

# Software License Agreement for BlueStripe

*Please read this Software License Agreement carefully. Blue Stripe Software, Inc. ("BlueStripe") is willing to license software to you ("You" or "Your") as an individual, or if you are downloading this software as part of your job responsibilities, to the company or legal entity you represent as an employee or authorized agent that will be utilizing the Software (as defined below), and only on the condition that you accept all of the terms of this Software License Agreement (this "Agreement"). By clicking on the "Accept" button below, or by installing or using the Software, you affirm that you agree to the terms and conditions of this Agreement. If you do not agree, click on the "Decline" button and the Software will not be installed and you will be entitled to a refund of your purchase price for the Software.*

## 1. Definitions.

1.1. "**Access**" means to use or benefit from using the functionality of the Software.

1.2. "**Software**" means, collectively, the Server Software and the Client Software, and includes all related written documentation provided by BlueStripe for use in connection with the Software ("**Documentation**") as well as all Updates.

1.3. "**Server Software**" means the proprietary BlueStripe computer software known as the "Collector" made available to You by BlueStripe, and that provides services or functionality on a Server.

1.4. "**Server**" means a physical server with up to two processors and up to four cores per processor. Servers with three or more processors, and/or with any processors that have more than four cores are not included in BlueStripe's standard licensing and are subject to an additional license fee.

1.5. "**Client Software**" means the BlueStripe computer software known as "FactFinder" made available to You by BlueStripe, and that provides for viewing and manipulation from client workstations and devices of information from the Server Software.

1.6. "**Named User**" means an individual employed or engaged as an independent contractor by You who has been granted rights to use the Client Software.

1.7. "**Update**" shall mean any patch, update, upgrade, modification, improvement, release, new version, add-on, supplement or enhancement provided by BlueStripe with respect to the Software or the Documentation.

1.8. "**Install**" means to place a copy of Server Software and or Client Software onto a hard disk or other storage medium through any means (including, but not limited to, use of an installation utility application accompanying the Software).

## 2. License to Use the Software. Subject to the terms and conditions of this Agreement, BlueStripe grants You the following non-exclusive, non-transferable rights ("**License**"):

2.1. Server Software. BlueStripe grants You a limited license to install and use the Server Software in executable form only and the accompanying Documentation, solely on a single Server.

2.2. Client Software. BlueStripe grants You a limited license for a single Named User to install and use the Client Software in executable form only on a device that can access or use the Server Software.

2.3. Restrictions. You agree not to use the Software for any purpose other than for managing your own internal information technology environment and business, and as set forth in the Documentation. You will not make copies of the Software, other than a reasonable number of copies of the Software in machine-readable format for backup purposes. You may also make a reasonable number of copies of the Documentation for Your internal use only. You shall ensure that all proprietary rights notices on the Software are reproduced and applied to any copies You make. You may not: (a) modify, decompile, disassemble, extract, or otherwise reverse engineer the Software, or create derivative works based upon all or part of Software, or (b) copy, transfer, lease, assign, rent, or sublicense the Software, in whole or in part, except as expressly set forth in this Agreement, or (c) Install at, or authorize Access by, a service bureau that You may contract with nor shall You use the Software for the purpose of providing a service bureau, third-party hosting, time-sharing, an application service, or similar services for third parties.

2.4. Evaluation Version. If BlueStripe identifies the Software as a demonstration, evaluation, or trial ("Evaluation Version"), You may Install and Access one copy of the Evaluation Version Software for the purpose of evaluation and demonstration only. This one copy of the Evaluation Version Software may not be Installed at, or Accessed by, a service bureau that You may contract with nor shall You use the Software for the purpose of providing a service bureau, third-party hosting, time-sharing, an application service, or similar services for third parties. Additionally, You may not use it for competitive analysis, or commercial, professional, or other for-profit purposes.

The Evaluation Version may only be Installed and Accessed for the evaluation period consistent with the duration of the license key provided by BlueStripe.

Use of the Software beyond the applicable Evaluation Version license term (evaluation period), or any attempt to defeat the time-control disabling function in the Software is an unauthorized use and constitutes a material breach of this Agreement and a violation of intellectual property law. Unless otherwise agreed to in writing by both Parties, within five (5) days after the evaluation period, You shall return to BlueStripe or destroy, at BlueStripe's option, all copies of the Software in Your possession or control, including any and all copies made by You and any Documentation. Upon BlueStripe's request, You will certify in a written document signed by You that all copies of the Software have been returned to BlueStripe, or destroyed, and that no copies of the Software are in Your possession or control. Sections 3, 7, 8, 9, 12, 13, and 14 shall survive termination of this Agreement.

2.5. Internal Transfer of Software. You may move the Software to a different computer so long as you permanently remove such Software from the initial computer on which it was installed.

