

IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED IN THIS AGREEMENT, CLIENT AND ACCLIVUS AGREE AS FOLLOWS:

1. **LICENSE:** For all Acclivus materials delivered to Client, Acclivus grants to Client a perpetual, non-exclusive, and non-transferable license to use the materials according to the terms and conditions set forth herein. Client authorization to deliver materials shall consist of written request, verbal request, or Client purchase order. If conflicts arise concerning any purchase order or other written instrument between the parties that pertain to Acclivus materials, the terms and conditions of this License and Use Agreement shall prevail in all cases.

2. **USE BY CLIENT:** Client agrees that use of Acclivus materials will consist of application, in Client's normal selling and related business activities, of the skills, techniques, approaches, and knowledge obtained from the training materials and training services. Client agrees that it will not reproduce or modify Acclivus materials, in whole or in part, and agrees that it will not use or incorporate Acclivus materials, concepts, or information, in whole or in part, in any other written work, computer program, or training materials without prior written authorization from Acclivus. All Acclivus materials licensed to Client are to be used solely for training Client's employees. All training will be conducted by an instructor certified by Acclivus. Participant materials are to be used by a single person; therefore Client agrees to license a set of materials for each person trained in an Acclivus program. Acclivus instructor materials are to be used only in conjunction with Acclivus participant materials.

3. **TRAINING SERVICES BY ACCLIVUS:** If Client elects to use Acclivus personnel for consulting or training services, then Acclivus agrees to provide a certified instructor at a time mutually agreeable to both parties, and i). Client shall make all provisions for facilities and equipment, as required by Acclivus; ii). Client will reimburse Acclivus for reasonable and actual travel, lodging, and out-of-pocket expenses; iii). Cancellation of the services by Client will result in 100% credit of the training services fee if cancelled with three weeks notice, 50% credit if cancelled with two weeks notice, and no credit if cancelled with less than two weeks notice; and iv). There shall be no credit for unused materials.

4. **TERM:** The term of this Agreement shall begin upon execution hereof by both Client and Acclivus, and shall continue in force until terminated by either party in writing by giving thirty (30) days advance written notice. Termination of this Agreement by either party shall not relieve either party of the Confidentiality obligations or the Use by Client obligations with respect to materials licensed to Client while this Agreement was in effect.

5. **CONFIDENTIALITY:** The parties acknowledge that pursuant to this Agreement, Client may provide Confidential Information to Acclivus. Acclivus will hold in confidence, in the same manner as it holds its own confidential information of like kind, all Confidential Information disclosed by Client, and shall limit access to Confidential Information to personnel with a need to know it. The foregoing shall not apply to information (i) previously known to Acclivus, (ii) independently developed by Acclivus, (iii) acquired by Acclivus from a third party without continuing restriction on use, or (iv) which is, or becomes, publicly available through no breach by Acclivus of this Agreement. This section shall survive termination of this Agreement for any reason for a period of three (3) years.

Client agrees to use reasonable efforts to hold in confidence all Acclivus materials, including print, video, and audio materials, and agrees that it will not disclose any information in such materials, in whole or in part, to any third party other than those people using the materials for training purposes as described herein.

6. **REPRESENTATIONS AND WARRANTIES:** Acclivus warrants that it is the sole and exclusive owner of the trademarks, service marks, and copyrights to its materials, and that the use of materials delivered hereunder will not infringe any United States trademark, copyright, or patent. Client agrees that it shall have no interest in such trademarks, service marks, and copyrights, and that no license is granted to Client hereunder except as provided in the Use by Client section of this Agreement.

Acclivus warrants that its services will be performed in a professional and workmanlike manner by a skilled and qualified staff in accordance with industry standards, and that it will perform services hereunder in compliance with all applicable laws and regulations.

Acclivus warrants its materials to be free from errors and defects, and will replace any defective materials free of charge. ACCLIVUS MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED OR OTHER WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Acclivus shall not be liable to Client or any third party for any loss or special, indirect, incidental, or consequential damages, or other claim by or against Client, which may arise out of license or use of Acclivus materials.

7. **RELATIONSHIP OF THE PARTIES:** Acclivus will act solely as an independent contractor. Nothing contained herein will be construed to create the relationship between Acclivus and Client of principal and agent, employer and employee, partnership or joint venture. Acclivus shall be responsible for the work and activities of its employees, agents and subcontractors, including compliance with the terms of this Agreement, and Acclivus shall be responsible for all payments to its employees, agents and subcontractors.

8. **INDEMNIFICATION:** Acclivus will indemnify, defend and hold Client harmless from and against claims by any third person of infringement or alleged infringement of patents, copyrights, trademarks, or misuse of any trade secrets or other confidential information, based on or related to Acclivus' services and materials. Each party shall indemnify and hold harmless the other, its employees and agents, from and against claims relating to bodily injury or death of any person or damage to property to the extent proximately caused by the negligent or willful acts or omission of such party, its employees or agents.

9. **PAYMENT: Payment for Acclivus services and materials is due upon receipt of invoice**, payable in Dallas County, Dallas, Texas, in U.S. Dollars. Client will be invoiced upon shipment of materials and performance of services. No materials may be returned to Acclivus for credit, except per the WARRANTY section above. In addition to applicable fees for Acclivus materials, Client agrees to pay all applicable federal, state, provincial, and local taxes, plus any shipping charges F.O.B. Dallas, Texas. These payments constitute the entire cost to Client for materials and services provided by Acclivus, including direct and indirect labor, overhead, profit, costs of maintaining proper records, insurance, social security, and all necessary permits required of Acclivus.

10. **ENTIRE AGREEMENT:** The entire agreement between the parties with respect to license and use of Acclivus materials is contained herein. If any term or provision of this Agreement shall be found by a court of competent jurisdiction to be illegal or otherwise unenforceable, the same shall not invalidate the whole of this Agreement. This Agreement is personal to Client, and may not be modified, transferred, or assigned by Client without the prior written consent of Acclivus. This agreement and all rights and obligations hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Agreement shall be construed and interpreted in accordance with and governed by the laws of the state of Texas, and venue for any litigation associated with the interpretation or performance of this Agreement shall be in Dallas County, Texas.

11. **NOTICE:** Any written notice by either party is to be addressed to each party as set forth herein, or to such other address as is designated by a party to be its appropriate address.