

IPWorks EDI Translator - Software License

End User License Agreement (EULA) related to the use of **IPWorks EDI Translator**

THIS END USER LICENSE AGREEMENT (THIS "AGREEMENT") IS BETWEEN /N SOFTWARE AND YOU. BY CLICKING ON THE "I AGREE" BUTTON, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW. IF YOU DO NOT AGREE TO ANY OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, /N SOFTWARE IS UNWILLING TO LICENSE THE SOFTWARE TO YOU, AND YOU MUST NOT INSTALL THE SOFTWARE. THE "EFFECTIVE DATE" OF THIS AGREEMENT IS THE DATE UPON WHICH YOU CLICK THE "I AGREE" BUTTON. For the purpose of this Agreement, you and, if applicable, such company (or other entity) constitutes "you", "your" or "Customer" and "/N SOFTWARE", "us", "our" or "we" refers to /N SOFTWARE, Inc., 101 Europa Drive, Suite 150, Chapel Hill, NC 27517, and its Affiliates, the owner and provider of the Software. Unless defined elsewhere in this Agreement, terms in initial capital letters have the meanings set forth in Section 12.

1. LICENSE AND DELIVERY.

1.1 License Grants. The Software is offered in the following license types, as listed hereinunder during the applicable Term and in consideration of your payment of the applicable fees, and subject to the terms, conditions and restrictions set forth in this Agreement which. The license grants may be combined, pursuant to the specific grant and restrictions set forth below and for the Term noted in the Order Form. The following license types may also be available as Site, Team or Enterprise licenses if noted on the Order Form. For the avoidance of doubt, if the license type listed below is not indicated on your Order Form then it does not apply to your purchase. The license covers any updates, upgrades, or new releases, if any are provided to you by us and any copies you are permitted to make hereunder and any available Documentation. Any references to a "sale" or a "purchase" of the Software in this or any other document means "license" in accordance with the terms contained in this Agreement. You may make a reasonable number of backup copies of the Software and Documentation for internal, Non-Commercial, Non-Production use. All titles, trademarks and copyright and restricted notices in the Software must be reproduced in any copies you are permitted to make hereunder.

1.1.1 Trial License. We grant you a free-of-charge, non-assignable, non-sublicensable, non-exclusive, worldwide right and license for one (1) Authorized User to install and use one (1) copy of the Software solely for internal Non-Production purposes to evaluate the Software to determine whether to purchase a license to the Software. You may not download more than one (1) copy of the Software unless otherwise authorized by us. You may not use the Software for any other purpose. You may only use the Software for thirty (30) days from the Effective Date, unless otherwise authorized by us ("Trial Period"). Unless you pay the applicable fee for the Software, the Software may become inoperable and, in any event, your right to use Software automatically expires at the end of the Trial Period. We may terminate your license to the trial version of the Software upon written notice at any time for any reason and without liability of any kind. If you subsequently license a non-trial version of the Software, your license to the trial version of the Software shall immediately terminate.

1.1.2 Free Commercial License. We grant you a non-assignable, non-sublicensable, non-

exclusive, worldwide right and license for one Authorized User to install the Software on one (1) Machine which may be restricted to a Desktop/Workstation or Server or in other ways as communicated by us to you on the website and internally use the Software for Commercial purposes.

1.1.3 Free Non-Commercial License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to internally use and install the Software on (1) Desktop/Workstation as indicated on the Licensor's website for Non-Commercial purposes.

1.1.4 Development Workstation License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to use and install the Software on the number of Development Workstations indicated in the Order Form which are owned or controlled by you. The total count of Development Workstations where the Software is installed must not exceed the number of licenses purchased on the applicable Order Form.

1.1.5 Developer License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license for the number of Developer(s) indicated in the Order Form to install the Software on any number of Machines in order to internally use the Software to create, develop and test Applications. For clarity, a single Software license may be re-allocated to another Developer in the event that the original Developer is no longer employed by you or has been assigned to a new role where access to the Software will no longer be required on a permanent basis.

