SOFTWARE LICENSE AGREEMENT

This Software License Agreement (the "**Agreement**") is a legal agreement between you ("You", "Your", or "Customer") and Lucky Penny Software LLC, a Member Managed Limited Liability Company with its principal place of business located at PO Box 596, Round Rock, TX 78680 ("**Lucky Penny**").

Lucky Penny licenses its products under a subscription model, including a Standard License, a Professional License, and an Enterprise License. Your right to possess, distribute, develop, and/or compile anything that incorporates, is linked to, or compiled with, any given copy of a Lucky Penny software product is set forth in this Agreement. If the subscription expires, the licenses expire, and Customer may no longer use the product.

IMPORTANT NOTICE: THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION AND WAIVER OF JURY TRIALS AND CLASS ACTIONS GOVERNING DISPUTES ARISING FROM USE OF THE LICENSED PRODUCT, INCLUDING THE LUCKY PENNY WEBSITE AND SUPPORT SERVICES RELATED TO THE LICENSED PRODUCT. IT AFFECTS YOUR LEGAL RIGHTS AS DETAILED IN THE MANDATORY ARBITRATION, WAIVER OF CLASS ACTIONS SECTION, UNDER GENERAL CLAUSES. PLEASE READ CAREFULLY.

Carefully read all of the terms and conditions of this Agreement prior to downloading or installing or using the Licensed Product (as that term is defined below). This Agreement between You and Lucky Penny sets forth the terms and conditions of Your use of the Licensed Product. For the purposes of this Agreement, the effective date of this Agreement shall be the date upon which You click the "YES" button below. You acknowledge and agree that only corporations, partnerships, limited liability companies, and other legal entities are authorized to enter into this Agreement, and that no license will be granted to individual users. If You are agreeing to this Agreement on behalf of a company or other legal entity, You represent that You have the authority to bind such entity to this Agreement. If You do not have such authority, if you are an individual user, and/or if You do not agree with this Agreement, you may not use and/or download the Licensed Product.

BY CLICKING THE "YES" BUTTON, AND/OR DOWNLOADING AND USING THE LICENSED PRODUCT, YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT AND AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. THIS AGREEMENT CONSTITUTES A BINDING CONTRACT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE "NO" BUTTON AND DO NOT DOWNLOAD AND/OR INSTALL OR OTHERWISE USE THE LICENSED PRODUCT.

IF AFTER READING THIS AGREEMENT YOU HAVE ANY QUESTIONS ABOUT THIS AGREEMENT, PLEASE CONTACT LUCKY PENNY <u>PRIOR TO USING THE SOFTWARE PRODUCT</u> VIA EMAIL AT SALES@LUCKY PENNY.COM.

1.   This Agreement contains the entire understanding of Lucky Penny and Customer and supersedes all prior written or oral communications between the parties with respect to the subject matter hereof. Entering into this Agreement does not operate as an acceptance of any terms and conditions that conflict with the terms hereof, and the terms of this Agreement shall prevail over any purported conflicting provisions that might appear in any Customer purchase order or any other instruments. In the event Customer believes PO terms apply, then the only remedy is a pro-rated refund.

1.1.   **Purchases through a Reseller**. Customers who purchase through a Reseller expressly acknowledge and agree that Lucky Penny shall have the right to enforce this Agreement against Customer. As between Lucky Penny and Customer, this Agreement constitutes the entire agreement and supersedes any and all other agreements in connection with Customer's use of the Licensed Product. The terms of Customer's agreement with a Reseller shall have no bearing on Customer's obligations to Lucky Penny under this Agreement, and, as between Customer and Lucky Penny, the terms of this Agreement shall prevail over any purported conflicting provisions that might appear in any such agreement between Customer and a Reseller.

This Agreement also includes the attached **Schedule A (Licensed Assemblies), Schedule B (Individual Programs),** and **Schedule C (Optional Samples)** which are hereby incorporated herein by this reference.

2.   **Definitions:**

2.1. **Community License** means a limited license that may be granted to an individual Developer (defined below), entity, or organization, and that is subject to the significant limitations on use set forth in Section 4.2(g).

2.2. **Computer System** means the computer hardware equipment on which Customer has elected to install and/or execute a given copy of Licensed Program(s).

2.3. **Customer Application** means pre-existing software, hardware, systems or other applications owned or licensed by the Customer.

2.4. **Distribution Rights** shall mean the right to sell, publish, license, make public on a website, publish webpages, or otherwise offer or make available to a third party, anything that contains, links to (directly or indirectly), is compiled against, compiles any assembly, or otherwise calls to or relies on the Licensed Product. The Licensed Product cannot be distributed in stand- alone form and/or with a wrapper under any circumstances.

2.5. **Developer** means an individual person that has Programmatic Access and has been granted rights to use the Licensed Product under this Agreement.

2.6. **Documentation** means the softcopy documentation provided by Lucky Penny with the Licensed Program(s), such as softcopy user manuals and online help.

2.7. **Developer** means an individual person that has Programmatic Access and has been granted rights to use the Licensed Product under this Agreement.

2.8. **End Users** means those human users of an Integrated Product pursuant to a license agreement with Customer or by employees or contractors of Customer (for purposes other than Customer's internal development and testing).

2.9. **Fair Use** means reasonable and non-excessive use of Support services, as determined by Lucky Penny in its sole discretion, to ensure equitable access for all customers. Fair Use may limit the volume, frequency, or scope of Support requests to prevent abuse or disproportionate consumption of Support resources.

2.10. **Integrated Product** means the product resulting from integrating a copy of the Licensed Product with a Customer Application, by or on behalf of Customer. The Integrated Product must add meaningful value or functionality to the Licensed Product.

2.11. **Licensed Assemblies** means the compiled binaries of the Lucky Penny software. A complete list of the Licensed Assemblies is set forth on **Schedule A.**

2.12. **Licensed Product** means, collectively, the Licensed Program(s) and Documentation.

