



**LICENSING AGREEMENT BETWEEN ACHIEVEIT ONLINE, LLC, AND  
CLIENT**

**THIS AGREEMENT** is entered into and is effective on the latest date reflected on the signatory page by and between Achieve!t Online, LLC, a Delaware limited liability corporation with its principal place of business at 3575 Piedmont Road NE, Building 15, Suite 1005, Atlanta, GA 30305 ("Achieve!t") and Client, a corporation with its principal place of business ("Client").

**WHEREAS**, Achieve!t is a suite of online web-based applications that allows organizations to automate their execution management, strategic planning, and quality improvement functions; and

**WHEREAS**, the parties are desirous that Client be provided the right to access specific Achieve!t applications for its own use, subject to the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the premises and of the mutual covenants and obligations hereafter set forth, the parties hereto agree to a licensing Agreement as follows:

1. **LICENSING FEE:** The licensing fee is detailed in Appendix A of this document and begins on the date of this fully executed agreement. Additional services detailed in Appendix A. Any further licenses and/or services will be mutually agreed upon in writing.
2. **FEES, OUT-OF-POCKET EXPENSES, AND PAYMENT POLICY:** Achieve!t requires full payment in advance of providing the services outlined in this Agreement. Reasonable and necessary out-of-pocket expenses associated with the delivery of on-site services, if any, including transportation to/from airports, to/from Client's locations (such as taxis, trains, rental cars, and air travel costs), business meals, and hotel expenses will be invoiced within 30 days that such expenses are incurred. If payment is not paid by the due date, then a late payment penalty will be assessed at an annual rate of 6% until payment is made. An invoice for interest due will be presented once payments are current and will be due within 15 days of receipt.
3. **BILLING AND RENEWAL:** Achieve!t charges and collects in advance for the use of Achieve!t, payable annually by check or credit card. Achieve!t will automatically renew and invoice Client 90 days prior to the end of this Agreement. The Client must notify Achieve!t within this 90-day period of its decision to renew, otherwise renewal is automatic and binding.
4. **ACCURATE INFORMATION:** Client agrees to provide Achieve!t with complete and accurate billing and contact information. This information includes Client's legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact. Client agrees to update this information within 30 days of any change to it.
5. **PRIVACY:** The privacy policy for Achieve!t can be found online at [www.Achieve!t.com](http://www.Achieve!t.com). Achieve!t reserves the right to modify this privacy policy in its reasonable discretion from time to time.
6. **CONFIDENTIAL INFORMATION:** All written and oral information and materials disclosed or provided by the Client to Achieve!t under this Agreement is Confidential Information regardless of whether it was provided before or after the date of this Agreement or how it was provided to Achieve!t. Confidential Information means all data and information relating to the business and management of the Client. Except as otherwise provided in this Agreement, Achieve!t must keep the Confidential Information confidential, and the Confidential Information will remain the

exclusive property of the Client. Achievelt will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Client or any of its affiliates or subsidiaries. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on Achievelt in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and will continue for a period of ten (10) years from the date of such expiration or termination.

7. **HIPAA COMPLIANCE FOR HEALTHCARE ORGANIZATIONS:** Achievelt shall respect the confidentiality of all patient information and records and shall comply with all applicable laws and regulations concerning their maintenance and protection, including the Health Insurance Portability and Accountability Act (“HIPAA”) and any regulations promulgated thereunder relating to patient information and records, including HIPAA-compliant software, websites, and data bases. “Patient information and records” shall be defined consistent with applicable law and shall include, without limitation, any and all “protected health information,” as that term is defined by HIPAA, any and all individually identifying information concerning patients, and any and all records generated by Achievelt or Client. Violation of this section by Achievelt shall constitute a material breach of this Agreement, authorizing Client to immediately terminate this Agreement.
8. **SECURITY:** Achievelt shall use reasonable measures available to protect the security of Client’s data, including data encryption and virus protection, but does not warrant or guarantee that Achievelt is free from the vulnerability of Internet attacks.
9. **LICENSE GRANTS:** Achievelt grants Client a non-exclusive, non-transferable worldwide right to use Achievelt, solely for Client’s own internal business purposes subject to the terms of this Agreement. Subject to the terms of this Agreement, Client grants to Achievelt the non-exclusive, worldwide, right to use, copy, store, transmit and display Client Data solely to the extent necessary to provide Achievelt as requested by Client. Achievelt shall not use the Client Data for any purpose other than to provide Achievelt to Client. All rights not expressly granted to Client are reserved by Achievelt and its licensors. Achievelt warrants that the application will perform substantially in accordance with sales and marketing materials and existing user guides and documents with a minimum of 98% uptime availability.
10. **PUBLICITY:** With written approval, Client grants Achievelt the right to use the Client’s name and logo in Achievelt promotional and advertising material.
11. **RESTRICTIONS:** Client is permitted to store, manipulate, analyze, reformat, print, and display the Content only for Client’s internal business use. Unauthorized use, resale, or commercial exploitation of Achievelt and/or the Content in any way is expressly prohibited. Client agrees not to reverse engineer Achievelt, or access Achievelt in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions, or graphics of Achievelt, or (iii) copy any ideas, features, functions, or graphics of Achievelt. Client shall not copy, license, sell, transfer, make available, distribute, or assign this license or the Content to any third-party. Client shall not create Internet “links” to Achievelt or “frame” or “mirror” any Content contained on, or accessible from, Achievelt on any other server or Internet-based device.
12. **ACCOUNT INFORMATION AND DATA:** All data submitted by Client to Achievelt, whether posted by Client or by third parties, shall remain the sole property of Client or such third parties, as applicable, unless specifically notified in advance. Client, not Achievelt, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness and

