

## End User License Agreement

AGREEMENT LAST MODIFIED: July 1, 2014

**CAUTION: YOU SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS OF THIS END USER LICENSE AGREEMENT BEFORE INSTALLING OR USING THE PRODUCT AND DOCUMENTATION TO WHICH THIS AGREEMENT RELATES. BY ACCEPTING THIS AGREEMENT YOU ARE CONSENTING TO BE BOUND BY THE TERMS AND CONDITIONS CONTAINED HEREIN AND ACKNOWLEDGING YOUR AUTHORITY TO DO SO ON BEHALF OF YOUR COMPANY (IF APPLICABLE). IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, DO NOT PROCEED WITH THE INSTALLATION OF THE PRODUCT(S) AND PROMPTLY RETURN THE PRODUCT(S), DOCUMENTATION, AND ALL COPIES THEREOF TO THE SUPPLIER FROM WHICH IT WAS ACQUIRED FOR A FULL REFUND OF THE LICENSE FEES, IF ANY, PAID FOR THE PRODUCT(S). THE TERM "PROMPTLY" AS USED HEREIN SHALL MEAN NO LATER THAN SIXTY (60) DAYS FOLLOWING THE DELIVERY OF THE PRODUCT TO YOU.**

### 1. License Grant.

1.1 For purposes of this Agreement, "IVI Technologies" refers to IVI Technologies, Inc. and "you" or "Licensee" refers to the individual installing or using the Product(s), if you are acting as an individual on your own behalf; otherwise, "you" or "Licensee" means the business or other entity for which you are obtaining the Product(s) and that will exercise the rights granted under this Agreement. Subject to the terms and conditions contained in this End User License Agreement, including all exhibits, Orders (as defined below) and License Addenda (as defined below)(collectively, this "Agreement"), IVI Technologies grants to you a non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the software product(s) (each individually, a "Product"), for which valid control codes have been issued by IVI Technologies, identified in (i) the written or electronic order document, form or invoice provided or accepted by IVI Technologies or IVI Technologies authorized representative (each an "Order") or (ii) the installation procedure. Any update, patch, solution pack, service pack, value-add pack, hotfix, workaround, prepackaged module and/or new release, version or enhancement issued to Licensee by IVI Technologies relating to the Product (each an "Update") replaces part or all of a Product or Update previously licensed to Licensee and shall terminate such previously licensed Product or Update to the extent replaced by the Update. Each Update shall be subject to the terms and conditions of the license agreement accompanying the Update. In addition and subject to the terms and conditions contained herein, IVI Technologies grants Licensee a non-exclusive, non-transferable, limited, personal license (without the right to sublicense) to use the written technical materials and end user instructions including all updates and versions thereof released by IVI Technologies and associated with the Product, if any, distributed with the Product (the "Documentation").

1.2 By virtue of this Agreement, Licensee acquires only the non-exclusive right to use the Product and does not acquire any rights of ownership to (i) the Product, (ii) any Documentation provided therewith or (iii) the media, if any, upon which the Product and Documentation are embodied. IVI Technologies and/or its licensors shall at all times retain all right, title, and interest in the Product, the Documentation, and any media provided therewith. Except for the license rights expressly granted herein, this Agreement grants no additional express or implied license, right or interest in the Product or in any copyright, patent, trade secret, trademark, invention or other intellectual property rights of IVI Technologies, its affiliates or their licensors. IVI Technologies reserves all rights not expressly granted to Licensee in this Agreement.

1.3 The term of the license is set forth in Exhibit A or the applicable Order, unless otherwise terminated in accordance with the terms of this Agreement.

1.4 Licensee agrees to pay the applicable fees as set forth in the Order. Licensee further agrees to pay any applicable transportation charges, value-added taxes or other applicable taxes, tariffs or withholding taxes which the relevant authorities require to pay. All fees are exclusive of any such taxes or tariffs unless expressly stated in the Order.