2.13. **Licensed Program(s)** means the source code version or executable version of the Lucky Penny software, as well as the Licensed Assemblies, as appropriate, as well as any updates or new versions of the same that may be delivered by Lucky Penny to Customer during the term of this license.

2.14. **License Types**

(a) A **Standard License** or **Professional License** shall mean a subscription license that provides a limited number of licenses to a set amount of Developers for a named Customer. Customer must procure enough active licenses for each individual who has Programmatic Access. A Standard or Professional License only grants rights to a named Customer and does not extend any right, in any form, to any parent or subsidiary company of Customer

(b) An **Enterprise License** shall mean a subscription license for all development for a named Customer. An Enterprise License only grants rights to a named Customer and does not extend any right, in any form, to any parent or subsidiary company of Customer.

2.15. **Production Use** means the use of the Licensed Product as part of an Integrated Product by any End User. Production Use shall not include use of the software by End Users that are using the Licensed Product solely for Customer's internal development and testing purposes.

2.16. **Programmatic Access** means access and/or the ability to patch, bug fix, code, add a line of code, modify any code, compile, develop, or recompile anything that contains, links to (directly or indirectly), is compiled against, compiles any assembly, or otherwise calls to or relies on the Licensed Product.

2.17. **Reseller** means a third party authorized by Lucky Penny to resell subscription licenses for the Licensed Product.

2.18. **Support** means the provision of technical assistance by Lucky Penny to the Customer regarding the installation, configuration, and use of the Licensed Product. Support does not include custom development, training, or assistance with third-party or modified software.

2.19. **Vendor(s)** means the third parties that furnish Lucky Penny with portions of the Licensed Program(s). Certain Vendor software is licensed to be used in conjunction with the Licensed Program(s) and not for any other use.

3. **License Fee:**

3.1.   The license fee ("License Fee") is the aggregate of the fees for the Licensed Program(s) selected by Customer.

3.2.   The License Fee is due and payable by Customer upon receipt of Lucky Penny's invoice. All payments under this Agreement shall be made in United States dollars, and if not paid within thirty (30) days of when due will be subject to interest at the rate of eighteen percent (18%) annually, or the maximum amount allowed by applicable law if lower, calculated from the date when payment was due until payment is made. In addition, Customer agrees to pay Lucky Penny's cost of collecting any past-due amounts under this Agreement, including but not limited to reasonable attorneys' fees. In instances where Customer makes its purchase through a Reseller, the Reseller will make payment for such purchase to Lucky Penny.

3.3.   The License Fees and any other amounts payable pursuant to the terms and conditions herein are exclusive of all national, state, regional, local, municipal, or other taxes and fees including, but not limited to, excise, sales, use, property, ad valorem, intangibles, goods and services and value added taxes, customs duties, and registration fees now in force or enacted in the future, and all such taxes and fees, except taxes based on Lucky Penny's net worth, capital, or net income, shall be paid directly by the Customer, or if paid by Lucky Penny, Customer will reimburse Lucky Penny. If Customer is located in a jurisdiction which requires Customer to deduct or withhold taxes or other amounts from any amounts due to Lucky Penny, Customer must notify Lucky Penny in writing. In such a case, Lucky Penny reserves the right to assess the withheld amount or to increase the gross amount of the applicable payment so that, after the deduction or withholding for taxes, the net amount paid to Lucky Penny will not be less than the amount we would have received without the required deduction or withholding.

4.   **License Grant:**

4.1.   Lucky Penny hereby grants to Customer a limited, non-exclusive, non-transferable license to use Licensed Product in accordance with the terms and conditions specified in this Agreement, solely for the purpose of developing and embedding in Customer products. For the avoidance of doubt, Customer agrees that the Licensed Product is licensed and not sold. All use of the Licensed Program(s) by Customer shall be made solely in accordance with the Documentation and this Agreement. Furthermore, Customer receives no rights to the Licensed Product other than those specifically granted herein. Each individual with Programmatic Access must have an active license. Such license only grants Distribution Rights to a named Customer and does not grant any Distribution Rights to any parent or subsidiary company of Customer, or any third party.

4.2.   All licenses are subject to the following limitations:

(a)   The Licensed Product shall be used only by Customer for Customer's sole and exclusive benefit, and shall not be used to provide time-sharing or other similar services.

(b)   Customer shall not transfer, distribute, or sublicense the Licensed Product to any third parties, and Customer's license shall automatically terminate in the event of such a transfer or distribution.

(c)   Customer shall not lease or lend the Licensed Program(s) or otherwise allow use of the Licensed Program(s) by or on behalf of any third party, nor describe the results of any benchmarking of the Licensed Program(s), whether or not obtained with Lucky Penny's assistance, to any third party. A breach of this section is a material breach of the Agreement and will result in immediate termination of all Customer's license rights.

(d)   Lucky Penny strongly recommends that Customer not combine the Licensed Program(s) with other software licensed by Customer from any third parties if such third-party software is substantially similar to that of the Licensed Program(s). Such use of third-party software may create technical difficulties, including, but not limited to, interoperability difficulties; therefore, any such use of third party software is at Customer's discretion and Customer shall bear any and all liability that may arise from such use.

(e)   Customer must comply with the following requirements in this Section noted below. Customer acknowledges that any breach of this Section will constitute a material breach of this Agreement and will result in an immediate termination of the license granted hereunder.

4.2.e.1.   Customer cannot use the Licensed Product in such a way that results in Customer's development of software products that are directly or indirectly competitive with the Licensed Product or any other Lucky Penny products.

4.2.e.2.   Customer's use of the Licensed Program(s) must be for the purpose of developing Customer products that include significant value-added features.

4.2.e.3. The Licensed Program(s) may not be used to create frameworks/controls/wrappers or other such products that are intended to be programmatically reused by anyone.

4.2.e.4. Subject to the limitations of Section 4.2(f) Customer's limited right to redistribute retail/release builds of Lucky Penny libraries along with Customer's product(s) is permitted only so long as the Lucky Penny libraries are not directly accessible for use within Customer's product(s) and/or outside of it.

