



Aclarian Software License Agreement

This Software License Agreement (“Agreement”) is made and entered into on this 1st day of March, 2022 (“Effective Date”), between Aclarian LLC, a Florida limited liability company (“Licensor”), and City of Madeira Beach, Florida (“Licensee”). Either party may be referred to individually as the “Party” or collectively as “the Parties.”

WHEREAS:

Licensor owns all right, title, and interest in the Software (as defined below); and

Licensee desires a license to use the Software.

NOW, THEREFORE:

The Parties have agreed to the following terms and conditions:

- I. Definitions. Terms used in this Agreement have the following meaning:
 - a. “Proprietary Information” shall be defined as all proprietary or non-public information owned or created by Licensor, including the Software, and any know-how, trade secrets, data, materials, inventions, copyrights, trademarks, or discoveries that are necessary or substantially related to the Software.
 - b. “Software” shall be defined as the accounting program known as “Aclarian,” and any software products related thereto provided by its affiliated subcontractors or third-party vendors, including but not limited to human resources and payroll related software, as well as any technical information or documentation relating thereto.
- II. Grant of License.
 - a. Scope of License. Licensor grants to Licensee a non-exclusive, limited license to use the Software solely for the internal business purposes of employees of Licensee that are involved in the accounting, financials, and operations of Licensee. Licensee’s rights in the Software shall be limited to those expressly granted in this Agreement. Licensee shall not distribute, rent, resell, lease, sublicense, or otherwise disclose or transfer the Software to any third party (including but not limited to competitive businesses) without Licensor’s express written consent, and subject to additional license fees. Licensee shall not modify, reverse engineer, decompile, or create derivative works of the Software. Any use which exceeds the scope of the license grant shall constitute a breach of this Agreement and shall be subject to emergency injunctive relief and the payment of any related attorneys’ fees and court costs incurred by Licensor. Licensor acknowledges that Licensee shall be the sole and exclusive owner of the financial, accounting and customer information input into the Software for Licensee’s use.
 - b. Maintenance and Support. For the duration of this Agreement, Licensor will provide, at no charge to Licensee, maintenance and support. Maintenance refers to modifications, such as patches, corrections, and updates, as needed to ensure the software is functioning as intended. With regard to Support, Licensor shall use commercially reasonable efforts, commensurate with the severity level, to achieve its support response and resolution targets with respect to resolving errors. An error is defined as a verifiable and reproducible failure of the Licensor’s software product to operate as intended under normal use, and where the error is directly attributable to the Licensor’s software product as updated with current modifications. Support is available through the interactive “Help” feature within the Licensor’s software.

Support does not include implementation of the Licensor's standard software product, onsite or remote training, or development and installation of custom enhancements specifically requested by the Licensee in addition to the standard software product. Pricing for implementation services, onsite and remote training, and custom enhancements is disclosed in Exhibit A.

III. Term and Termination.

- a. Term. This Agreement shall commence as of the Effective Date and shall automatically renew on the one (1) year anniversary of the Effective Date, and on the anniversary of the Effective Date each year thereafter, for subsequent one (1) year terms; provided, however that Licensor or Licensee provide at least sixty (60) days' written notice of termination at any time. Licensor shall refund or prorate the Fees for any partial month, as applicable, if Licensee or Licensor earlier terminates this Agreement.
- b. Licensor may increase the Fees pursuant to this Agreement by providing at least sixty (60) days' written notice to Licensee. In that event, Licensee may provide written notice of termination of this Agreement within sixty (60) days thereafter, prorated for any partial month, as applicable. If no such termination right is exercised within sixty (60) days, the Fees increase is deemed accepted by Licensee.
- c. Upon termination, Licensor shall disable Licensee's account on the Licensor's web-based software application.

IV. Payment.

- a. In exchange for the grant of license to use the Software as outlined herein, Licensee agrees to pay the license fees and implementation costs ("Fees") outlined on attached Exhibit A. Additional costs pertaining to implementation, training, and customization services are also included in Exhibit A.

