



Aurea Plan Agreement

This AUREA PLAN AGREEMENT along with all other agreements that are incorporated by reference is entered into by and between the parties listed, and as of the Effective Date stated on the quote, referencing agreement or other any agreement that references this Aurea Plan Agreement (the “**Referencing Agreement**”). The Aurea Plan Agreement and the Referencing Agreement are referred to herein as the “**Agreement**.” The Service Provider referenced in the Referencing Agreement shall be referred to herein as “**Aurea**.” For clarity, “**Customer**” is the specific entity listed on the Referencing Agreement and does not include parents, subsidiaries or any other affiliated entities (unless specifically listed in the Referencing Agreement). Any capitalized terms used herein and not expressly defined shall have the meaning given to them as set forth in the Referencing Agreement.

Aurea provides a subscription service that gives our customers access to a broad library of software products and related software maintenance services. The Customer has the right to use any and all Library Software (defined below) by paying the annual Plan Value (defined below) up to an amount determined by the Licensing Entitlement (defined below) of the applicable Referencing Agreement.

This Agreement outlines the terms and conditions pursuant to which the Customer may access: (a) Library Software (defined below) and (b) related support and maintenance services (the “**Support Services**”). Customer’s Licensing Entitlement for each Library Software product and the Activated Products (defined below) for each Library Software product is set forth on a “**Aurea Library Plan Quote**.” For purposes of this Agreement, the Aurea Library Plan Quote specifies the Term (defined below) and Plan Value (defined below) applicable to the Customer.

1. Definitions. The following terms have the meanings given to them below.

- 1.1. “**Activated Products**” means the amount of each Library Software product or Primary Product(s) that the Customer has ordered as set forth in the Aurea Library Plan Quote.
- 1.2. “**Library Software**” means the software that is listed at: www.aurea.com/library (the “**Aurea Software Library**”). Aurea continually updates the Aurea Software Library. Aurea reserves the right to add or remove Library Software at its sole discretion by way of notice on the Aurea Software Library. Library Software that are removed after Customer has already executed an Aurea Library Plan Quote for such Library Software shall be deemed to remain Library Software as to Customer for the remainder of the then current Term.
- 1.3. “**License Model**” means the scope and unit pricing structure applicable to each Library Software product (e.g. per user, per core) that is set out in the Aurea Software Library. The License Model for the Library Software is set forth at: www.aurea.com/softwarelibrary/licensemodel.
- 1.4. “**Licensing Entitlement**” means the amount of each Library Software product that the Customer is entitled to consume by virtue of their Plan Value. The Customer may consume, for each and every Library Software product, an amount in Units equal to the Plan Value divided by the List Price for each Library Software product.
- 1.5. “**Legacy Plan Value**” means the amount of each Legacy Primary Product that Customer was entitled to consume by virtue of their Legacy Primary Product Agreement.
- 1.6. “**Legacy Primary Product(s)**” means the Primary Product(s) licensed to Customer by a Legacy Primary Product Agreement greater than twelve (12) months preceding Customer’s first Library Plan Quote which binds Customer to the terms and Conditions of this Agreement.
- 1.7. “**Legacy Primary Product Agreement**” means an agreement for a subscription license or maintenance and support for one or more Legacy Primary Products with Aurea, an Aurea affiliate, reseller, partner, or a predecessor company.
- 1.8. “**List Price**” means Aurea’s then current price, per Unit, to its general customer base for the applicable Library Software product. Library Software List Prices are the basis by which Customer’s Licensing Entitlement for each Library Software product is determined. Aurea may change List Prices at its sole discretion from time to time. List Prices that change after Customer has already executed an Aurea Library Plan Quote for Library Software shall be deemed to remain unchanged as to Customer for the remainder of the then current Term.
- 1.9. “**Plan Value**” means the greater of the annual fee for the Primary Product(s) and Support Plan or the Legacy Primary Product(s), as presented on the Aurea Library Plan Quote. The Plan Value may change upon mutual agreement of the parties pursuant to desired changes in the Customer’s Licensing Entitlement for one or more Library Software products.