4.2.e.5. For the avoidance of doubt, the Licensed Product's source code cannot be redistributed by Customer under any circumstances. If Customer distributes products which include the source code of such products, only executable code for the Licensed Product can be included.

(f) Customer may redistribute the Licensed Product only in accordance with the terms and conditions outlined in this Section. Subject to Customer's compliance with all of the limitations of this Agreement, a Customer may redistribute retail/release builds of Lucky Penny libraries as incorporated in Customer's product(s) only so long as all modified binaries that are incorporated in such Customer products are created while Customer is under an active Standard, Professional, or Enterprise subscription term. In such cases, Customer must: (i) ensure that such Licensed Assemblies include license checks that prevent the use of the Licensed Assemblies for development purposes when such Licensed Assemblies are distributed as part of Customer's products, and (ii) represent and warrant to Lucky Penny that Customer's products do not infringe upon any proprietary rights of any third parties, including without limitation patent rights. Customer acknowledges and agrees that any redistribution of any such modified binaries created when Customer is not under an active Standard, Professional, or Enterprise License subscription term will constitute a material breach of this Agreement and will result in an immediate termination of the license granted hereunder. Customer's redistribution of Lucky Penny libraries as part of Customer products is without royalty to Lucky Penny.

4.2.f.1. In conjunction with all applicable terms concerning Termination in Section 6, Customers with Standard, Professional, or Enterprise Licenses cannot continue to possess, distribute, lease, license, or provide maintenance to any applications that contain or depend on the Licensed Product(s) following the termination of an active Standard, Professional, or Enterprise License subscription term.

(g) Community Licenses are subject to the further restrictions set forth in this Section.

4.2.g.1. Community Licenses are not available to any government agency or any quasi-government agency regardless of the size of such agency or its budget.

4.2.g.2. Community Licenses may be used by individual Developers for any legal purpose, including commercial use, subject to each limitation set forth in this Agreement. Individual Developers may not use any Licensed Product licensed under the Community License on behalf of any entity or organization unless the entity or organization would itself qualify for Community Licenses under the financial test set forth below.

4.2.g.3. In order to qualify for a Community License, an entity or other organization must also meet all of the other following requirements:

4.2.g.3.1. An entity or organization must have gross annual revenues of less than Five Million United States Dollars ($5,000,000.00 USD), or equivalent in foreign currency, during each year that Customer desires to remain a licensee under a Community License. Lucky Penny reserves the sole right to make a final determination as to whether Customer shall initially qualify for, and subsequently maintain, the right to hold a Community License. For the purpose of determining and maintaining eligibility for a Community License, there shall be absolutely no exceptions made when determining gross annual revenues. If an entity or organization is controlled by another entity or organization, the controlling entity or organization must also meet the gross annual revenue requirement when aggregating all such entities owned or controlled by the parent entity or organization. Community Licenses can also be used by nonprofit organizations with an annual total budget of less than Five Million United States Dollars ($5,000,000.00 USD) or equivalent in foreign currency.

4.2.g.3.2. An entity or organization may not have ever received more than Ten Million United States Dollars ($10,000,000.00 USD) in capital from an outside source such as private equity or venture capital in order to be eligible for the Community License.

4.2.g.3.3. Universities are ineligible to use Community Licenses.

4.2.g.4. Lucky Penny reserves the right to request, and Customer shall promptly provide, all reasonable cooperation to verify Customer's eligibility for obtaining and/or maintaining Community Licenses, including access to validating documentation as needed.

4.2.g.5. Community Licenses are non-transferable under any and all circumstances.

4.2.g.6. Lucky Penny does allow non-University level classrooms to use Lucky Penny's community license, for classroom educational instruction only, so long as they notify Lucky Penny and do not use Lucky Penny in any commercial applications.

4.2.g.7. A student will not be eligible for a Community License if the student has a contract with a university where the university will own the student's work, or any portion of the student's work.

4.2.g.8. Customer cannot use Community Licenses to provide services on behalf of another entity or organization unless the entity or organization to which the service is provided is also eligible for Community Licenses under the terms set forth herein.

4.2.g.9. Community Licenses do not require renewals as the license will continue to be valid perpetually so long as the Customer continues to be eligible to hold a Community License under the terms of this Section.

4.2.g.10. If Customer becomes ineligible as set forth herein to continue as a licensee under a Community License, Customer shall immediately notify Lucky Penny of such occurrence and upgrade to a standard commercial license (whether a Standard License, Professional License or Enterprise License as circumstances dictate). Failure to notify Lucky Penny within sixty (60) days of eligibility constitutes a material breach of the Agreement.

4.2.g.11. Community Licenses never include access to source code editions of the Licensed Product. Customers that desire a source code edition of a Licensed Product must upgrade to a standard commercial license.

4.2.g.12. The Licensed Product licensed under the Community License is provided "as is", without warranty of any kind, express or implied, including but not limited to the warranties of merchantability, fitness for a particular purpose, and non-infringement. In no event shall Lucky Penny be liable for any claim, damages, or other liability, whether in an action of contract, tort, or otherwise, arising from, out of, or in connection with the Licensed Product or the use or other dealings in the Licensed Product when licensed under a Community License.

4.2.g.13. Lucky Penny reserves all rights and shall be solely able to determine the eligibility for any Customer to obtain and hold a Community License. In the event an individual or organization is found to be ineligible, such individuals or organizations shall immediately cease use of the Community License or upgrade to a commercial license.

(h) Electronic Delivery. All Licensed Programs and Documentation shall be delivered by electronic means unless otherwise specified in a separate written agreement. A Licensed Program shall be deemed to have been delivered when it is made available to Customer for download.

(i) Lucky Penny reserves all rights to the Licensed Product not specifically granted herein.