1.5 Shipping terms for Product(s) shipped on physical media is FOB shipping point. For Product(s) shipped via electronic delivery, delivery is deemed complete, FOB shipping point, when the Product(s) is/are made available at the electronic software download (“ESD”) site specified by IVI Technologies and Licensee is e- mailed or otherwise issued a password to access and download the Product(s).

## **2. License Restrictions.**

2.1 Licensee’s use of the Product and Documentation is limited to (i) internal use within Licensee’s organization, (ii) an affiliated party that is identified as such in any Order and (iii) its third party contractors that are identified as such in any Order. Use shall be in accordance with the provisions of and limitations set forth in this Agreement, including Exhibit A hereto, and the additional terms, if any, set forth in any Order or additional agreement executed by IVI Technologies and Licensee in connection with this Agreement which specifically states the terms thereof shall be in addition to or in lieu of any of the terms set forth herein (each a “License Addendum” and collectively, the “License Addenda”).

2.2 The license model for the Product is set forth in the Order and described in Exhibit A. Third party rights and any additional licensing restrictions are set forth or referenced in Exhibit A.

2.3 If Licensee receives the Product in conjunction with a software application provided by a third party, the Product may only be used with or as part of such software application.

2.4 Licensee shall not copy (except as provided in Section 5.2 hereof), disassemble, reverse engineer, decompile, modify or create derivative works of the Product and the Documentation to the extent that such restriction is not prohibited by applicable mandatory law.

2.5 Licensee may not sublicense, sell, rent, encumber, outsource, lease or grant any other rights in the Product and/or the Documentation to others or otherwise allow the Product to be accessed, used or possessed by another party. For these purposes, the term “use” shall include, without limitation, direct or indirect use via thin-client or web-based remote access software which but for the use thereof would have required a copy of the Product to be installed or used locally by that user.

2.6 Licensee shall have no right to use the Product to provide time sharing, outsourced services, or facility management services or to act as or operate a service bureau or provide information, data processing, subscription or hosting services for another party.

2.7 The Product, including technical data, are subject to U.S. export control laws, including, without limitation, the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Licensee shall not directly or indirectly export or re-export the Product, or any direct product thereof, without first obtaining IVI Technologies written approval. Licensee agrees to comply strictly with all regulations and acknowledges that it has the responsibility to obtain licenses to export, re- export or import the Product. The Product may not be

downloaded, or otherwise exported or re-exported (i) into, or to a national or resident of any country and/or party to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals, or the U.S. Commerce Department's Table of Denial Orders as amended from time to time, or any other list distributed by the United States government setting forth individuals or entities to which distribution of the Product would be prohibited by United States law.

2.8 Licensee shall be solely responsible for identifying and complying with all laws of any jurisdiction outside of the United States regarding the use of the Product and any technical data supplied by IVI Technologies. Licensee agrees to obtain all licenses, permits or approvals required by any government at Licensee's sole cost and expense. Licensee's obligations under this Section 2.8 shall survive termination for any reason whatsoever.

2.9 If the Product is being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier), then the U.S. Government's rights in the Product will be only as set forth herein. The Product and related Documentation is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and "commercial computer software Documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product and such Documentation with only those rights set forth herein. Contract/Manufacturer is IVI Technologies Software Corporation, 8610 SW 48<sup>th</sup> Street, Miami, FL 33155.

2.10 This Agreement is personal to Licensee and Licensee may not transfer, assign or otherwise convey, novate or encumber this Agreement or the Product, in whole or in part, by operation of law, merger or otherwise, to any other party, including any parent, subsidiary or affiliated entity. A Change of Control of Licensee shall constitute an assignment hereunder. A "Change of Control" shall include, but not be limited to, any merger, consolidation, amalgamation, reorganization or sale, transfer or exchange of the capital stock or equity interests of Licensee in a transaction or series of transactions which results in the holders of Licensee's capital stock or equity interests holding less than 50% of the outstanding capital stock or equity interests immediately following such transaction(s).