1.1.6 Royalty-Free Application Distribution. If the Order Form indicates "Royalty-Free" you may distribute Applications that use the Software as a runtime component without owing additional fees to us provided the Software is not licensed to you on a Trial or Non-Commercial basis and the Application(s): (i) contain no modifications to the Software (including alterations to the original proprietary notices); and (ii) are in compiled, executable form; (iii) do not provide substantially the same functionality as the Software or have as one of their purposes to build other software that would compete with the Software; (iv) do not reproduce or distribute any portion of the Documentation or document the Application in a manner that identifies the programmatic interface to the callable routines in the Software; (v) are not a software development application that is sold primarily to software developers or system integrators, or a development environment of any kind; and (vi) are subject to a license agreement that limits Application end-users use of the Software to a run-time component, restricts the Application end-user from changing, altering or modifying the Software, creating derivative works, translations, reverse assembling, reverse compiling, disassembling, or in any way reverse engineering the Software, and prevents the Application end-user from sublicensing, renting, distributing, leasing or otherwise transferring or assigning any portion of the Software. For clarity, you may not distribute the Software as a runtime component of your Application(s) without explicit permission from us either as set forth herein or in the Order Form.

1.1.7 Server License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to internally use and install the Software on the number of Server(s) listed in the Order Form for Commercial purposes. Unless stated otherwise in the Order Form, for the purposes of this license grant, you may install the Software on one (1) Machine as a substitute for, and not in addition to, one (1) Server. The total count of Server(s) where the Software is installed must not exceed the number of licenses purchased on the applicable

Order Form(s).

1.1.8 Machine License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to internally use and install the Software on the number of Machine(s) set forth in the Order Form for Commercial purposes.

1.1.9 User License. We grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to internally use and install the Software for the number of user(s) set forth in the Order Form for Commercial purposes.

1.1.10 Site License. During the Subscription Term and subject to your payment of fees, we grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to internally use and install the Software on any number of Development Workstations, Machines, Servers or users at a single Site as listed in the Order Form for Commercial purposes.

1.1.11 Cloud License. During the Subscription Term and subject to your payment of fees, we grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license to install the Software on the number of Instances indicated in the Order Form, operated by or on your behalf, for Commercial purposes.

1.2 License Restrictions. All Software licenses are subject to the following restrictions: (a) For each copy of the Software licensed, you may only install one (1) instance of the Software on equipment located in the country identified on the applicable online order form. Additional installations or quantities of the Software require additional licenses. Any relocation of the Software outside the country indicated in the online order form or to different machines is subject to our transfer policy and applicable export laws. Software licenses may be reallocated to different equipment provided that the Software is uninstalled from the original equipment. (b) If you install updates, upgrades, or new releases of the Software, if any are provided to you by us, you must uninstall and cease use of all previous versions of the Software, so that your actual use and deployment of the Software corresponds to the quantities that you actually licensed and paid for. (c) You can't make the Software available to your Affiliates or unauthorized third parties without our express written consent. (d) You can't sublicense, rent or lease the Software for third-party training or commercial time-sharing. (e) You agree that you won't distribute, sell, sublicense, subcontract or otherwise transfer copies of or rights to the Software or any portion thereof, and shall not use the Software except as expressly permitted hereunder. (f) You agree to not adapt, translate, reverse engineer, decompile or otherwise derive the source code for the Software or any of the related features of the Software or to allow third parties to do so, unless otherwise mutually agreed in writing and except to the extent specified by law. (g) You will not use any third-party software, including any open source software, in conjunction with the Software, unless you ensure that such use does not cause the Software to become subject to any third party license applicable to such third party software or require the public disclosure or distribution of the Software or the licensing of the Software for the purpose of making derivative works. (h) You will not use the Software for any purpose other than as licensed under this Agreement, including benchmarking or using the Software to create products or services similar to, or competitive with, the Software. (i) You will not use the Software to develop any works which provide substantially the same functionality as the Software or enables building other programs which could compete with the Software, including but not limited to, using a web service to call and/or directly expose the functionality available in the Software.

1.3 Red Carpet Subscription. The terms in this Section only apply, and supersede any conflicting terms herein, if the Order Form indicates "Red Carpet". Subject to your payment of fees, during the Subscription Term we grant you a non-assignable, non-sublicensable, non-exclusive, worldwide right and license for the number of Developers indicated in the Order Form to install the individual software products listed at <https://www.nsoftware.com/subscriptions/details.aspx> as updated from time to time ("Red Carpet Subscription"), on any number of Machines used exclusively by the Developer, in order to create, develop, build and test Applications. Upon expiration of the Subscription Term, the Developer may continue to perpetually use only the individual product keys which were activated and obtained by the Developer prior the expiration of the Subscription Term. For the avoidance of doubt, any individual product keys included in the Red Carpet Subscription which was not previously activated and obtained by the Developer during the Subscription Term will expire. For clarity, the Red Carpet Subscription license may be re-allocated to another Developer in the event that the original named Developer is no longer employed by you or has been assigned to a new role where access to the Red Carpet Subscription will no longer be required. Such transfers shall be limited to no more than one every (6) months. Any Applications developed hereunder with the products included in the Red Carpet Subscription and which are designated on the list as "Royalty-Free", may be distributed according to the subsection entitled "Royalty-Free Application Distribution" above. Any Applications developed hereunder with the products included in the Red Carpet Subscription which are designated on the list as a Machine or Server license are limited to deployment to a single Machine or Server.

