall provide notice of changes in this License by providing Member

with written notice (including electronic mail, or other electronic means), which notice to Member shall be given One-Hundred-Twenty (120) days prior to the effective date of any such change. Member may either consent to the modification or change by accepting via electronic means, or Member may decline by so indicating via electronic means in the manner provided by TSANet. If Member declines, or offers no response after receipt of Notice and the expiration of forty-five (45) days, then TSANet shall have the right, but not the obligation to terminate Member as provided in Section 8, and all further rights under this License shall, upon the effective date of such termination, cease and terminate.

17. NOTICE. Any notice to be delivered to Member or to TSANet shall be in writing and may be delivered in person or may be sent by mail (including electronic mail or by other electronic means), courier, express mail, facsimile or prepaid registered or recorded delivery post addressed:

a) in the case of Member, to the address specified in its application for membership in TSANet or any group (the “Application for Membership”) or such other address as may be provided by Member to TSANet; and

b) in the case of TSANet to

TSANet, Inc.
8101 College Blvd., STE 100
Overland Park, KS 66210

18. ACCEPTANCE. By clicking “Accept” below, Member through its duly authorized representative, on behalf of itself and its participating wholly owned subsidiaries or affiliates (which shall be disclosed to TSANet in the manner reasonably prescribed by TSANet), agrees to be bound by this Agreement, the Bylaws, Code of Conduct, and any Addendums, as may be amended from time-to-time in accordance with their respective terms.

19. GOVERNING LAW. Any action related to this Agreement will be governed by Kansas law and controlling U.S. federal law. No choice of law rules of any jurisdiction will apply.

By signifying acceptance, Member agrees to be bound to the terms of this Agreement, intends to submit this form to TSANet, and agrees to the terms of participation in the TSANet organization respecting membership as such terms are specified in this Agreement.

Date _____

For Company:

Business Manager

Accepted Electronically

For TSANet

Dennis Smeltzer, President

For inquiries or questions, please contact: TSANet, Inc. 8101 College Blvd, Suite 100,
Overland Park, Kansas, 66210, U.S.A./or call: 913.345.9311/ or [e-mail: dennis@tsanet.org](mailto:dennis@tsanet.org).