4.3. Lucky Penny provides optional samples of code created with the Licensed Product; however, such optional samples of code are not part of Lucky Penny's Licensed Products and are only made available for the purpose of demonstration. Lucky Penny does not provide products shown in the sample other than the Licensed Product and does not provide a warranty or indemnity of any kind related in any way to such sample code. Lucky Penny does not provide indemnification for any optional sample code. Lucky Penny does not provide endorsement of any kind to any product or technology shown in the optional sample code.

4.4. **Developer and Non-Production Use License.** Notwithstanding anything to the contrary, Customer and its authorized developers may use the Licensed Product in non-production environments, including but not limited to development, testing, staging, and internal evaluation, without restriction and at no additional cost. Such non-production use shall not be subject to any license fee, evaluation period, or usage limitation, provided that it does not involve any use by End Users as part of a Production Use. This non-production license shall remain in effect for the term of the Agreement.

5. **Title:** No title to or ownership in the Licensed Product is transferred to Customer, even where the Licensed Product is incorporated into Customer's products. Title to and all applicable rights in patents, copyrights, trademarks, and trade secrets in the Licensed Product shall remain in Lucky Penny or third parties from whom Lucky Penny has obtained

rights to license the Licensed Product. The Licensed Product provided hereunder, including the ideas, concepts, know-how, and technology contained therein, is proprietary and confidential to and contains trade secrets of Lucky Penny and its Vendors, and Customer agrees to be bound by and observe the proprietary, confidential, and trade secret nature thereof as herein provided. Customer agrees to take appropriate action by instruction or agreement with its employees who are permitted access to the Licensed Product to fulfill its obligations hereunder. Except as may be permitted in writing by Lucky Penny, Customer shall not provide, or otherwise make available, the Licensed Product or copies thereof to any third party.

6. Term and Termination:

6.1. The rights licensed under this Agreement pertain to a subscription-based license of the Licensed Product. The duration and terms of this license subscription will be specified at the time of purchase or renewal. Under this subscription license, Customer is granted the rights to create and distribute compiled binaries that (i) incorporate or depend on the Licensed Product, (ii) are created during an active license subscription period, and (iii) do not and have not violated the limitations of Section 4.2(f). However, Customer's rights to create and distribute these binaries are valid only during the period in which the license subscription is active. Customer acknowledges and agrees that all rights licensed under this Agreement are subscription-based and no rights provided hereunder are perpetual.

6.2. Lucky Penny shall have the right to terminate Customer's license if Customer fails to pay any required license fee(s) or otherwise fails to comply with the license terms and conditions set forth herein.

(a) In the event that Customer's failure to comply is not payment-related, Lucky Penny shall give written notice to Customer of such default, and if such default has not been remedied within thirty (30) days after such notice, the license granted hereunder shall terminate.

(b) In the event that Customer has failed to pay any required fee(s), whether an initial license fee or fee for additional licenses, maintenance, subscriptions, or any other services, Lucky Penny shall give written notice to Customer of such default, and if such default has not been remedied in full within five (5) days of such notice, all licenses granted hereunder are hereby automatically revoked without further notice. Once any licenses are revoked for failure to pay license fees, all redistribution of the Licensed Product, including under prior agreements, shall be strictly prohibited. Lucky Penny shall not be required to give any written notice in the event that Customer's material breach of this Agreement results in the immediate termination of the license granted under this Agreement.

6.3. Customer agrees that it shall, upon (i) expiration of this Agreement or (ii) upon termination of the licenses granted hereunder by Lucky Penny due to Customer's default or material breach of the terms of this Agreement or (iii) upon expiration or termination of any Standard, Professional, or Enterprise License, Customer shall immediately return or destroy the Licensed Program(s) and copies thereof as directed by Lucky Penny and, if requested by Lucky Penny, to certify in writing as to the destruction or return of the Licensed Product and all copies thereof.

6.4. Customer acknowledges and agrees that in the event of the termination of this Agreement, Customer will no longer have the right to possess the Licensed Assemblies, and subsequently cannot distribute any software code or application that includes the Licensed Product. For the avoidance of doubt, it is understood and agreed that an improper redistribution of the Licensed Assemblies or Licensed Products (as incorporated into a Customer product) shall not under any circumstance permit or excuse any subsequent redistribution. An improper redistribution includes, but is not limited to, a redistribution that occurs after the expiration or termination of this Agreement, whether due to Customer's breach due to unlicensed or under-licensed use of the Licensed Product, or otherwise. Additionally, Customer acknowledges and agrees that upon termination of this Agreement, Customer will remove all Licensed Products and Licensed Assemblies from any Customer product or other software that is used internally within Customer's organization (including that of its subsidiaries and affiliates).

6.5. Customer acknowledges and agrees that any of the following actions are deemed material breaches of this Agreement: (i) creating modified binaries that are incorporated in a Customer product while Customer is not under a valid License subscription; and (ii) redistributing any Customer product or other software that include any modified binaries in any part of the Customer product (or other software) that incorporates Lucky Penny Licensed Products created at a time when Customer was not under a valid license subscription. For the avoidance of doubt, Customer acknowledges and agrees that it may not make any changes, fix any bugs, create any new versions, or otherwise modify any Customer product that includes or depends on the Licensed Product unless Customer is currently operating under a valid license subscription.

6.6. Any provision of this Agreement which by its nature is intended to survive termination or expiration of this Agreement will survive any such termination or expiration of Customer's license and this Agreement.

7.   Warranty:

7.1.   Upon installation on the Computer System, the Licensed Program(s) will perform in all material respects in accordance with the specifications in the Documentation for a period of sixty (60) days. Should Customer discover a defect within this sixty (60)-day time frame, Customer must supply Lucky Penny with written notice which specifies the nature of such defect and provide sufficient detail for Lucky Penny to address and remedy the claimed defect. Such notice must be delivered to Lucky Penny within such 60-day time frame. Lucky Penny shall have forty-five (45) days from the date it receives such notice to cure the claimed defect. Customer's sole remedy for any defect in the Licensed Program(s) not cured in the 45-day period shall be to terminate this Agreement and receive a refund of amounts paid. Any modification or attempted modification of the Licensed Product by Customer or any failure by Customer to implement any improvements or updates to the Licensed Product as supplied by Lucky Penny shall void this limited warranty. Lucky Penny shall not be responsible for any defect in, or any defect caused by, any additions or modifications to the Licensed Product by Customer.