1.4 Service Providers. We acknowledge and agree that the Software may, subject to the terms of this Agreement, be used by your service provider(s), including cloud hosting providers, independent contractors, and consultants ("Service Provider(s)") solely for the purposes of providing services for your benefit and solely for the duration of such services. The rights accorded to the Service Provider shall be those permitted in this Agreement and no duplication of the quantities of Software purchased is permitted. You are fully responsible for the Service Provider's use of the Software in accordance with the terms of this Agreement and any Service Provider's breach of this Agreement.

1.5 Delivery and Acceptance. All Software provided hereunder will be delivered electronically. We provide trial licenses of the Software for testing and pre-acceptance before purchase and therefore, delivery is deemed complete and accepted when such Software is made available to you. You are responsible for downloading, installing, registering, or otherwise using the Software.

1.6 Compliance. We, or our designee, has the right, with at least ten (10) business days' prior written notice and not more than once every twelve (12) months, to conduct an audit during your normal business hours to verify your compliance with this Agreement. You agree to complete any request for information within ten (10) business days of the request in a form and format reasonably satisfactory to us. You warrant to us that all information provided in the course of the audit is true, accurate and complete. You agree to immediately remit to us any shortfall in payment disclosed by such software audit including any late charges. In lieu of such audit, and upon written request at any time, you will certify your compliance with the terms of this Agreement in writing, signed by an officer or senior executive.

2. **PREMIUM SUPPORT.** Upon payment of annual fees and if indicated on the Order Form, we will provide you with the Premium Support services for the Software, valid at the time of signature of this Agreement and available at <https://www.nsoftware.com/support/>. Details of the Premium Support services may be modified from time to time, but we warrant to you that no such modification will materially degrade the Premium Support services.

3. **FINANCIAL TERMS.** You agree to pay us the fees indicated in the Order Form. Fees are exclusive of any taxes. You acknowledge and agree all Order Forms are non-cancelable and all fees are non-refundable. In the event that your credit card is declined for any reason, all fees are still due and owing to us and you will promptly provide us with another credit card for payment purposes. Your continued use of the Software or Premium Support on a subscription basis is contingent upon annual payment of fees in advance. Fees are owed and are to be paid in exchange for the rights granted and services made available hereunder and not based on your actual use of the Software, Premium Support or Professional Services. All invoices for Software, Professional Services or Premium Support are due and payable within thirty (30) days of receipt. If we don't receive timely payment, we reserve the right to charge a late fee equal to the lesser of one and half percent (1.5%) compounded monthly of the amount due, or the maximum amount allowed by law in addition to our cost of collection. You are responsible for all applicable taxes including, without limitation, federal, state, and local sales, use, goods, and services, value-added, export or import or equivalent "indirect" taxes and duties on the Software, Premium Support or Professional Services as provided herein.

4. **OWNERSHIP.** As between the parties, all right, title, and interest in the Software, Documentation, Premium Support, our Confidential Information (as defined below), and any other materials furnished or made available hereunder, including any copies made by you, corrections, bug fixes, enhancements, updates, upgrades, new releases or other modifications and derivatives, including custom modifications, to the Software and all other deliverables, modifications, enhancements, and derivative works thereof, and all Intellectual Property Rights therein are and remain our property. No implied licenses are granted hereunder. We reserve all rights not expressly granted hereunder. As between the parties, all of your data processed and/or analyzed through the use of the Software, and your Confidential Information (as defined below) and all Intellectual Property Rights therein are and remain your property.

5. **PROFESSIONAL SERVICES.** You may request that we provide certain Professional Services related to the Software. Any Professional Services to be provided will be included in Order Form or statement of work ("SOW"), which shall describe the fees, costs, and expenses payable by you in connection with the performance of such Professional Services, and which shall describe the scope of such services. The Order Form or SOW shall be binding upon the Parties only after mutual execution or performance by us and payment of Professional Services fees by you. Each such Order Form or SOW shall be considered an integral part of this Agreement.