V. Data Security and Privacy.

- a. In the course of providing the Software and related services under this Agreement, Licensor will employ information security and physical security safeguards, procedures and practices to protect the privacy and security of Licensee's data that Licensor receives, accesses, uses, creates, or discloses. Such safeguards shall be at least equal to industry standards and be reasonably appropriate to protect against accidental or unlawful destruction, loss, alteration or unauthorized third party disclosure or access of Licensee's data. Licensor shall make a good faith effort to detect, respond to, and mitigate data security incidents, and to notify Licensee of any such incidents involving Licensee's data as soon as reasonably practicable and in accordance with applicable laws.

VI. General.

- a. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to conflicts of law principles. The parties agree to waive the right to a jury trial to decide disputes arising out of this Agreement. This provision shall survive termination of this Agreement.
- b. Modifications and Additions. No modifications or additions to the terms and conditions of this Agreement shall be binding unless in writing and acknowledged by both Parties.
- c. Disclaimers, Obligations, and Limitation of Liability. Licensee agrees and acknowledges that the services to be provided by Licensor under this agreement are and will remain the provision of information only and will not be deemed to constitute advice (legal, accounting, professional, or otherwise), management, decision-making, or consulting of any nature. Licensee also agrees and acknowledges that any eligibility or other calculations produced by Licensor are limited by the

accuracy and completeness of the data provided by Licensee. To the extent Licensee provides incomplete or inaccurate information, Licensor cannot be held responsible for an inaccurate calculation. Consequently, Licensee and not Licensor will be responsible and liable for all matters relating to any of its employees, businesses, or policies, including, without limitation, all matters relating to the dominion, control, management, hiring, firing, promotion, disciplining, or retirement of any employees and all payroll, tax, withholding, benefits, pension, insurance (including, without limitation, workers' compensation, health, medical, life, disability, and unemployment insurance), discrimination, sexual harassment, union, collective bargaining, employee plan, employee manual, health, and safety matters. Licensee and not licensor will be responsible for the foregoing and for the compliance of the foregoing with all applicable laws.

The software is provided on an "as-is" basis. Licensor and its subcontractors, agents, or suppliers shall not be liable for service interruptions caused by failure of equipment, software or services, failure of communications, power outages, or any other interruptions not within the complete control of Licensor or its subcontractors, agents, or suppliers.

In no events shall licensor, its third-party providers, subcontractors, agents, owners, employees, officers, or suppliers be held liable for any incidental, special, consequential, or punitive damages including but not limited to loss of business opportunity. This limitation includes any liability arising out of third-party claims for any cause whatsoever made against licensee. The liability of Licensor, its third-party providers, subcontractors, agents, or suppliers for actual proven damages for any cause, including but not limited to failure of or disruption of service regardless whether in contract, tort or negligence shall be limited to the lower of the cost of replacing the defective system or the amount payable by Licensee under this Agreement.

During the period such damages occur, Licensor and its third-party providers, subcontractors, agents, or suppliers shall not be liable for performance deficiencies caused or created by Licensee's equipment or the Licensee's site or Licensee's users' equipment and services. Licensor does not warrant that the service or equipment will perform at a particular speed, bandwidth, or data throughput rate; therefore, Licensor and its third-party providers, subcontractors, agents, or suppliers shall not be liable for failure to perform in accordance with any documentation, particular bandwidth, or data throughput rate. Licensor does not warrant that service will be uninterrupted, error-free or completely secure. Licensee makes no other warranties, representations, expressed or implied concerning service, equipment, and software and disclaims warranties of fitness for a particular purpose, merchantability, non-infringement, and any other warranty implied by law.