7.2.   EXCEPT FOR THE EXPRESS WARRANTIES SPECIFIED ABOVE IN THIS SECTION LUCKY PENNY MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY IMPLIED WARRANTY ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

8.   Indemnification:

8.1.   Subject to the limitation of liability set forth in Section 9 below, Lucky Penny shall indemnify Customer in any action, suit, or proceeding brought against Customer insofar as it is based on a claim that the Licensed Product delivered hereunder infringes any United States copyright.

8.2.   Indemnity hereunder does not extend to any claims of infringement or misappropriation of any patent, trade secret, trademark, or other intellectual property rights.

8.3.   Customer acknowledges and agrees that the only entity that can be liable for indemnification under this Agreement is Lucky Penny.

8.4.   Indemnification hereunder shall be contingent upon Customer providing prompt notice of such claim in writing, and upon Customer granting Lucky Penny full authority, information, and assistance (at Lucky Penny's expense, up to the limitation of liability) for the defense of such claim.

8.5.   Subject to the limitation of liability of Section 9.2 and the terms and conditions herein, Lucky Penny shall pay all damages and costs finally awarded therein against Customer following the final resolution of any such claims before a court of competent jurisdiction. Lucky Penny shall not be responsible for any compromise(s) made without its consent.

8.6.   Lucky Penny may, at its option and expense, (a) replace or modify the Licensed Product so that infringement will not exist or (b) refund to Customer prepaid License Fees on a pro-rata basis.

8.7.   Lucky Penny's indemnification hereunder shall not extend to any infringement or claim thereof which is based upon (i) the combination of the Licensed Product delivered here under with any software or device not supplied by Lucky Penny; (ii) any specifications provided to Lucky Penny by Customer; or (iii) modifications to the Licensed Product not performed by Lucky Penny.

9.   Use of Licensed Program(s) and Limitation of Liability:

9.1.   The Licensed Program(s) are tools that are not intended to replace the professional skills and judgment of Customer and its employees, agents and consultants. Customer alone shall be responsible for the accuracy and adequacy of information and data furnished for processing and any use made by Customer of the output of the Licensed Program or any reliance thereon by Customer or users of Customer products. Customer shall also be responsible for the continued operation and maintenance of the computer equipment and the third-party software used with the Licensed Program. For these reasons, Customer agrees to be solely responsible for the design, repair, and configuration of Customer's equipment, machinery, systems, and/or products. Customer assumes all risks and liability for results obtained by the use of and/or implementation of the designs developed by Customer that are in any way influenced by the use of the Licensed Program(s) or the provision of services, whether such designs are used singly or in combination with other designs or products. Customer shall protect, indemnify, hold harmless, and defend Lucky Penny from and against any loss, cost, damage, or expense, including attorneys' fees, arising from any claim asserted against Lucky Penny that is in any way associated with the matters set forth in this Section.

9.2. TO THE FULLEST EXTENT PERMITTED BY LAW, THE LIABILITY OF LUCKY PENNY FOR ANY CLAIM RELATING TO THE SUBJECT MATTER OF THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING CLAIMS OF NEGLIGENCE OR CLAIMS OF INTELLECTUAL PROPERTY INFRINGEMENT AGAINST LUCKY PENNY, SHALL BE LIMITED TO THE TOTAL OF ALL AMOUNTS CUSTOMER HAS PAID TO LUCKY PENNY FOR THE LICENSED PROGRAM(S) OR SERVICES THAT ARE FINALLY DETERMINED BY A COURT OF COMPETENT JURISDICTION TO HAVE CAUSED DAMAGES OR THAT ARE RELATED TO THE CAUSE OF ACTION. THE LIMITATION OF LIABILITY HEREUNDER SHALL BE FURTHER LIMITED TO AMOUNTS RECEIVED BY LUCKY PENNY FROM CUSTOMER FOR THE THEN-CURRENT SUBSCRIPTION TERM AS OF THE DATE THAT CUSTOMER PROVIDES LUCKY PENNY WITH WRITTEN NOTICE OF SUCH CLAIM. LUCKY PENNY IS NOT REQUIRED TO SPEND MORE THAN THE AMOUNTS RECEIVED BY LUCKY PENNY FROM CUSTOMER FOR THE THEN-CURRENT SUBSCRIPTION TERM AS OF THE DATE THAT CUSTOMER PROVIDES NOTICE OF A CLAIM, INCLUDING WITHOUT LIMITATION ON ATTORNEYS' FEES, COURT COSTS, SETTLEMENTS, JUDGMENTS, AND REIMBURSEMENT OF COSTS. IN NO EVENT SHALL LUCKY PENNY BE LIABLE FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOSS OF PROFITS, OR OTHER CONSEQUENTIAL DAMAGES, EVEN IF LUCKY PENNY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MOREOVER, LUCKY PENNY WILL NOT BE SUBJECT TO ANY ADDITIONAL LIABILITY FOR ANY BREACH OF ANY STATUTORY OBLIGATION THAT IS BEYOND THE EXPLICIT REMEDIES NOTED IN ANY SUCH STATUTE AND THE MAXIMUM LIABILITY BY LUCKY PENNY WILL BE SUBJECT TO THE LIMITATION OF LIABILITY NOTED IN THIS SECTION.

9.3. If applicable law limits the application of any of the provisions stated herein, Lucky Penny's liability will be limited to the maximum extent permissible.

9.4. No action, regardless of form, relating to the transactions under this Agreement may be brought by Customer more than one (1) year after the event giving rise to the cause of action has occurred.

9.5. For the avoidance of doubt, Lucky Penny assumes no liability whatsoever under any circumstances that may arise from a claim of patent infringement against Customer or a licensee of Customer's products.