6. **DATA PRIVACY.** You will install and use the Software on your premises and network environment and as such we do not store, process, or have any access to any of your data which is accessed and used as part of, or through your use of the Software. For business to business data collected during the sales, registration, and marketing process and for the telemetry data which is automatically transmitted to us in the United States of America during installation, we will process and store such information pursuant to our privacy policy available at <https://www.nsoftware.com/company/legal/privacy/>.

7. CONFIDENTIALITY. "Confidential Information" means any non-public information that is designated "confidential" or that a reasonable person should understand is confidential, including, but not limited to, the terms of this Agreement, the Software, or related performance test results derived by you, including but not limited to benchmark test results. Neither party will disclose Confidential Information to any third party without the disclosing party's prior consent. Confidential Information may only be disclosed to individuals that need to know such information, and on the condition that the individual is subject to a written agreement to protect information with terms as protective as this Agreement. For the purposes of this section, the definition of /N SOFTWARE and Customer includes Affiliates of either party. Confidential Information remains the sole property of the disclosing party; except for rights explicitly granted in this Agreement, the receiving party does not acquire any rights to such Confidential Information. The duty to protect Confidential Information does not apply to information that is shown to be: (a) available to the public other than by a breach of a confidentiality obligation; (b) rightfully received from a third party not in breach of a confidentiality obligation; (c) independently developed by one party without use of the Confidential Information of the other; (d) known to the recipient at the time of disclosure (other than under a separate confidentiality obligation); (e) produced in compliance with applicable law or court order, provided the other party is given reasonable advance notice of the obligation to produce Confidential Information (to the extent legally permitted) and reasonable assistance, at the disclosing party's cost, if the disclosing party wishes to contest the disclosure. Money damages may not be a sufficient remedy for a breach of confidentiality. If either party breaches the confidentiality obligations, the non-breaching party may seek injunctive or other equitable relief without the necessity of posting a bond even if otherwise normally required. Such injunctive or equitable relief is in addition to all other rights and remedies available at law or in equity. You agree that if you provide us with any suggestions, comments, or other feedback about our Confidential Information ("Feedback") such Feedback is given voluntarily. You also agree that even if you designate such Feedback as confidential, unless the parties enter into a separate subsequent written agreement, the Feedback shall not be confidential and we shall be free to use, disclose, reproduce, license, or otherwise distribute the Feedback in our sole discretion without any obligations or restrictions of any kind, including without limitation, Intellectual Property Rights.

8. WARRANTY; DISCLAIMER. You represent and warrant that: (a) all users authorized by you will abide by the terms of this Agreement; and (b) you will comply with all applicable laws, regulations, rules, orders, and other requirements, now or hereafter in effect, of any applicable governmental authority, in your performance of this Agreement. Notwithstanding any terms to the contrary in this Agreement, you will remain responsible for acts or omissions of all users authorized by you to the same extent as if such acts or omissions were undertaken by you. THE SOFTWARE, PREMIUM SUPPORT AND PROFESSIONAL SERVICES ARE PROVIDED ON AN "AS IS" OR "AS AVAILABLE" BASIS WITHOUT ANY REPRESENTATIONS, WARRANTIES, COVENANTS OR CONDITIONS OF ANY KIND. WE DO NOT WARRANT THAT SOFTWARE, PREMIUM SUPPORT OR PROFESSIONAL SERVICES WILL BE FREE FROM ALL BUGS, ERRORS, OR OMISSIONS. WE DISCLAIM ANY AND ALL OTHER WARRANTIES AND REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE SOFTWARE, PREMIUM SUPPORT OR PROFESSIONAL SERVICES WHETHER ALLEGED TO ARISE BY OPERATION OF LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, BY COURSE OF DEALING OR OTHERWISE, INCLUDING ANY AND ALL (I) WARRANTIES OF MERCHANTABILITY, (II) WARRANTIES OF FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT WE KNOW, HAVE REASON TO KNOW,

HAVE BEEN ADVISED, OR ARE OTHERWISE AWARE OF ANY SUCH PURPOSE), AND (III) WARRANTIES OF NONINFRINGEMENT OR CONDITION OF TITLE. YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE NOT RELIED ON ANY WARRANTIES.

9. LIMITATION OF LIABILITY. EXCEPT FOR ANY ACTS OF FRAUD, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, IN NO EVENT WILL WE BE LIABLE TO YOU OR ANY THIRD PARTY CLAIMING THROUGH YOU FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SOFTWARE, PREMIUM SUPPORT AND PROFESSIONAL SERVICES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OR ARE OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR ANY ACTS OF FRAUD, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, IN NO EVENT WILL OUR TOTAL LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE OF THE AMOUNTS PAID OR PAYABLE BY YOU TO US, IF ANY, UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION.

