

## **END-USER LICENSE AGREEMENT FOR THE VISION SOFTWARE/WEB APPLICATION AND RELATED MODULES**

**IMPORTANT - READ CAREFULLY:** This End-User License Agreement ("EULA") is a legal contract between you (either an individual or a single business entity) and V. Alexander & Co., Inc. which is located in Memphis, Tennessee and operates product(s) that is located via internet URL: [www.valexander.com](http://www.valexander.com) which for the software application identified above (the "Software Application"). V. Alexander & Co., inc. will also be referred to as VALEXCO further within this document.

BY USING OUR WEB BASED PRODUCT YOU AGREE TO THE TERMS WITHIN THIS DOCUMENT, WHICH MAY ALSO BE SUBMITTED AND TRANSMITTED IN WRITING WHEN DOING BUSINESS IN PERSON. VALEXCO ENCOURAGE ALL USERS OF OUR PRODUCT TO KEEP A PRINTED COPY OF THIS AGREEMENT AND ALL UPDATED VERSIONS ON HAND FILED. BY THIS AGREEMENT OR OTHERWISE USING THE SOFTWARE APPLICATION, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, INCLUDING THE WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY AND TERMINATION PROVISIONS BELOW. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT SIGN THIS AGREEMENT OR USE THE SOFTWARE APPLICATION, YOU ALSO REPRESENT AND WARRANT THAT YOU ARE AUTHORIZED TO ENTER THIS AGREEMENT ON BEHALF OF THE PERSON OR ENTITY USING THE SOFTWARE APPLICATION. YOU ALSO AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF USE FOR THE VALEXCO WEB SITE LOCATED AT [WWW.VALEXANDER.COM](http://WWW.VALEXANDER.COM). LOGGING INTO THIS SOFTWARE BY MEANS OF A USER ACCOUNT OTHER THAN YOUR OWN IS A DIRECT VIOLATION OF THIS AGREEMENT AND VIOLATORS WILL BE PROSECUTED TO THE FULL EXTENT APPLICABLE LAWS. THE PURPOSE OF THIS SOFTWARE IS TO GIVE ACCESS SOLELY TO YOUR USER ACCOUNT TO VIEW DATA RELATED TO BUSINESS TRANSACTIONS BETWEEN YOURSELF OR YOUR COMPANY AND VALEXCO AND NO OTHER PARTY. COMPETITORS OF VALEXCO, CONSULTANTS OR ANY OTHER THIRD PARTY ARE STRICTLY PROHIBITED FROM ACCESSING OR VIEWING THIS SOFTWARE OR DATA THEREIN EVEN IN A PRINTED FORMAT UNDER ANY CIRCUMSTANCES.

### **LICENSE TERMS**

Subject to the terms and conditions of this Agreement, including, but not limited to, payment of the applicable fees quoted by VALEXCO, VALEXCO hereby grants you a revocable, non-exclusive, non-transferable, non-sub license to use the Software Application strictly in accordance with the terms and conditions of this Agreement.

The Software Application provides you with certain supply chain management capabilities. This information is proprietary to VALEXCO and its data suppliers. This information is licensed for your internal personal or professional use and may not be resold or provided to others. You may not distribute, sell, rent, sublicense, or lease such information, in whole or in part to any third party; and you will not make such information available in whole or in part to any other user in any networked or time-sharing environment, or transfer the information in whole or in part to any computer other than the PC used to access this information.

## **LICENSE LIMITATIONS**

You may not rent, lease or lend the Software Application, use it in a service bureau arrangement or use it in a manner inconsistent with the related documentation. You may not reverse engineer, decompile, or disassemble the Software Application, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation.

Without prejudice to any other rights, VALEXCO may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement or if you violate Website Terms and Conditions of Use. In such event, you must destroy all copies of the Software Application and all of its component parts and related data and proprietary information, and VALEXCO may suspend or deactivate your use of the Software Application with or without notice.