9.6. Customer acknowledges and agrees that Lucky Penny disclaims and therefore accepts no liability, in any form, for any claim relating to any open source software. Further, Customer acknowledges and agrees that Lucky Penny shall have no liability, in any form, for any data loss caused by Customer's use of any open source software in any manner or form.

10. Support:

10.1. Support services are included under all Standard Licenses, Professional Licenses, and Enterprise Licenses. Support services are provided in accordance with the terms of Lucky Penny's then-current support and maintenance policies. A current version of those policies is available from Lucky Penny upon request.

10.2. Lucky Penny reserves the right, in its sole discretion, to limit or suspend the provision of Support services in the event that Lucky Penny determines that Customer is abusing its Support services and/or is acting in violation of Section 18 of this Agreement. Examples of such abuse include, but are not limited to, (i) Customer personnel making excessive use of Lucky Penny Support resources, or (ii) Customer personnel making unreasonable demands of Lucky Penny Support personnel.

10.3. Support services are provided to Customer only. All help tickets, or Support requests, must be submitted by Customer and may not be submitted by any third party on behalf of Customer. This prohibition against the use of third parties includes, but is not limited to, (i) Customer's use of a third party to submit help tickets on Customer's behalf, (ii) Customer submitting a help ticket on behalf of a third party, (iii) Customer using a third party to submit a request for Support. Further, Customer cannot use any third party to provide maintenance, support, or updates to the Licensed Product or any Customer product or other software application that incorporates the Licensed Product; all Support services must be obtained directly from, and only from, Lucky Penny. Customer acknowledges that any breach of this Section 10.3 will constitute a material breach of this Agreement and will result in an immediate termination of the license granted hereunder.

10.4. Support services are subject to Fair Use limits. These limits are currently defined as up to forty (40) hours of work each month or if in Lucky Penny's sole opinion, the Customer is submitting tickets that would exceed the industry standard of Fair Use. Lucky Penny will review all Support requests from Customers with at least ten times the average number of such requests to determine whether they meet these guidelines.

11. **Confidentiality and Proprietary Rights:**

11.1. Lucky Penny provides an off-the-shelf product. Lucky Penny does not collect or require Customer's confidential information. No information disclosed by Customer to Lucky Penny will be considered Confidential Information, even if so marked or designated, unless it meets the requirements included in this Section. "**Confidential Information**" shall mean any non-public, sensitive information which could reasonably be considered confidential (including without limitation any formula, pattern, compilation, program, device, method, technique, or process) that is disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") pursuant to this Agreement. Confidential Information of Lucky Penny includes, but is not limited to, the terms of this Agreement, the Licensed Product, the Licensed Programs, the structure, organization, design, algorithms, methods, templates, data models, data structures, flow charts, logic flow, and screen displays associated with the Licensed Program(s), the Documentation, and pricing information. Confidential Information shall not include information that either party can demonstrate: (i) at the time of disclosure is in the public domain or is otherwise available to the Receiving Party other than on a confidential basis; (ii) after disclosure, becomes a part of the public domain by publication or otherwise through no fault of the Receiving Party; (iii) was disclosed to the Receiving Party by a third party not under an obligation of confidentiality to the Disclosing Party; or (iv) is or has been independently developed by the Receiving Party (as evidenced by the Receiving Party's written records) without access to any Confidential Information of the Disclosing Party.

11.2. Each party agrees: (i) to hold the Disclosing Party's Confidential Information in strict confidence; and (ii) except as expressly authorized by this Agreement, not to, directly or indirectly, use, disclose, copy, transfer, or allow access to the Confidential Information. Notwithstanding the foregoing, a Receiving Party may disclose Confidential Information of the Disclosing Party as required by law or court order; in such event, however, such party shall, if legally permitted, inform the other party via telephone, email, or facsimile within a reasonable period of time and, in all events, limit the extent of any such compelled disclosure to the minimum so required.

12. **Export:** Customer acknowledges that the Licensed Product, including the Licensed Assemblies, provided hereunder may be subject to the export control laws, rules, regulations, restrictions, and national security controls of the United States and other applicable foreign agencies (the "Export Controls"). Customer agrees to abide by the Export Controls, and that any Licensed Product and Licensed Assemblies licensed hereunder will not be exported (or re-exported from the country where it was first installed), directly or indirectly, separately or as part of a system, sold, leased, or otherwise transferred without Customer, at its own cost, first obtaining all necessary licenses from the United States Department of Commerce and any other appropriate agency of the United States Government as may be required by law. Customer acknowledges that it shall be solely responsible for determining the extent of any such licenses required, and for any costs associated with complying with the requirements of this Section 12. Customer hereby (i) represents and warrants that Customer is not an entity or person to which shipment of the Licensed Product or provision of the Support services, is prohibited by the Export Controls; and (ii) agrees that it shall not export, re-export, or otherwise transfer the Licensed Product to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of the Licensed Product is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles, or chemical or biological weapons. Customer shall, at its expense, defend Lucky Penny and its affiliates from any third party claim or action arising out of any inaccurate representation made by Customer regarding the existence of an export license, Customer's failure to provide information to Lucky Penny to obtain an export license, or any allegation made against Lucky Penny due to Customer's violation or alleged violation of the Export Controls (an "Export Claim") and shall pay any judgments or settlements reached in connection with the Export Claim as well as Lucky Penny's costs of responding to any such Export Claim.

13. **Government Contracting:** If the Licensed Product is used in connection with providing goods and/or services to the United States government or any other government agency or entity contracting or subcontracting services, Customer shall ensure that no government agency or entity shall acquire any rights of any nature in the Licensed Program(s). Notwithstanding the foregoing, Customer may freely license its Customer products that include the Licensed Assemblies subject to Customer's compliance with all of the limitations set forth in this Agreement. For the avoidance of doubt, the United States Government or any other government agency shall have no distribution or development rights in Customer's products that include the Licensed Assemblies under any such arrangement.