copyright of all Client Data, and Achievelt shall not be responsible or liable for any action taken by the Client that results in the deletion, correction, destruction, damage, loss, or failure to store any data. In the event that Client terminates this Agreement (other than by reason of Client's breach), Achievelt will make available to Client a file of the Client Data within 30 days of termination notice if Client so requests. Achievelt reserves the right to withhold Client Data for any breach, including, without limitation, Client's non-payment, until such time that the breach is satisfied. Upon termination for cause, Client's right to access or use Achievelt immediately ceases, and Achievelt will make available to Client a file of the Client Data within 30 days of termination notice if Client so requests.

13. **OWNERSHIP:** Achievelt alone (and its licensors, where applicable) shall own all right, title, and interest, including all related Intellectual Property Rights, in and to Achievelt, the Content, and any suggestions, ideas, enhancement requests, feedback, recommendations, or other information provided by Client or any other party relating to Achievelt. This Agreement is not a sale and does not convey any rights of ownership in or related to Achievelt, Achievelt, or Intellectual Property owned by Achievelt to Client. The Achievelt name and logo are trademarks of Achievelt, and no right or license is granted to use them.
14. **INTERNET DELAYS:** Achievelt's services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications. Achievelt is not responsible for and delays, delivery failures, or other damage resulting from such problems.
15. **MUTUAL INDEMNIFICATION:** Client shall indemnify and hold Achievelt, its licensors, and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Client Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by Client of the representations and warranties; or (iii) a claim arising from the breach by Client or Users of this Agreement, provided in any such case that Achievelt (i) gives written notice of the claim promptly to Client (ii) gives Client sole control of the defense and settlement of the claim (provided that Client may not settle or defend any claim unless it unconditionally releases Achievelt of all liability and such settlement does not affect Achievelt's business or Achievelt); (iii) provides to Client all available information and assistance; and (iv) has not compromised or settled such claim. Achievelt shall indemnify and hold Client and its parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that Achievelt directly infringes a copyright, a U.S. patent issued as of the Effective Date, or trademark of a third party; (ii) a claim, which if true, would constitute a violation of Achievelt of the representations or warranties; or (iii) a claim arising from breach of this Agreement by Achievelt's; provided that Client (i) promptly gives written notice of the claim to Achievelt's; (ii) gives Achievelt sole control of the defense and settlement of the claim (provided that Achievelt may not settle or defend any claim unless it unconditionally releases Client of all liability); (iii) provides to Achievelt all available information and assistance; and (iv) has not compromised or settled such claim. Achievelt shall have no indemnification obligation, and Client shall indemnify Achievelt pursuant to this Agreement, for claims arising from any infringement arising from the combination of Achievelt with any of Client's products, service, hardware, or business process(s).

16. **DISCLAIMER OF WARRANTIES:** ACHIEVEIT AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, INTERNET AVAILABILITY, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY, OR COMPLETENESS OF ACHIEVEIT OR ANY CONTENT; ACHIEVEIT AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY CLIENT THROUGH ACHIEVEIT WILL MEET CLIENT'S REQUIREMENTS OR EXPECTATIONS, (E) ERRORS, OR DEFECTS WILL BE CORRECTED, OR (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS;(III) THE SERVICE AND ALL CONTENT IS PROVIDED TO CLIENT STRICTLY ON AN "AS IS" BASIS; AND (IV) ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY ACHIEVEIT AND ITS LICENSORS.
17. **LIMITATION OF LIABILITY:** IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED ONE TIME THE AMOUNT ACTUALLY PAID BY AND/OR DUE FROM CLIENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
18. **ADDITIONAL RIGHTS:** Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, so the exclusions set forth above may not apply to Client.
19. **GENERAL:** With respect to all Clients, this Agreement shall be governed by Delaware law and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims, or causes of action arising out of or in connection with this Agreement or Achievelt shall be subject to the exclusive jurisdiction of the state and federal courts located in Wilmington, Delaware. No text or information set forth on any other purchase order, preprinted form, or document shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between Client and Achievelt as a result of this agreement or use of Achievelt. The failure of Achievelt to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Achievelt in

writing. This Agreement comprises the entire agreement between Client and Achievelt and supersedes all prior or contemporaneous negotiations, discussions, or agreements, whether written or oral, between the parties regarding the subject matter contained herein.



## APPENDIX A

### I. Licensing Fees and Terms

USERS	PRICE
1-10	\$5,000
Users 11-24	\$375 per user
Users 25-49	\$275 per user
Users 50-99	\$225 per user
Users 100-499	\$175 per user
Users 500-999	\$125 per user
Users 1,000-2,499	\$100 per user
Users 2,500-9,999	\$75 per user
Users 10,000+	\$50 per user

Products licensed: Executelt

Initial users provided by this licensing agreement: 10 Users

Initial licensing fee: \$5000

### II. Implementation and Consulting

- Ongoing telephone and web-based support included at no additional cost.