10. TERM; TERMINATION. Except as otherwise stated herein, this Agreement will remain in effect until terminated. The term for any Software starts on the Effective Date of the Order Form and continues as indicated on the Order Form ("Term"). Except as otherwise specified in the applicable Order Form, subscription terms are for twelve (12) months from the Effective Date ("Subscription Term") and upon your payment of renewal fees will renew for successive twelve (12) month periods, starting the day following the expiration of the previous Subscription Term, unless and until terminated by either party in accordance herewith or unless either party provides written notice of nonrenewal to the other party at least 30 days prior to the end of the then-current Subscription Term. We may increase pricing applicable to the renewal of any then-current Subscription Term by providing you with notice thereof, including by email, at least thirty (30) days prior to the end of such Term. Unless otherwise indicated on an Order Form, you may terminate this Agreement or any Order Form at any time without cause. However, we will not provide refunds if the Agreement or an Order Form is terminated without cause. Without limiting other remedies, it may have, either party may terminate this Agreement or any Order Form immediately on notice if (i) the other party materially breaches the Agreement or an Order Form and fails to cure the breach within thirty (30) days after receipt of notice of the breach; or (ii) the other party becomes insolvent. Upon termination of a Subscription, the following will apply: (a) All licenses granted, except for fully-paid, perpetual licenses, will terminate and you must stop using, de-install and permanently delete all of the applicable Software, whether modified or merged into other materials and/or Applications; (b) all updates and upgrades cease; (c) All amounts due under any unpaid invoices will become due and payable immediately; and (d) If we are in breach, you will receive a prorated refund for any fees paid in advance. We may suspend your use of the Software and Premium Support as applicable without terminating this Agreement during any period of material breach. We will give you reasonable notice and a chance to cure the breach before suspending your use of the Software and Premium Support. Suspension will only be to the extent reasonably necessary until the breach is cured. The parties' rights and obligations under this section and sections entitled "Financial Terms", "Ownership", "Confidentiality", "Warranty; Disclaimer", "Limitation of Liability", and "General" survive the termination of this Agreement and/or an Order Form.

11. GENERAL. (a) This Agreement, our Privacy Policy set forth at <https://www.nsoftware.com/company/legal/privacy/> and any Order Forms or SOWs agreed to by you, in writing or by your actions, constitutes the entire agreement between the Parties with respect to the Software and supersedes any prior or contemporaneous understandings, oral or written, and all other communications between the Parties. You acknowledge that you have not relied on the availability of any future version of the Software or any future product in executing this Agreement. Further, this Agreement may not be amended except by a writing signed by both parties. Any inconsistent terms on Purchase Orders or other documents or portals regarding the Software, Professional Services or Premium Support provided under this Agreement issued by you, are for your internal use only, and any provisions contained in any such document shall have no effect whatsoever upon this Agreement. (b) A Party is not liable for non-performance of obligations under this Agreement, if the non-performance is caused by events or conditions beyond that Party's control, and the Party gives prompt notice and makes all reasonable efforts to perform. In no event will this provision affect a Party's obligation to make payments under this Agreement. (c) Unless you notify us within ten days of the Effective Date of this Agreement, we can include your name and/or logo in a public list of current customers who use our Software, provided that (1) your name and/or logo is not highlighted and does not stand out in comparison to the names and/or logos of other customers; and (2) we don't make any representation or attribute any endorsements to you without prior written consent. (d) This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their successors and assigns. You may not assign (whether voluntary or involuntary or by merger, operation of law or change of control), delegate, novate or otherwise transfer your rights and obligations under this Agreement without our prior knowledge and written consent. (e) This Agreement shall be governed by North Carolina law, without regard to conflict of law provisions. The application of Uniform Computer Information Transactions Act (UCITA), the Uniform Commercial Code (UCC) or the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. (f) The waiver or failure of a party to exercise in any respect any rights provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect. (g) You agree to defend, indemnify, and hold us harmless from and against liabilities, costs, damages, and expenses (including settlement costs and reasonable attorney fees) arising from any claims from anybody that result from or relate to you and your third parties' use, reproduction or distribution of any permitted Applications herein. (h) If you are a branch or agency of the U.S. Government, use, duplication, or disclosure of the Software is subject to the restrictions set forth in this Agreement except that this Agreement shall be governed by federal law. Any additional rights or changes desired by the U.S. Government shall be negotiated with us consistent with this Agreement. (i) Each party acknowledges its obligation to comply with all applicable laws, rules, statutes, and regulations, including specifically but not limited to export laws including Bureau of Export Administration restrictions and anti-corruption legislation. Each party warrants that, to the best of its knowledge no money or other consideration of any kind paid or payable under this Agreement or by separate Agreement is, has been or will be used for unlawful purposes, including purposes violating anti-corruption laws, including making or causing to be made payments to any employee of either party or anyone acting on their behalf to assist in obtaining or retaining business with, or directing business to, any person, or securing any improper advantage. (j) We are an independent contractor and our personnel are not and shall not be considered