14. **Intentionally left blank.**

15. **Notice:** Any notice or other communication given hereunder shall be in writing. Notice shall be considered delivered and effective upon receipt when sent by U.S. Mail, postage prepaid, or certified mail, return receipt requested,

addressed to the parties as set forth above, or the date transmission is completed when delivered electronically by e-mail. Either party, upon written notice to the other, may change any name or address to which future notice shall be sent.

16. Audit:

16.1. **General Audit:** Customer shall prepare and maintain, in accordance with sound, generally accepted accounting practices, complete and accurate books of account and records (specifically including, without limitation, the originals or copies of documents supporting entries in the books of account) covering all transactions arising out of or relating to this Agreement. Lucky Penny, and at its discretion its duly authorized independent certified public accountant, shall have the right, no more than twice per calendar year, during regular business hours, during the period of time that Customer possesses any copy of the Licensed Product, and for two (2) years thereafter, to audit said books of account and records and examine all other documents and materials in the possession or under the control of Customer with respect to the subject matter and the terms of this Agreement. All such books of account, records, and documents shall be kept available by Customer for at least two (2) years after the last copy of the Licensed Product has been deleted or destroyed and certification of the same has been provided to Lucky Penny. If the result of any audit of Customer's books and records demonstrates that Customer's payments were less than the amount which should have been paid, Customer shall make payment of any discrepancy revealed by said audit within fifteen (15) days after Lucky Penny's demand therefore and, if the discrepancy is in amount equal to three percent (3%) or more of the payments made with respect to payments due hereunder, Customer shall reimburse Lucky Penny for the cost of such audit.

16.2 **Under-licensing / Verification of Developers:** As set forth in Section 4.2 above, each individual Developer must have an assigned copy of the Licensed Product.

    16.2.1 For **Standard Licenses** and **Professional Licenses**, Lucky Penny reserves the sole right to make a determination as to how many Developers a Customer has, and to require Customer to obtain additional licenses if, in Lucky Penny's sole opinion, Customer was previously under-licensed. For Standard Licenses and Professional Licenses, the license fees are based on the total number of developers with Programmatic Access; these licenses are usually sold in groups of 10. In the event Lucky Penny determines there is not adequate licensing in place for each developer with Programmatic Access, Customer will be required to pay for additional licensing which will be determined to begin on the first day of the initial subscription term.

    16.2.2 For **Enterprise Licenses**, Lucky Penny reserves the sole right to make a determination as to whether Customer's use is in compliance with the scope of the license procured.

    16.2.3 Therefore, for all license types, Customer acknowledges and agrees that it must cooperate with Lucky Penny in providing whatever information Lucky Penny reasonably requires in order to determine the size of Customer's development teams without necessitating that Lucky Penny make an on-site audit. Failure to provide such cooperation is a material breach under this Agreement that is not subject to cure, and Lucky Penny reserves the right to immediately and without further notice terminate all rights licensed under this Agreement for such breach.

17. General:

17.1 Customer may not assign any of its obligations, rights, or remedies hereunder and any such attempted assignment shall be null and void.

17.2 The waiver or failure of either party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further right hereunder. This Agreement constitutes the complete understanding between the parties with respect to the subject matter herein and supersedes all proposals, all previous negotiations and agreements, written or oral, express or implied, between the parties with respect to the subject matter herein. This Agreement may not be waived, altered, amended, or modified except in writing, directly referencing the Agreement, and signed by authorized representatives of both parties.

17.3 It is expressly agreed that the parties are acting hereunder as independent contractors. Under no circumstances shall any of the employees of one party act on behalf of, or be deemed the employees of, the other party for any purpose.

17.4 Lucky Penny shall have the right, but no obligation, to use Customer's name and Customer's logo in a list of Lucky Penny's licensees. Such list of licensees will only identify Customer by name and/or logo, but will not make any statement about the relationship between Lucky Penny and Customer without Customer's permission. Lucky Penny will remove Customer's name from any such list upon sixty (60) days' written notice from Customer.

17.5 Customer acknowledges and agrees that Lucky Penny shall have the right, but no obligation, to provide communication to the Customer, in multiple forms, to include email, without a violation of any email regulation or

law, including but not limited to the CAN-SPAM Act of 2003 or similar laws and/or regulations. Customer may opt out of receiving marketing emails by contacting sales@luckypennysoftware.com.

17.6   To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any clause of this Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of this Agreement is held to be invalid or otherwise unenforceable by a court of competent jurisdiction, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by applicable law, and the remaining provisions of this Agreement will continue in full force and effect.

17.7   The obligations of Customer under Sections 5, 11, 12 and 13 hereof are of a special and unique character which gives them a peculiar value to Lucky Penny and its Vendors for which neither Lucky Penny nor its Vendors can be reasonably or adequately compensated in damages in the event Customer breaches such obligations. Therefore, Lucky Penny and its Vendors shall, in addition to other remedies which may be available, each be entitled to injunctive and other equitable relief in the event of the breach or threatened breach of such obligations.

17.8   Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules. The number of arbitrators shall be three (3), with one (1) arbitrator being named by each party and the third arbitrator being chosen by the other two (2) arbitrators. The place of arbitration shall be Austin, Texas, and the laws of Texas shall apply. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

        17.8.1   **PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT. The parties further agree that the arbitration will be conducted in Customer's respective individual PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR RIGHT TO FILE A LAWSUIT IN COURT. The parties further agree that the arbitration will be conducted in Customer's respective individual capacity only and not as a class action or other representative action, and Customer expressly waives its right to file a class action or seek relief on a class basis. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST LUCKY PENNY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above will be deemed null capacity only and not as a class action or other representative action, and Customer expressly waive its right to file a class action or seek relief on a class basis. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST LUCKY PENNY IN YOUR INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. If any court or arbitrator determines that the class action waiver set forth in this paragraph is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the arbitration provisions set forth above will be deemed null and void in their entirety and the parties will be deemed to have not agreed to arbitrate disputes.**

17.9   This Agreement shall be governed by the substantive laws of the state of Texas without regard to any conflict of law provisions. This Agreement will not be governed by the United Nations Convention of Contracts for the International Sale of Goods, or by the Uniform Commercial Code, the application of which is expressly excluded. The parties agree that sole jurisdiction and venue for any dispute relating to this Agreement shall be in a federal or state court located in Austin, Texas.