- d. **Defense and Indemnity.** Licensor shall indemnify Licensee and hold Licensee harmless, and Licensee shall indemnify and hold Licensor harmless (each party being indemnified an "Indemnified Party" and each party providing the indemnity, an "Indemnifying Party"), from and against any and all loss, costs, liabilities, damages, judgments, and expenses, including reasonable attorney's fees, in connection with claims resulting from (i) a breach of any confidentiality provision contained herein or (ii) bodily injury or death of any person; provided, however, that an Indemnifying Party shall not be responsible for the portion of any losses, claims, damages or liabilities (or expenses relating thereto) that are finally judicially determined to have resulted from the bad faith or gross negligence of the Indemnified Party. Except for claims of indemnity, defense or hold harmless as described in this section V(d), Licensee agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to this Agreement must be brought no later than twelve (12) months after such claim or cause of action arose or be forever barred.
- e. **Assignment.** The Licensor is prohibited from transferring and assigning this Agreement to a successor entity or assignee in the event of a sale or merger, unless express prior written approval is provided by the Licensee.

- f. Notices. All notices provided in connection with this Agreement will be in writing and will be delivered by (i) certified or registered mail, postage prepaid and return receipt requested or (ii) courier and will be deemed effective upon receipt at the address set forth above, or (iii) by e-mail with return receipt requested.

To Licensee:

City of Madeira Beach, Attn: Robin Gomez
300 Municipal Drive, Madeira Beach, FL 33708
RGomez@madeirabeachfl.gov

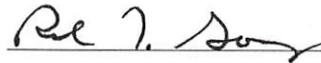
To Licensor:

Aclarian LLC, Attn: Andrew Laflin
4240 W Morrison Ave, Tampa, FL 33629
alaflin@aclarian.com

IN WITNESS WHEREOF, each of the Parties have caused its duly authorized representatives to execute this Agreement as of the date below.

Licensor

Licensee



Name: Andrew Laflin

Name: Robin Gomez

Title: President

Title: City Manager

Date: May 11, 2022

Date: 5-12-22

EXHIBIT A



ACLARIAN PRICING MODEL - MONTHLY SUBSCRIPTION

SUBSCRIPTION FEES

<u>Monthly Package</u>	<u>Monthly Rate</u>
Standard User Access	\$55 Per User Per Month
Standard User Access Includes:	Billing & A/R, Budgeting, Capital Assets, Central Cashiering, Financial Reporting, General Ledger, Interface w/Applications, Payments, Business Licenses & Inspections, Projects & Grants, Purchasing, Task Management, and Treasury Management
Web Applications	\$30 Per Web Application Per Month
Web Applications Include:	Vendor Portal, Business License Online Application & Payment Portal, Invoicing & Collection Portal, Financial Transparency Site, other web applications requested by client

BILLABLE SERVICES

<u>Implementation Services</u>	<u>Hourly Rate</u>	<u>Education & Training</u>	<u>Hourly Rate</u>
Implementation Consultant	** See NOTE below	Training Consultant	** See NOTE below
<u>Ongoing Support</u>	<u>Hourly Rate</u>	<u>Future Enhancements</u>	<u>Hourly Rate</u>
Software Support Team	Included in Subscription - No Additional Charge	Developer/Consultant	\$120 per hour

**NOTE: Costs for software implementation and training services are covered under a separate Consultant Agreement, as these services are performed by the Aclarian consultant responsible for serving in the role of Finance Director. If the Consultant Agreement between the City of Madeira Beach and Aclarian LLC for outsourced Finance Director services is terminated, then the cost for implementation and training services as needed will be \$120 per hour.



