

# Software License Agreement

**WHEREAS**, Licensor desires to license the Software described in **Exhibit A** attached hereto to Licensee; and

**WHEREAS**, Licensee desires to obtain a license to use the Software for its internal business purposes, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

a. “Authorized User” means an employee or contractor of Licensee who Licensee permits to access and use the Software and/or Documentation pursuant to Licensee’s license hereunder.

b. “Documentation” means Licensor’s user manuals, handbooks, and installation guides relating to the Software provided by Licensor to Licensee either electronically or in hard copy form/end user documentation relating to the Software.

c. “Software” means the product described in **Exhibit A** in object code format, including any Updates provided to Licensee pursuant to this Agreement. The Software may contain certain Third-Party Products.

d. “Third-Party Products” means any third-party products described in **Exhibit A** provided with or incorporated into the Software, including any open source software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative.

e. “Updates” means any updates, bug fixes, patches, or other error corrections to the Software that Licensor generally makes available free of charge to all licensees of the Software.

2. License.

a. License Grant. Subject to and conditioned on Licensee’s payment of Fees and compliance with all other terms and conditions of this Agreement, Licensor hereby grants Licensee a non-exclusive, non-sublicensable, and non-transferable (except in compliance with Section 13(g)) license during the Term to: (i) use the Software solely for Licensee’s internal business purposes up to the number of Authorized Users set forth in **Exhibit A**; and (ii) use and make a reasonable number of copies of the Documentation solely for Licensee’s internal business purposes in connection with Licensee’s use of the Software. The total number of Authorized Users will not exceed the number set forth in **Exhibit A**, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the license fees payable hereunder. Licensee may make one copy of the Software solely for back-up, disaster recovery, and testing purposes. Any such copy of the Software: (x) remains Licensor’s exclusive property; (y) is subject

to the terms and conditions of this Agreement; and (z) must include all copyright or other proprietary rights notices contained in the original.

b. Use Restrictions. Licensee shall not use the Software or Documentation for any purposes beyond the scope of the license granted in this Agreement. Without limiting the foregoing and except as otherwise expressly set forth in this Agreement, Licensee shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Software or the Documentation, in whole or in part; (ii) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software or the Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part; (iv) remove any proprietary notices from the Software or the Documentation; or (v) use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

c. Reservation of Rights. Licensor reserves all rights not expressly granted to Licensee in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party any intellectual property rights or other right, title, or interest in or to the Software.

d. Representations and Warranties: Licensor represents and warrants: (i) that it is the owner of the Software and each and every component thereof, or the recipient of a valid license thereto, and that it has and will maintain the full power and authority to grant the intellectual property and other rights granted in this Agreement without the further consent of any third party; (ii) that during the Term, the Software will perform materially according to the Documentation.

3. Licensee Responsibilities. Licensee is responsible and liable for all uses of the Software and Documentation resulting from access provided by Licensee, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Licensee is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Licensee will be deemed a breach of this Agreement by Licensee. Licensee shall take reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Software, and shall cause Authorized Users to comply with such provisions.

4. Hardware. Licensor shall provide Licensee with the specific hardware and integrated solutions described on **Exhibit B** following the Effective Date and thereafter, solely if Licensee purchases additional hardware of integrated solutions. The fees associated with the hardware and integrated solutions described by this Section 4 are set forth in **Exhibit B**.

5. Support. Licensor shall provide Licensee with the support services described on **Exhibit C** following the Effective Date and thereafter, solely if Licensee purchases additional support services. The fees associated with the support services described by this Section 5 are set forth in **Exhibit C**.

6. Fees and Payment.

a. Fees. Licensee shall pay Licensor the fees ("Fees") set forth in **Exhibits A, B, and C**, as applicable, without offset or deduction. Licensee shall make all payments hereunder in US dollars on or before the due date set forth in **Exhibits A, B, and C**, as applicable. If Licensee fails to make any payment when due, in addition to all other remedies that may be available: (i) Licensor may charge interest on the past due amount at the rate of 2% per month calculated daily and compounded monthly or,

if lower, the highest rate permitted under applicable law; and (ii) Licensee shall reimburse Licensor for all reasonable costs incurred by Licensor in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for thirty (30) days following written notice thereof, Licensor may prohibit access to the Software until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Licensee or any other person by reason of such prohibition of access to the Software.

b. Taxes. All Fees and other amounts payable by Licensee under this Agreement are exclusive of taxes and similar assessments. Licensee is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Licensee hereunder, other than any taxes imposed on Licensor's income.