- 1.10. **“Primary Product(s)”** means all Aurea Software product(s) for which Customer has active subscriptions from Aurea, an Aurea affiliate, reseller, partner, or a predecessor company to Aurea. under a Primary Product Agreement in the twelve (12) months preceding the effective date of Customer’s first Aurea Library Plan Quote that binds Customer to the terms and conditions of this Agreement.
- 1.11. **“Primary Product Agreement”** means the license agreement pursuant to which Customer has previously subscribed or licensed its use or access to the Primary Product(s).
- 1.12. **“Unit”** means the pricing basis for the applicable Library Software product. Examples of pricing units include per user, per output, per core, and other mechanisms as will be defined for that Library Software product in the License Model.
- 2. Ordering Library Software.** To order Library Software products utilizing the Plan Value, Customer will request Library Software products from Customer’s account representative. An applicable Aurea Library Plan Quote will be prepared by the account representative based upon the Plan Value available, the scope and volume of Library Software to be licensed and the List Price attributable thereto. If the Plan Value does not cover the full cost, any amounts due will be set forth in the Aurea Library Plan Quote. Such increased payment amount will be included in the calculation of the Plan Value for future Library Software subscriptions. The Aurea Library Plan Quote will become effective and binding upon mutual execution by authorized signatories of the parties. More information on how to calculate and apply Plan Values is provided on Exhibit A attached hereto. If Customer’s use of the Library Software exceeds Customer’s Licensing Entitlement, Service Provider may, in its sole discretion, either: (a) increase Customer’s Plan Value by charging the Customer for additional Primary Product(s) to align the Plan Value with Customer’s total Library Software use; and/or (b) charge Customer for such excess use of the Library Software and reduce Customer’s usage of Library Software to the Licensing Entitlement permitted by Customer’s Plan Value. All charges related to over use of the Library Software shall be invoiced and paid in accordance with the terms of the license agreement applicable to the Library Software, as set forth in paragraph 7. **NOTE THAT A REDUCTION IN USAGE OR LICENSING OF ANY LIBRARY SOFTWARE BY CUSTOMER WILL NOT REDUCE THE PLAN VALUE AMOUNTS DUE FOR PRIMARY PRODUCTS OR THE PRIMARY PRODUCT SUPPORT PLANS UNLESS THE REDUCTION IS EXPRESSLY AGREED IN WRITING BY THE PARTIES.**
- 3. Previous Licenses and Agreements.**
- a. While Aurea no longer provides traditional software licensing of individual Library Software products, Customer may have a Legacy Primary Product Agreement for one or more Legacy Primary Products.
- b. Unless the Aurea Library Plan Quote specifically references and terminates that Legacy Primary Product Agreement and subject to the provisions of paragraph 3d. below, this Agreement does not amend in any way any Legacy Primary Product Agreement and the fees set forth in any Aurea Library Plan Quote are deemed to be additional fee amounts over and above all amounts otherwise due under a Legacy Primary Product Agreement.
- c. Upon expiration or mutual agreed termination of the Legacy Primary Product Agreement, Customer will be able to transfer Customer’s Legacy Primary Products to this Agreement (as noted in the Aurea Library Plan Quote). Such transferred, Legacy Primary Products shall be licensed to Customer pursuant to the Applicable Software License (as defined in paragraph 7). **THE LEGACY PLAN VALUE SHALL REMAIN UNCHANGED FOR THE REMAINDER OF THE APPLICABLE LIBRARY PLAN QUOTE, REGARDLESS OF THE LIST PRICE FOR THE LEGACY PRIMARY PRODUCT. THE LEGACY PLAN VALUE SHALL BE ADDED TO THE PLAN VALUE FOR THE REMAINDER OF THE APPLICABLE LIBRARY PLAN QUOTE. FOR CLARITY, THE LEGACY PLAN VALUE, UPON LEGACY PRIMARY PRODUCT TRANSFER TO THIS AGREEMENT, SHALL NEVER BE MORE THAN THE AGGREGATE LICENSE AND MAINTENANCE FEES FOR LEGACY PRIMARY PRODUCTS PAID UNDER THE LEGACY PRIMARY PRODUCT AGREEMENT. AT RENEWAL, CUSTOMER SHALL BE CHARGED THE LIST PRICE FOR SUCH LEGACY PRIMARY PRODUCTS AND MAINTENANCE AND SUPPORT, AND SUCH LIST PRICES SHALL THEN BECOME THE PLAN VALUE FOR SUCH LEGACY PRIMARY PRODUCTS.** If, prior to renewal, Customer desires to increase the Licensing Entitlement for the Legacy Primary Product over and beyond the Legacy Plan Value by purchasing additional Units of the Legacy Primary Product, then List Prices will be used to determine the fees for such additional Units and the corresponding increase in the Plan Value.
- d. Any Customer with a prior perpetual license for Legacy Primary Software granted pursuant to a Legacy Primary Product Agreement who then switches to this Agreement, keeps their prior perpetual license under the terms of the Legacy Primary Product Agreement, but shall no longer be entitled to maintenance and support, including upgrades, for those Legacy Primary Product perpetual licenses. The maintenance and support fees charged to Customer for such Legacy Primary Product perpetual licenses shall continue at the price in effect under the Legacy Primary Product Agreement, but shall be converted to subscription fees for subscription licenses of the Legacy Primary Product. The number of subscription license shall be equal to the amount of the perpetual licenses for such Legacy Primary Products. Upon conversion of the maintenance and support fees to subscription fees, the subscription licenses shall then become Primary Products. Customer shall not receive Legacy Plan Value for the amounts paid for perpetual licenses or for