2.6. Open Source Software. BlueStripe may include certain open source software with the delivery of the Software, as identified in the Documentation. Any such open source software is licensed directly by You pursuant to the public licenses associated with such software, and is not sublicensed under the terms of this Agreement by BlueStripe. You are responsible for complying with the terms of such public licenses. You further agree that You will not use or combine the Software with programs licensed under any public license in such a manner that may cause the Software or any modifications thereto to be subject to the terms of any public license.

3. Proprietary Rights. The Software is licensed, not sold. You acknowledge and agree that BlueStripe owns, controls and shall retain all right, title, and interest in and to the Software, including but not limited to all associated algorithms, data structures, techniques, report formats, and screen formats, as well all related patents, trademarks, copyrights, trade secrets, and all other intellectual property rights therein. BlueStripe reserves all rights not expressly granted to you in this Agreement.

4. Support and Maintenance. Provided that You have paid the applicable annual support and maintenance fee, BlueStripe will provide You with support and maintenance, as follows:

4.1. BlueStripe will provide telephone and/or email support regarding suspected errors in the Software and general advice on the use of the Software from 9:00 a.m. to 5:00 p.m. Eastern Time, on Monday through Friday (excluding BlueStripe holidays) to up to two (2) of Your designated employees (“Designated Contacts”). The Designated Contacts will take reasonable steps to review and resolve the question prior to contacting BlueStripe, including by consulting the Documentation.

4.2. BlueStripe will use commercially reasonable efforts to correct errors in the Software and will deliver error corrections to You in a reasonably prompt manner. Minor or cosmetic fixes may be delivered in the next release of the Software.

4.3. BlueStripe will provide You with generally commercially released code corrections, patches, updates, and releases (collectively, “Updates”) of the Software. Unless otherwise agreed by BlueStripe, You will be responsible for installing and implementing all such Updates. All Updates and bug fixes delivered by BlueStripe will be deemed part of the Software under this Agreement and are subject to the terms and restrictions in this Agreement. BlueStripe is only responsible for supporting the current and immediately prior version of the Software.

4.4. Support and maintenance does not include: (a) implementation, training or consulting services, or (b) support or assistance relating to hardware or third-party software, or to issues affecting the Software caused by hardware or third-party software.

4.5. You will provide BlueStripe with access to the Software as installed on Your systems and other information and facilities as reasonably necessary for BlueStripe to perform its support and maintenance obligations.

4.6. For Evaluation Version Software only: BlueStripe shall provide reasonable, best-effort support to You during the evaluation period. No limit is imposed, however response times are not guaranteed. Support will be provided via telephone and/or email by a primary contact, which will be a local BlueStripe representative or agent.

5. Use of Data. You agree that BlueStripe may collect and use technical information gathered as part of any services provided to you and related to the Software and its functioning, solely for the purpose of improving the Software and other products and to provide custom services or technologies to You. BlueStripe will not disclose this information in a manner that identifies You or any individual person.

6. Evaluation Feedback. You may provide to BlueStripe input regarding Your reactions, comments, and suggestions for improvement regarding the Software, including but not limited to usability, missing features, functional errors and bug reports. All such reports and other feedback You provide to BlueStripe may be used by BlueStripe for any purpose whatsoever, and BlueStripe will be the sole owner of any and all inventions or improvements developed by BlueStripe.

## 7. Warranties and Disclaimers.

7.1. General. BlueStripe warrants that the Software will conform substantially in accordance with the accompanying Documentation for a period of sixty (60) days from the date of delivery. In the event that You provide notice of a breach of the foregoing warranty during the warranty period, BlueStripe will as its sole remedy repair or replace the Software or return the amount paid for the Software. This warranty applies to the originally delivered Software only and not to any Updates.

For Evaluation Version Software only: No representations or warranties regarding performance or functionality are provided by BlueStripe in the event that the Software Program(s) are licensed to You as an Evaluation Version,

7.2. Disclaimer. BlueStripe does not warrant that the Software will operate uninterruptedly or error-free. You are solely responsible for maintaining all third-party software and hardware in accordance with applicable vendor requirements. BlueStripe has no responsibility for data provided for processing by the Software. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BLUESTRIPE MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THIS AGREEMENT OR THE SOFTWARE INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, OR CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION.