17.10   This Agreement shall be binding on you by your clicking on the "YES" button and/or downloading and using the licensed product. If the parties hereto execute this Agreement in writing by an exchange of faxed signed copies hereof, it shall be binding by such exchange of signed copies. In the event of such an exchange, this Agreement shall become binding on both parties and shall constitute admissible evidence of the existence and binding effect of this Agreement.

17.11   The terms and conditions of this Agreement apply to any and all Vendor software included with or embedded in the Licensed Program(s).

17.12   Downgrading. Subscription licenses cannot be downgraded. Enterprise Licenses cannot be downgraded to a Standard License or Professional License under any circumstances.

17.13   Should Customer consolidate with or merge with any other entity where Customer is the continuing or surviving corporation, Lucky Penny, in its sole discretion, may reassess the License Fee for renewal terms beginning with the

year such consolidation or merger takes place. Pricing determinations will be based on several factors, including, but not limited to, development, distribution, downloads, usage, support, and implementation.

18.   **Bullying or Harassing Behavior:** Customer may not display Bullying or Harassing Behavior when engaging with Lucky Penny's employees or associates; such acts will constitute a material breach of this Agreement. For purposes of this Agreement, "Bullying or Harassing Behavior" shall mean any written, electronic, or verbal communication, or physical act, which is insulting, hurtful, hostile, vindictive, cruel, or malicious that may cause humiliation or intimidation. Bullying or Harassing Behavior also includes, but is not limited to, acts reasonably perceived as being motivated by any actual or perceived differentiating characteristic, such as race, color, religion, ancestry, national origin, gender, socioeconomic status, gender identity, physical appearance, sexual orientation, or mental, physical, developmental, or sensory disability.

19.   **Data Management and Security:** Pursuant to this Agreement:

     a) Lucky Penny does not provide data storage or processing.

     b) Lucky Penny does not collect, store, otherwise process, or have directly disclosed to it any Customer data.

     c) Other than necessary information to assign licenses, which includes names and correlating email addresses, Lucky Penny will not request, nor does Lucky Penny knowingly accept, any information that can or could be considered to constitute personally identifiable information ("PII") under any law or statute. Lucky Penny provides no protection, no indemnity, and no guarantees or warranty, of any kind, if You provide PII to Lucky Penny. You further acknowledge and agree that if you send PII to Lucky Penny, other than the information specifically requested by Lucky Penny to assign licenses, then Lucky Penny will treat any such disclosure as a material breach of this Agreement. Samples are not part of the Licensed Product. If a Sample includes any component that utilizes an API integration, Customer must use their own API key. For more information on Samples, please see Schedule C.

     d) Once a license is assigned, each individual user will receive a unique identifier with a token key that will activate such user's respective account.

     e) If a Customer utilizes the customer portal, Customer can assign licenses to individual users directly, without contacting Lucky Penny.

     f) When submitting support tickets to Lucky Penny, only dummy data shall be submitted with any such tickets.

     g) Customer is on notice of Lucky Penny's Privacy Policy found here: https://www.luckypennysoftware.com/privacy and Customer recognizes that this Privacy Policy is not part of this Agreement and that this Agreement does not restrict Lucky Penny's right to revise its Privacy Policy.

     h) Lucky Penny only complies with its own InfoSec policy and procedures. More information is available upon request.

     i) Lucky Penny will not be bound by Customer's security policies or its InfoSec policies. By using and/or downloading the Licensed Product, Customer acknowledges and agrees that Lucky Penny will reject any such policies.

IF YOU DO NOT AGREE WITH THE ABOVE TERMS AND CONDITIONS, DO NOT DOWNLOAD, INSTALL, OR USE THE LICENSED PRODUCT.

YES I agree to be bound by the terms and conditions of this License Agreement.

NO I decline to be bound by the terms and conditions of this License Agreement.

SOFTWARE LICENSE AGREEMENT

Schedule A

Licensed Assemblies

Assemblies that are Distributable

Assembly name	Distributable?
AutoMapper.dll	Yes
MediatR.dll	Yes

Schedule B

Individual Programs

Individual Programs: AutoMapper and MediatR products may be obtained separately.

Schedule C

Optional Samples

Optional samples ("Samples") are provided solely for demonstration, evaluation, or reference purposes. These Samples are not required and are intended to illustrate functionality or assist with implementation. The following terms apply to the use of Samples:

- **Exclusion from the Licensed Product**: The Samples are not included as functional or supported components of the Licensed Product, and no technical support or updates will be provided for them.
- **Limited Purpose**: The Samples are provided "as is" solely for reference, testing, or demonstration purposes. They are not intended for use in production environments or as part of any distributed or commercial application.
- **No Warranty**: Lucky Penny provides the Samples without any express or implied warranties, including but not limited to warranties of merchantability, fitness for a particular purpose, or non-infringement.
- **Restricted Use**: Licensee is prohibited from modifying, reproducing, distributing, or otherwise using the Samples outside the context of their intended purpose as outlined in this Agreement.

Disclaimer of Liability:

1.   Lucky Penny provides the Samples "as is" without any warranties, express or implied, including but not limited to warranties of merchantability, fitness for a particular purpose, or non-infringement.
2.   Lucky Penny disclaims any liability for errors, inaccuracies, or omissions in the Samples, as well as for any damages arising from their use, including but not limited to loss of data, business interruption, or system failures.

Acknowledgment of Risk:

By using any of the Samples listed below, Customer acknowledges and agrees that:

- Lucky Penny does not require such usage.
- Lucky Penny assumes no responsibility or liability for any data transmitted, disclosed, or processed through the Samples.

- Customer uses the Samples at its own risk