the maintenance and support fees paid prior to conversion to subscription licenses. Customer shall receive Plan Value for the new subscription licenses equal to the maintenance and support fees converted to subscription fees. UPON RENEWAL, CUSTOMER SHALL BE CHARGED LIST PRICE FOR SUCH SUBSCRIPTION LICENSES, AND THE PLAN VALUE SHALL BE ADJUSTED ACCORDINGLY. If and when this Agreement terminates or expires, Customer's rights to the subscription licenses shall terminate. No maintenance and support of the Legacy Primary Product perpetual licenses shall be available after such termination or expiration.

4. **Support and Maintenance Services.** Aurea will use commercially reasonable efforts to provide the Support Services for the Library Software pursuant to the support plan selected by Customer on the Aurea Library Plan Quote (the "**Support Plan**"). The Support Plans for SaaS Products (as defined in paragraph 7) are described at: <http://www.aurea.com/saassupportaddendum>. The Support Plans for on-premise products are described at: www.aurea.com/maintenanceandsupporttermsonpremise Although Support Services are always included as part of the Plan Value, the Plan Value with "Platinum" support is higher than the Plan Value with "Standard" support. Therefore, if "Platinum" support is selected, the enhanced support services of Platinum (and applicable Plan Value) will be applied to all Library Software under that Customer's Licensing Entitlement that Customer orders, has previously ordered, or may order in the future. Note that certain optional Platinum add-on services are not included in the List Price and can be purchased for an additional Fee as outlined in the Aurea Library Plan Quote. Platinum add-on services are subject to additional terms and conditions described at: <http://www.aurea.com/platinumadditionalservicesaddendum>. For SaaS products, Aurea will use reasonable efforts to achieve the availability goals described in the 'Service Level Addendum for SaaS' located at: www.aurea.com/saasserviceleveladdendum.
5. **Additional Professional Services.** Customer may elect to obtain additional services with respect to installation and deployment of the Library Software. All costs of installation and deployment will be borne by Customer. Should Customer elect to hire Aurea for any installation, deployment, customization, or other professional services, any such engagement will require the mutual execution of a professional services agreement. Such services are distinct from the Plan Value and are not applicable in determining Licensing Entitlement.
6. **Term and Termination.** Subject to earlier termination as provided below, this Agreement is for the Term as specified in the initial Aurea Library Plan Quote, and shall be automatically renewed for additional periods of the same duration as the Term (each a "**Renewal Term**"), unless either party requests termination at least sixty (60) days prior to the end of the then-current term. The Initial Term together with all Renewal Term(s) are collectively, the "**Term**." The Plan Value (and hence fees owed upon such renewal) for each Renewal Term shall be determined by the then current List Price for each Library Software product. NOTE THAT ORDERING ADDITIONAL LIBRARY SOFTWARE PRODUCTS AGAINST CUSTOMER'S LICENSING ENTITLEMENT WILL NOT CHANGE THE TERM, AND THE TERM WILL REMAIN FIXED BASED UPON THE RENEWAL SCHEDULE DEFINED HEREIN.