ACLARIAN MODULE DESCRIPTIONS - STANDARD ACCESS

Module Name	Included Features
Billing & A/R	Create invoices on customized template with client logo. 'Email Invoice' option automatically sends invoices and reminders to customers via email. Create an online billing and payment web portal for customers to make payments online. Includes automatic GL entries for invoice creation and payment if made online.
Budgeting	Establish relevant budget configurations, such as entity-wide pay increases (COLA), retirement percentages, health insurance amounts per employee, etc. Personnel costs are automatically calculated based on employee data inputs. Customized reporting can be export to PDF, Word, or Excel and used for creating the annual budget document for adoption.
Business Licenses & Inspections	Businesses have the option of paying for new and recurring business tax receipts electronically through an online payment portal. Auto-generate renewal invoices, send automated payment and inspection (fire, rental, etc.) reminders via email, voice call or text, and provide your own design specifications for a business tax receipt certificate once paid.
Capital Assets	Perform inventories and scan equipment, vehicles, etc. containing bar codes using a cell phone or tablet. Maintain a picture of the scanned item with record of scan history. Within capital outlay reporting, associate capital asset additions with capital outlay entries and easily identify potentially unrecorded assets. Attach and store equipment and vehicle registration information and repair and maintenance documentation within individual asset records in Aclarian's Asset Management for well-organized status tracking.
Central Cashiering	All customer collections from various billing sources logged in the Central Cashiering module and segregated by user (cashier), which as a strong internal control measure, allows for reliable reconciliation and close out procedures by each cashier.
Financial Reporting	Generate schedules, tables, and statements based on general ledger balances and data from Budgeting, Capital Assets, and other modules as needed that can be used to effortlessly create sections of the Annual Comprehensive Financial Report (ACFR), budget book, or other financial reporting deliverables as requested by the client.
General Ledger	Aclarian's journal entry form includes Excel import option for journal entry line items, allows users to create templates for recurring entries to be saved and later retrieved, and recurring entries can be scheduled with automatic reminders to the assigned user. Aclarian's reporting tool, AG Grid, is a fully-featured and highly customizable JavaScript data grid. It allows for custom filtering, customizable appearance, data export to CSV or Excel, grouping/aggregation, and has a look and feel that is almost identical to data filtering and producing pivot tables in Excel.



ACLARIAN MODULE DESCRIPTIONS - STANDARD ACCESS CONTINUED

Module Name	Included Features
Interface w/Applications	<p>The Aclarian Interface module will display the status of file transfers from external software applications that interface automatically with the Aclarian ERP system typically through API call or SFTP upload. This module can also store additional data from other applications and provide reporting using AG Grid in accordance with user specifications.</p>
Payments	<p>Scan receipts and record itemized transactions in the purchasing/credit card form. Instruct vendors to submit invoices online via a custom-built online Vendor Portal, and the invoice information entered automatically creates an Invoice Approval Form (including attachments). Aclarian's Auto-Pay payment processing service automatically sends vendor payments via mailed check or via electronic ACH, as well as automatically transmit a Positive Pay file to the client's banking institution.</p>
Projects & Grants	<p>Track project and grant activity using assigned project and grant numbers that will be included in the GL string. Easily track revenues and expenses by project and grant through integration with the general ledger. Dictate notes and respond to comments regarding project status within Project/Grant Management; add sub-tasks and close projects and grants through simple form creation. Also included is project burdening via integration with Aclarian Payroll timesheet as projects and grants are created, allowing employees to charge time to applicable projects and grants as applicable.</p>
Purchasing	<p>Purchase Requisition Forms can be customized according to a specific procurement policy (form can require documentation of written bids, quotes, or other documentation for sole source or emergency purchases, etc.). Enable vendors to register to do business with the entity online via a link to the entity's website, which will automatically populate a New Vendor Form. Allow for workflow approval of bids and contracts and manage contract status (such as upcoming expiring contracts and insurance requirements) through Contract Management.</p>
Task Management	<p>Employees can manage tasks ranging from the Finance team preparing for the year end audit to the Public Works and Utilities departments establishing and assigning work orders using custom developed forms to assign to individuals and approvers via workflow. Work Order Forms include Google Maps and Google Earth views when entering property addresses.</p>
Treasury Management	<p>Perform bank reconciliations efficiently within Aclarian's Treasury Management module. Either manually Import transaction files from the bank, or Aclarian can automatically receive daily BAI2 or CSV files directly from the bank containing deposit and withdrawal transactions. Amounts per bank and per GL with matching check numbers, amounts, or other possible unique identifiers will automatically be matched. Complete monthly bank reconciliation forms based on transaction matching results within the Bank & GL Transaction listing.</p>