8. Limitation of Liability and Remedies. IN NO EVENT WILL BLUESTRIPE OR ITS AUTHORIZED REPRESENTATIVES OR SUPPLIERS BE LIABLE TO YOU FOR ANY CLAIMS OR DAMAGES IN EXCESS OF AMOUNTS PAID BY YOU FOR THE SOFTWARE. NEITHER BLUESTRIPE NOR ITS SUPPLIERS SHALL BE LIABLE FOR ANY LOST DATA, LOST PROFITS, LOST SAVINGS, PERSONAL INJURY, DEATH, OR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF YOUR USE OF OR INABILITY TO USE THE SOFTWARE OR THIS AGREEMENT, EVEN IF BLUESTRIPE OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BLUESTRIPE WILL NOT BE LIABLE FOR ANY SUCH CLAIM BY ANY OTHER PARTY. These limitations of liability and remedies shall apply to the maximum extent allowed by law and even if any remedy fails of its essential purpose.

9. Confidentiality. You agree that the Software, its functionality, and any other material provided by BlueStripe that is marked "confidential" (collectively, "**Confidential Information**") are the confidential property of BlueStripe. You will not use or disclose any Confidential Information except to the extent You can document that any such Confidential Information is in the public domain and generally available for use and disclosure by the general public without any charge or license. You recognize and agree that there is no adequate remedy at law for a breach of this Section, that such a breach would irreparably harm BlueStripe and that BlueStripe is entitled to equitable relief (including, without limitation, injunctive relief) with respect to any such breach or potential breach, in addition to any other remedies available at law. You agree not to deliver or otherwise make the Software available to anyone other than You and only for the normal end-uses of the Software.

10. Export Regulation. You acknowledge that the Software and related technical data are subject to export restrictions under United States law. You agree to comply strictly with all applicable United States and international export and import control laws, including but not limited to the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by the United States and other governments.

11. Term and Termination. Excluding Evaluations Versions of the Software, this Agreement and the License are effective until terminated. Either party may terminate this Agreement and the License if the other party breaches any of the terms of this Agreement, and such breach is not cured after ten (10) days written notice. Within five (5) days after the date of termination You shall return to BlueStripe or destroy, at BlueStripe's option, all copies of the Software in Your possession or control, including any and all copies made by You and any Documentation. Upon BlueStripe's request, You will certify in a written document signed by You that all copies of the Software have been returned to BlueStripe, or destroyed, and that no copies of the Software are in Your possession or control. You may terminate this Agreement by providing BlueStripe notice and destroying or returning the Software and all copies, duplicates or backups thereof. Sections 3, 7, 8, 9, 12, 13, and 14 shall survive termination of this Agreement.

12. Law and Disputes. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. All disputes arising under this Agreement or its subject matter that cannot be settled by good faith negotiation shall be decided by arbitration under the rules of the American Arbitration Association. The decision of the arbitrator or arbitrators shall be final. The site of the arbitration will be in Raleigh, North Carolina, unless otherwise expressly agreed, and the arbitration award shall be enforceable in any court of competent jurisdiction. Notwithstanding anything contained in this Paragraph to the contrary, BlueStripe shall have the right to institute judicial proceedings against You or anyone acting by, through or under You, in order to enforce BlueStripe's rights hereunder through reformation of contract, specific performance, injunction or similar equitable relief. The prevailing party in any action to enforce this Agreement shall be entitled to recover its reasonable attorneys' fees from the other party.

13. Entire Agreement. This Agreement sets forth the entire understanding between You and BlueStripe with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, oral and written, as they regard the licensing of the Software. This Agreement may be amended only in a writing signed by both parties. No vendor, distributor, dealer, retailer, sales person or other person is authorized to modify this Agreement or to make any warranty, representation or promise which is different than, or in addition to, the representations or promises of this Agreement.

14. Miscellaneous. No waiver of any right under this Agreement shall be effective unless in writing, signed by a duly authorized representative of the waiving party; failure to insist upon strict compliance with this Agreement shall not be deemed a waiver of any future right arising out of this Agreement. The relationship between BlueStripe and You under this Agreement is intended to be that of independent contractor. Nothing in this Agreement shall be construed to create any partnership, joint venture, employer-employee or agency relationship of any kind. All Software provided to the United States government is provided with the commercial license rights and restrictions described elsewhere herein. You grant BlueStripe and its representatives the right to audit Your compliance with the terms of this Agreement upon reasonable notice to You. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be fully severable, and this Agreement shall be construed and enforced as if the illegal, invalid or unenforceable provision had never been a part of this Agreement. Neither party may assign or transfer this Agreement, and any such attempted assignment or transfer shall be null and void. Notwithstanding the foregoing: (a) BlueStripe may assign this Agreement without consent to: (i) an affiliated company, or (ii) a party acquiring all or substantially all of the business of BlueStripe relating to the Software, and (b) You may assign this Agreement without consent to a party acquiring all or substantially all of Your business.

15. Binding Agreement. BY DOWNLOADING, INSTALLING OR USING THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. If You have any questions concerning this Agreement, You may contact BlueStripe at sales@bluestripe.com.