In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' written notice (or without notice in the case of non-payment), if the other party materially breaches any of the terms or conditions of this Agreement and such breach is not cured within such thirty (30) day period. Customer is responsible for paying all outstanding, Plan Value amounts that remain unpaid at the time of termination. Upon any termination, Aurea shall make all Customer Data (as defined below) available to Customer for electronic retrieval for a period of thirty (30) days, but thereafter Aurea may, but is not obligated to, delete stored Customer Data. Except for Customer's perpetual licenses for Legacy Primary Products granted pursuant to a Legacy Primary Product Agreement, upon expiration or termination of this Agreement, Customer's rights to use any and all Library Software will immediately cease and the Library Software must be immediately Erased or returned to Aurea. For the purposes of this Section, "**Erased**" means the destruction of all Library Software licensed under the Aurea Library Plan Quote so that no copy of the Library Software can be accessed or restored in any way.

7. **License Terms.** Library Software is comprised of products that are deployed as either "software as a service" (the "**SaaS Products**") or on-premise software products ("**On Premise Software**"), (collectively, the "**Software**"). Customer agrees it is subject to the applicable SaaS Product license terms and conditions located at: www.aurea.com/saaslicenseagreement and/or On Premise Software license terms and conditions located at: www.aurea.com/softwarelicensetermsonpremise (the "**Applicable Software License**") within the express limitations of the License Model as set forth in the Aurea Software Library.
8. **Customer Indemnity.** Customer will defend, indemnify and hold harmless Aurea, and its respective Aurea Affiliates, directors, officers, employees and agents, from and against any and all claims, costs, losses, damages, judgments and expenses (including reasonable attorneys' fees) arising out of or in connection with (i) Customer or Authorized Users' (as defined in the Applicable Software License) violation of the terms of this Agreement; and (ii) Customer's or Authorized Users' content or inputs into the Software (including, but not limited to Customer Data). Although Aurea has no obligation to monitor Customer's use of the Software, Aurea may do so and may prohibit any use of the Software it believes may be (or alleged to be) in violation of this Agreement.

- 9. Confidentiality; Proprietary Rights.** Each party, as a recipient of information (the “**Receiving Party**”) understands that the disclosing party (the “**Disclosing Party**”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “**Proprietary Information**” of the Disclosing Party). Proprietary Information of Aurea includes non-public information regarding features, functionality and performance of the Software. Proprietary Information of Customer includes non-public data provided by Customer to Aurea to enable the provision of the Software (“**Customer Data**”). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Software or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third-party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law. Notwithstanding anything to the contrary, there shall be no expiration or termination to the obligation of confidentiality owed by the Receiving Party hereunder as to any trade secret shared by the Disclosing Party.