employees or agents of your company for any purpose whatsoever.

12. DEFINITIONS. Some defined terms that you should be familiar with are: (a) Affiliates means entities, regardless of corporate status, controlled by, controlling or under common control with a party, respectively, or officers, directors, shareholders, employees, or agents of any of the foregoing. (b) Application means any application, program, or other software that you develop using the Software. An Application must represent a significant functional and value enhancement to the Software. (c) Authorized User means one named person, employee, contractor, or temporary worker authorized by you to use the Software for personal use or while performing duties within the scope of their employment or assignment. (d) Commercial means any use or handling of the Software by any person or entity for financial reasons, whether or not profitable. (e) Core means a core of a CPU made up of an independent processor combined onto a single integrated circuit or silicon chip, in both virtualized and/or non-virtualized environments, and regardless of whether used in a Production or Non-Production environment. (f) Desktop/Workstation means a single physical machine, including but not limited to a personal computer, workstation, laptop computer, desktop computer or mobile device, specifically excluding a Server, on which the Software is loaded or executed, that is operated, either attended or via remote access, by one person at a time, and cannot be used by more than one person, directly or indirectly, simultaneously. (g) Developer means any named identifiable individual person, not necessarily named at the time of a license grant, regardless of whether or not the individual is actively using the Software at any given time, designated by you to do any of the following: (1) build, compile, assemble, test or otherwise cause to be executed any application programs that rely on the Software as a component; (2) use or execute any Software programs for development, testing, or support purposes; (3) package or otherwise prepare Software components for redistribution as part of another program or application; or (4) have possession of any Software resources or files for any purposes other than archiving. (h) Development Workstation means a physical computer owned or controlled by you that is accessed and used for software development and testing purposes by only one (1) Developer and with respect to use of the Software does not participate in a shared development environment meaning software development occurring in a network or computer infrastructure shared by multiple people; and/or software development occurring on a computer that is not dedicated to be used only by your Developer. A Development Workstation may, for your Developer's sole use, host one or more virtual machines containing the Software. (i) Instance means a loaded operating system running either on a physical computer or within a virtual environment or an equivalent environment. Each virtual environment on a physical computer is deemed an instance. (j) Machine means an attended or remotely controlled desktop, workstation, or computer where the Software is loaded, that is operated by no more than one person at a time. (k) Non-Commercial means any use of the Software which (1) is not undertaken for profit; (2) is not intended to produce software, works, services, or data for commercial use; or (3) is neither conducted, or funded, by a person or an entity engaged in the commercial use, application, development, or exploitation of works similar to the Software. (l) Non-Production means a non-operational environment into which the Software may be installed, which is not processing live data, which is not running any of your operations and which has not been deployed to permit any users to access live data. Non-Production environments include development, quality assurance and test environments. (m) Order Form means any written order, whether in physical or electronic format, for Software, Premium Support or Professional Services, including any document issued by you requesting Software, Premium Support or Professional Services ("Purchase Order"), on-line orders, or other form of

an ordering document delivered to or made available to us through a medium or channel approved by us, which is subject to, and incorporates by reference this Agreement or other terms negotiated by the parties. (n) Production means an operational environment into which the Software has been installed, which is processing live data and which has been deployed so that the intended users of the environment are able to access the live data. Production environments include disaster recovery, failover, and high availability environments. (o) Professional Services means consulting, development or training services provided by us remotely via phone or the Internet. (p) Server means a physical or virtual machine, which may be limited by a certain number of Cores as set forth in an Order Form, which has a server operating system and/or where more than one person can simultaneously use the computer either by direct or remote access. (q) Site means the single physical location that corresponds to a single physical mailing address, where your Developers are licensed to use the Software as designated in an Order Form. (r) Software means our proprietary software as indicated on an Order Form which you may install on equipment owned or operated by you or a third party on your behalf.

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