## **GOVERNING LAW**

This Agreement shall be governed by the laws on a local, state level and national level within the United States. All use of company operations relating to VALEXCO aim to be in complying with all state and federal regulations of the U.S. and foreign territories. You hereby consent to exclusive jurisdiction and venue in the courts of the State of Tennessee. You may not assign or otherwise transfer this Agreement or the rights and licensed granted hereunder.

## **PROPRIETARY RIGHTS**

All title, copyrights, patent rights or other proprietary or intellectual property rights in and to the Software Application (including, without limitation, any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the Software Application), the accompanying media and printed materials, and any copies of the Software Application are owned by VALEXCO or its suppliers. The VALEXCO name and logo, and all related products and service names, design marks, and slogans, without limitation, are property of V. Alexander & Co., Inc., A Tennessee Corporation (VALEXCO) located via internet at [www.valexander.com](http://www.valexander.com). All other product and service marks contained herein are the trademarks and/or property of their respective owners.

## **DISCLAIMERS OF WARRANTY, LIABILITY AND DAMAGES**

THIS SOFTWARE APPLICATION AND THE ACCOMPANYING FILES AND DATA AND ANY RELATED SERVICES, IS PROVIDED "AS IS." YOU ASSUME ALL RESPONSIBILITY AND RISK FOR THE USE OF THE SOFTWARE APPLICATION, RELATED DATA AND SUCH SERVICES AND YOUR USE OF THE INTERNET GENERALLY. VALEXCO AND ITS PARENTS, SUBSIDIARIES, SUPPLIERS AND THEIR RESPECTIVE EMPLOYEES DO NOT AND CANNOT WARRANT THE PERFORMANCE OR RESULTS YOU MAY OBTAIN BY USING THE SOFTWARE APPLICATION, DATA OR SUCH SERVICES. VALEXCO AND ITS PARENTS, SUBSIDIARIES, SUPPLIERS OR THEIR RESPECTIVE EMPLOYEES MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES AS TO TITLE OR INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ACCURACY OF DATA, OR THAT THE SOFTWARE APPLICATION AND RELATED DATA AND SERVICES ARE VIRUS OR ERROR FREE.

Good data processing procedure dictates that any program be thoroughly tested with noncritical data before relying on it. The user must assume the entire risk of using the Software Application.

Any material contained on this service may include inaccuracies or errors. V. Alexander & Co., Inc. has the right to make changes and updates to any information contained within this service and any specifications, equipment data, VIN decode specifications, and prices without prior notice.

IN NO EVENT WILL VALEXCO OR ITS PARENTS, SUBSIDIARIES, SUPPLIERS, SERVICE PROVIDERS OR THEIR RESPECTIVE EMPLOYEES BE LIABLE TO YOU FOR ANY CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGES, INCLUDING ANY LOST PROFITS, LOST DATA OR LOST SAVINGS, EVEN IF A VALEXCO REPRESENTATIVE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY. THE MAXIMUM LIABILITY OF VALEXCO OR ITS PARENTS, SUBSIDIARIES, SUPPLIERS, SERVICE PROVIDERS OR THEIR RESPECTIVE EMPLOYEES HEREUNDER AND OTHERWISE WITH RESPECT TO THE SOFTWARE APPLICATION AND/OR RELATED SERVICES SHALL BE THE AMOUNTS PAID BY YOU HEREUNDER.

Some states or jurisdictions do not allow the exclusion or limitation of incidental, consequential or special damages, or the exclusion of implied warranties or limitations on how long a given warranty may last, so the above limitations may not apply to you.

### **Superseding Addendum to Services Agreement and End User Services Agreement**

THIS SUPERSEDING ADDENDUM (this "Addendum") is made so that certain VALEXCO Services Agreement (the "Services Agreement") between VALEXCO and its client ("Client") which Services Agreement incorporates the terms and conditions of the V. Alexander & Co., Inc. (VALEXCO) End User Services Agreement (the "EULA") and is effective as of the Effective Date March 10th, 2011. In the event of any conflict or inconsistency between this Addendum and the Services Agreement, the terms and conditions of this Addendum shall control.