Nothing in this Agreement will be construed to convey any title or ownership rights of a party’s Proprietary Information to the other. Customer shall own all right, title and interest in and to the Customer Data. Aurea shall own and retain all right, title and interest in and to (a) the Software, all improvements, enhancements or modifications thereto, including those resulting from feature requests or other suggestions from the Customer, (b) any software, applications, inventions or other technology developed in connection with professional services, implementation services or support, and (c) all intellectual property rights related to any of the foregoing.

Notwithstanding anything to the contrary, Aurea shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Aurea service, the Software and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Aurea will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Software and for other development, diagnostic and corrective purposes in connection with the Software and other Aurea offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. Aurea reserves all rights not expressly granted herein.

- 10. Warranty and Disclaimer.** Aurea shall use reasonable efforts consistent with prevailing industry standards to maintain the Software in a manner which minimizes errors and interruptions in the Software and shall perform the Services in a professional and workmanlike manner. The Software may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Aurea or by third-party providers, or because of other causes beyond Aurea’s reasonable control, but Aurea shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. Customer’s sole remedy for breach of this warranty is set forth as “credits” in the applicable service level addendum for Software. HOWEVER, AUREA DOES NOT WARRANT THAT THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SOFTWARE. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 10 (WARRANTY), THE SOFTWARE, SUPPORT SERVICES, CONFIDENTIAL INFORMATION, AND ALL OTHER TECHNOLOGY, SOFTWARE, SERVICES, DATA AND MATERIALS PROVIDED BY AUREA ARE PROVIDED “AS IS”, “WHERE IS”, AND “AS AVAILABLE” AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS OTHERWISE EXPRESSLY STATED IN THIS SECTION 11 (WARRANTY) OF THIS AGREEMENT OR ELSEWHERE IN THIS AGREEMENT, AUREA DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT THERE ARE RISKS INHERENT IN INTERNET CONNECTIVITY THAT COULD RESULT IN THE LOSS OF CUSTOMER’S PRIVACY, TECHNOLOGY, SOFTWARE, DATA, CONFIDENTIAL INFORMATION, OR OTHER MATERIALS.

- 11. Payment of Plan Value; Taxes.** The Plan Value during the Initial and/or each Renewal Term are billed annually in advance. Any late payment shall be subject to any costs of collection (including reasonable legal fees) and shall bear interest at the rate of one and one-half percent (1.5%) per month (prorated for partial periods) or at the maximum rate permitted by law, whichever is less.

If Customer’s use of the Software exceeds the permitted scope of the License Model or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer will be billed at then-current List Prices for such usage, and Customer agrees to immediately pay the additional fees in the manner provided herein.

Aurea may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Aurea thirty (30) days after the mailing date of the invoice. Customer shall be responsible for all taxes associated with Software and Support Services other than U.S. taxes based on Aurea’s net income. If Customer believes that Aurea has billed Customer incorrectly, Customer must contact Aurea no later than thirty (30) days after the closing date on the first billing statement in which the error or problem appeared, in order to be eligible to receive an adjustment or credit. Inquiries should be directed to Aurea’s customer support

department. Nothing in this section waives any rights that Aurea has under the law or equity to enforce its rights to the full extent of the law if Customer violates the scope of the licenses granted herein.

The Plan Value, and other amounts required to be paid hereunder do not include any amount for taxes or levy (including interest and penalties). Customer shall reimburse Aurea and hold Aurea harmless for all sales, use, VAT, excise, property or other taxes or levies which Aurea is required to collect or remit to applicable tax authorities. This provision does not apply to Aurea's income or franchise taxes, or any taxes for which Customer is exempt, provided Customer has furnished Aurea with a valid tax exemption certificate. The Customer will pay all import duties, levies or imposts, and all goods and services sales, use, value added or property taxes of any nature, assessed upon or with respect to this Agreement. If the Customer is required by law to make any deduction or to withhold from any sum payable to the Aurea by the Customer hereunder, then the sum payable by the Customer upon which the deduction or withholding is based shall be increased to the extent necessary to ensure that, after such deduction or withholding, the Aurea receives and retains, free from liability for such deduction or withholding, a net amount equal to the amount the Aurea would have received and retained in the absence of such required deduction or withholding. If the Customer is required by law to make any such deduction or withholding, the Customer shall promptly effect payment thereof to the applicable tax authorities. The Customer shall also promptly provide the Aurea with official tax receipts or other evidence issued by the applicable tax authorities sufficient to enable the Aurea to support a claim (if applicable) for income tax credits in the Aurea's applicable taxable country.