7. Confidential Information. From time to time during the Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media, and whether or not marked, designated or otherwise identified as "confidential" (collectively, "Confidential Information"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

8. Intellectual Property Ownership. Licensee acknowledges that, as between Licensee and Licensor, Licensor owns all right, title, and interest, including all intellectual property rights, in and to the Software and Documentation and, with respect to Third-Party Products, the applicable third-party licensors own all right, title and interest, including all intellectual property rights, in and to the Third-Party Products.

9. Limited Warranties and Warranty Disclaimer. THE SOFTWARE AND DOCUMENTATION ARE PROVIDED "AS IS" AND LICENSOR HEREBY DISCLAIMS ALL WARRANTIES (OTHER THAN AS SET FORTH IN SECTION 2(D) ABOVE), WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LICENSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT AND ALL WARRANTIES ARISING FROM COURSE OF

DEALING, USAGE, OR TRADE PRACTICE. LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE AND DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

10. Indemnification.

a. Licensee shall indemnify, hold harmless, and, at Licensor's option, defend Licensor from and against any losses resulting from any third party claim based on Licensee's, or any Authorized User's: (i) negligence or willful misconduct; or (ii) use of the Software or Documentation in a manner not authorized or contemplated by this Agreement; provided that Licensee may not settle any third party claim against Licensor unless such settlement completely and forever releases Licensor from all liability with respect to such third party claim or unless Licensor consents to such settlement, and further provided that Licensor will have the right, at its option, to defend itself against any such third party claim or to participate in the defense thereof by counsel of its own choice.

b. Licensor shall indemnify, hold harmless, and at Licensee's option, defend Licensee from and against any losses resulting from any third party claim based on or related to: (i) Licensor's negligence, breach of its obligations under this Agreement, or willful misconduct; or (ii) any claim that the Software infringes any patent, copyright, trade secret or other intellectual property right of a third party; provided that Licensee may not settle any third party claim against Licensee unless such settlement completely and forever releases Licensee from all liability with respect to such third party claim or unless Licensee consents to such settlement, and further provided that Licensee will have the right, at its option, to defend itself against any such third party claim or to participate in the defense thereof by counsel of its own choice.

12. Limitations of Liability. EXCEPT FOR THIRD PARTY CLAIMS SUBJECT TO INDEMNITY PURSUANT TO SECTION 10 ABOVE, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR SPECULATIVE DAMAGES SUCH AS LOST FUTURE BUSINESS, LOST PRODUCTION, LOST REVENUES, OR LOST PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL LICENSOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED 10X THE TOTAL AMOUNTS PAID TO LICENSOR UNDER THIS AGREEMENT IN THE ONE YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

13. Term and Termination.

a. Term. The initial term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to any of the Agreement's express provisions, will continue in effect until

the third anniversary of such date (the “Initial Term”). This Agreement will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to this Agreement’s express provisions or either Party gives the other Party ninety (90) days’ written notice of termination (each a “Renewal Term” and together with the Initial Term, the “Term”).

b. Termination. In addition to any other express termination right set forth in this Agreement:

i. Licensor may terminate this Agreement, effective on written notice to Licensee, if Licensee fails to pay any amount when due hereunder, and such failure continues more than thirty (30) days after Licensor’s delivery of written notice thereof.

ii. either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach.

c. Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, the license granted hereunder will also terminate, and, without limiting Licensee’s obligations under Section 7, Licensee shall cease using and delete, destroy, or return all copies of the Software and Documentation and certify in writing to the Licensor that the Software and Documentation has been deleted or destroyed. No expiration or termination will affect Licensee’s obligation to pay all Fees that may have become due before such expiration or termination, or entitle Licensee to any refund.

d. Survival. This Section 12(d) and Sections 1, 6, 7, 8, 9, 10, 11 and 13 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

#### 14. Miscellaneous.

a. Entire Agreement. This Agreement, together with any other documents incorporated herein by reference and all related Exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter.

b. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a “Notice”) must be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile, or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party, and (ii) if the Party giving the Notice has complied with the requirements of this Section.

c. Force Majeure. In no event shall Licensor be liable to Licensee, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement, if and to the extent such failure or delay is caused by any circumstances beyond Licensor’s reasonable control, including but not limited to acts of God, flood, fire,

earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

d. Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

e. Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

f. Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of New York.

g. Assignment. Neither party may not assign or transfer any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of the other party; provided, however, either party shall have the right to assign or transfer to an affiliate of such party or a third party acquiring all or substantially all of such party's assets. Any purported assignment, transfer, or delegation in violation of this Section is null and void.

h. Export Regulation. The Software may be subject to US export control laws, including the US Export Administration Act and its associated regulations. Licensee shall not, directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any jurisdiction or country to which export, re-export, or release is prohibited by law, rule, or regulation. Licensee shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the US.

i. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.