**1. Software Application.** The term Software Application shall mean the entire VISION suite of products, including the V. Alexander & Co., Inc. website ([www.valexander.com](http://www.valexander.com)) and any future modules released as part of the VISION product line.

**2. Ownership of and license in the Client Data.** Client shall retain ownership in all data submitted by Client via the Software Application (the "Client Data"). Client hereby grants VALEXCO a limited non-exclusive license in the Client Data for the term of the Agreement, solely for the purposes of performing the services described herein and in the Agreement.

**3. Partnerships with VALEXCO.** Client(s) may subscribe to use our service(s) that are integrated within our product communicating with other 3rd party websites, government agencies, services vendors and software applications to communicate data stored within the VALEXCO system. This service is a convenience to subscribers and VALEXCO holds no warranties or guarantees relating to the warranties and disclaimers within this document. Client(s) may incur extra fees relating to our partners separate from any fees owed or collected by VALEXCO.

**4. Use of Output of Application Services.** Client may use, copy, display any reports, and other such materials generated by the Application Services using Client Data, strictly for their internal purposes. Distribution external to the Client(s) is strictly prohibited. Client agrees not to reproduce the look and feel of such generated materials in any materials produced by Client using other software or produced after the term of this Agreement.

**5. Confidential Information.** Each party agrees that during the term of the Services Agreement and this Addendum, and for a period of five (5) years thereafter: (i) it shall not commercialize or disclose the other party's Confidential Information to any person or entity, except to its own employees, contractors, or agents, (collectively "Representatives") having a need to know; (ii) it will not use, nor will it permit its Representatives to use, the Confidential Information of the other for any purpose other than the performance of the Services Agreement; (iii) it will disclose the Confidential Information of the other only to those Representatives who are contractually bound to maintain the confidentiality thereof; (iv) it shall be responsible for any disclosure or misuse of such Confidential Information by such Representatives; and (v) it shall use at least the same degree of care in safeguarding the other party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event shall it use less than reasonable diligence and care. "Confidential Information" shall mean, with respect to a party hereto, any information or material that (A) is marked "Confidential," "Restricted," or "Proprietary Information" or other similar marking, (B) is known by the parties to be considered confidential and proprietary, or (C) should be known or understood to be confidential or proprietary by an individual exercising reasonable commercial judgment. Confidential Information does not include information which: (i) is or becomes generally known to the public by means other than a breach of the obligations of a receiving party; (ii) was previously known to the receiving party; (iii) is rightly received by the receiving party from a third party who is not under an obligation of confidentiality; (iv) is independently developed by the receiving party without reference to the other party's Confidential Information; or (v) is subject to disclosure under court order or other lawful process, but only to the extent required to be disclosed by such order or process.

**6. Protection of Certain Client Data:** VALEXCO represents and warrants to Client that our company presently maintains, and will continue to maintain and periodically test the efficacy of, appropriate information security programs and measures designed to ensure the security and confidentiality of "Customer Information". Such information security programs and measures shall include appropriate procedures designed to:

- Protect the security and confidentiality of such information;
- Protect against anticipated threats or hazards to the security or integrity of such information, and
- Protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to any customer of the Client.

Applicable governmental regulators may, from time to time, also audit the security programs and measures implemented by the Service Provider pursuant to this Section and the Service Provider shall not impose any fees or charges on the Dealer, its representatives or applicable governmental regulators in connection with such audit.

**7. Fees.** VALEXCO may charge a fee for these online services in addition to other fees related to transportation, Customs clearance or other services. This fee may be waived at the discretion of VALEXCO on a customer by customer basis.

**8. Limited Warranty.** VALEXCO, represents and warrants that the Software Application will perform substantially in accordance with the specifications set forth in the Services Agreement and the attachments thereto. Client's sole remedy and VALEXCO sole obligation with respect to a breach of this warranty shall be for [www.valexander.com](http://www.valexander.com), (VALEXCO) to use commercially reasonable efforts to correct any reproducible errors in the Software Application. Subject to the foregoing, all warranty disclaimers in the EULA shall apply.