- 12. Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR IP INDEMNITY OR PERSONAL INJURY OR DEATH CAUSED BY AUREA PERSONNEL WHILE, IF EVER, ON CUSTOMER'S SITE, AUREA AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, INDEMNITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, ATTORNEY'S FEES, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND AUREA'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO AUREA FOR THE SOFTWARE OR SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT AUREA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IF APPLICABLE LAW LIMITS THE APPLICATION OF THIS SECTION 13, AUREA'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMISSIBLE.
- 13. Purchase Orders.** Customer may provide Aurea with a valid purchase order, upon execution of an Aurea Library Plan Quote. Notwithstanding anything to the contrary herein, purchase orders are to be used solely for Customer's accounting purposes and any terms and conditions contained therein shall be deemed null and void with respect to the parties' relationship and this Agreement. Any such purchase order provided to Aurea shall in no way relieve Customer of any obligation entered into pursuant to this Agreement including, but not limited to, its obligation to pay Aurea in a timely fashion.
- 14. Aurea Indemnity.** Aurea shall hold Customer harmless from liability to third parties resulting from infringement by the Software of any United States patent or any copyright or misappropriation of any trade secret, provided Aurea is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Aurea will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Software (i) not supplied by Aurea, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Aurea, (iv) combined with other products, equipment, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Software is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Software are held by a court of competent jurisdiction to be or are believed by Aurea to be infringing, Aurea may, at its option and expense (a) replace or modify the Software to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Software, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer, as Customer's sole remedy and Aurea's sole liability for such termination, a refund of any prepaid, unused fees for the Software calculated as of the effective date of the termination. Aurea's obligations as set forth in this Section 16 are subject to the Customer providing full cooperation in good faith in the defense of any such claim.
- 15. Order of Precedence.** In the event of a conflict between the terms and conditions of this Agreement, the Applicable Software License and/or an Aurea Library Plan Quote, the order of precedence shall be: this Agreement; then the Aurea Library Plan Quote; then the Applicable Software License.

16. Miscellaneous. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is not assignable, transferable or sublicensable by Customer except with Aurea's prior written consent. Aurea may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Aurea in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. All notices, including notices of non-renewal, shall be sent to the applicable address specified on this Agreement to the attention of the Chief Financial Officer and General Counsel or to such other address as the parties may designate in writing. Any notice of material breach will clearly define the breach including the specific contractual obligation that has been breached. This Agreement shall be governed by the laws of the State of Texas without regard to its conflict of laws provisions. The parties agree that the federal and state courts located in Travis County, Texas, USA will have exclusive jurisdiction for any dispute arising under, out of, or relating to this Agreement.

At the direction and sole discretion of Aurea, affiliates of Aurea (the "**Aurea Affiliates**") may perform certain tasks related to Aurea's obligations and rights under the Aurea Library Plan Quote and this Agreement, including, but not limited to, invoicing, payment, technical support, project management and/or sales support. Customer hereby consents to the Aurea Affiliates' role. Customer further agrees and acknowledges that Aurea and Customer are the only parties to the Aurea Library Plan Quote and this Agreement, and that any action taken by Aurea Affiliates in connection with the performance of Aurea's obligations under the Aurea Library Plan Quote and this Agreement will not give rise to any cause of action against the Aurea Affiliates, regardless of the theory of recovery. Aurea shall at all times retain full responsibility for Aurea Affiliates' compliance with the applicable terms and conditions of the Aurea Library Plan Quote and this Agreement. Customer will indemnify and hold Aurea harmless for any and all costs associated with Customer's violation of this provision. Aurea will have the right to use third parties, including offshore entities who employ foreign nationals, as well as employees and contractors of Aurea Affiliates and subsidiaries, who may also be foreign nationals (collectively, "**Subcontractors**") in the performance of its obligations hereunder and, for purposes of these this Agreement, all references to Aurea or its employees will be deemed to include such Subcontractors. Aurea will have the right to disclose Customer Proprietary Information to such third parties provided such third parties are subject to confidentiality obligations similar to those between Aurea and Customer.

Customer is hereby placed on notice that the Software, Software updates, their related technology and services may be covered by one or more United States ("**US**") and non-US patents. A listing that associates patented products included in the Software, Software updates, their related technology and services with one or more patent numbers is available for Customer's and the general public's access at: <https://markings.ipdynamics.ai/esw/> (hereinafter, the "**Patent Notice**") and any successor or related locations designated by Aurea. The association of products-to-patent numbers in the Patent Notice may not be an exclusive listing of associations, and other unlisted patents or pending patents may also be associated with the Software. Likewise, the patents or pending patents may also be associated with unlisted products. Customer agrees to regularly review the products-to-patent number(s) association at the Patent Notice to check for updates. The Software may include third-party products identified below and sublicensed by Aurea to Customer. Some or all associations of the third-party products-to-patents are also identified in the Patent Notice by each associated third-party and product name.

17. Privacy. Obligations with respect to personally identifiable information (if any) are set forth in the 'Privacy Addendum' located at: www.aurea.com/globalprivacyaddendum.

18. Country-Specific Terms. If Customer is located outside of the United States, the following terms and conditions may apply to this Agreement: www.aurea.com/countryspecificterms.

Exhibit A
More Information

The Customer may apply the *full* Plan Value to *each* of any number of Library Software products (for example if Customer has a Plan Value of \$1 Million, Customer may purchase \$1 Million of subscription licenses to Library Software A and \$1 Million of licenses to Library Software B).

For clarity, to the extent that any price discounts had previously been applied to Primary Product(s) or any other previously licensed Library Software, such discounts shall not apply to any incremental increase of Primary Product(s) to which Plan Value are to be applied (Plan Values will always be applied at List Price).

Calculation Examples

Customer has a subscription to Products A and B. Customer's annual subscription fees are as follows:

Product A - \$100,000 annual subscription fee – 200 named users purchased at \$500 per named user 18 months earlier

Product B - \$300,000 annual subscription fee – 500 named users purchased at \$600 per named user 18 months earlier

Customer's Plan Value is \$400,000

Scenario A:

Customer provides Aurea with notice that it would like to use its Plan Value of \$400,000 to purchase a twelve month subscription to:

100 named user licenses of Product C – List Price Calculation = \$100,000

600 named user licenses of Product D – List Price Calculation = \$300,000

The Plan Value would be applied to Product C and Product D and the Aurea Library Plan Quote would include no additional subscription fees, except for the prorated subscription fees for prior licensed software to be coterminous with the Aurea Library Plan Quote subscriptions.

Scenario B:

Customer provides Aurea with notice that it would like to use its Plan Value of \$400,000 to purchase:

400 additional named user licenses of Product C – List Price Calculation = \$400,000

400 additional named user licenses of Product D – List Price Calculation = \$450,000

1000 named user licenses of Product E – List Price Calculation = \$500,000

The Plan Value would be applied to Products C, D and E and the Aurea Library Plan Quote would include subscription fees of \$100,000 for the Product E licenses (\$500,000 minus \$400,000 Plan Value plus prorated subscription fees for prior licensed software to be coterminous with the Aurea Library Plan Quote subscriptions). Because the Plan Value is immediately reset at \$500,000, the additional licenses to Products C and D fall below the new Plan Value and do not carry any additional subscription fee.