### **3. Limited Warranty.**

3.1 IVI Technologies warrants that, for a period of ninety (90) days from either the date of the initial shipment or availability for download from a IVI Technologies website of the Product whichever occurs first (the "Warranty Period"), (i) the Product will conform in all material respects to the Documentation and (ii) the media, if any, on which the Product is recorded will be free from defects in materials and that the Product is properly recorded on the media. As the sole and exclusive remedy for physically defective media (such as the diskettes, cartridges, CD-ROMs, DVDs or magnetic tapes), IVI Technologies will replace it free of charge if claimed during the Warranty Period. As the sole and exclusive remedy for any failure of the Product to materially conform to the Documentation, IVI Technologies shall repair or replace the Product if such failure is reported during the Warranty Period or, if IVI Technologies, at its discretion, reasonably determines that such remedy is not economically or technically feasible, this Agreement and the licenses granted hereunder will terminate and IVI Technologies or its supplier (as applicable) shall provide a full refund of the license fee paid with respect to the particular Product. The above warranties do not cover Updates, generic non-configured solution packs, any Product provided on an evaluation basis, or defects to the Product due to accident, abuse, service, alteration, modification or improper installation or configuration by Licensee, its personnel or any third party.

3.2 IVI Technologies does not warrant that the functions of the Product will meet Licensee's requirements or that operation of the Product will be uninterrupted or error free. Licensee assumes responsibility for selecting the Product to achieve its intended results and for the use and results obtained from the Product.

3.3 THE LIMITED WARRANTY SPECIFIED IN SECTION 3.1 SETS FORTH ALL WARRANTIES AND REPRESENTATIONS PROVIDED TO LICENSEE WITH RESPECT TO THE PRODUCT AND ANY SERVICES AND UPDATES PROVIDED HEREUNDER, AND SUCH LIMITED WARRANTY IS PROVIDED SOLELY BY IVI TECHNOLOGIES AND NOT ITS LICENSORS. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IVI TECHNOLOGIES, ITS LICENSORS AND THEIR RESPECTIVE SUPPLIERS MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, RELATING TO THE PRODUCT, OR ANY SERVICES OR UPDATES PROVIDED UNDER THIS AGREEMENT. ANY UPDATES OR SERVICES DELIVERED HEREUNDER ARE DELIVERED "AS IS" WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL OTHER IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT WITH RESPECT TO THE PRODUCT, OR ANY SERVICES AND UPDATES PROVIDED UNDER THIS AGREEMENT ARE DISCLAIMED. Further, the Product is not fault tolerant and is not designed, manufactured or intended for use in hazardous environments requiring fail- safe performance (including, without limitation, the design, construction, operation or maintenance of any nuclear facility; direct life support machines; weapon systems; or control of aircraft, air traffic, aircraft navigation or aircraft communications), in which the failure of the Product could lead directly or indirectly to death, personal injury or severe physical or environmental damage. Without limiting the scope of the disclaimers set forth herein, IVI Technologies for itself and on behalf of its licensors and their respective suppliers, disclaims any express or implied warranty of fitness for any such high risk uses.

#### **4. Indemnity**

4.1 IVI Technologies will defend, indemnify and hold Licensee harmless against any and all costs and reasonable expenses finally awarded by a court or agreed to in settlement which directly result from any third party claim based on an allegation that a Product infringes either a valid (a) United States patent or (b) copyright of a country that is a party to the Agreement for Trade Related Aspects of Intellectual Property Rights ("TRIPS") but only if IVI Technologies is notified promptly in writing of such claim and given sole control of the defense of any such claim and all negotiations for its settlement or compromise. Licensee agrees to reasonably cooperate with IVI Technologies in the defense, settlement or compromise of any such claim. In the event that a final injunction is obtained against Licensee's use of the Product, if IVI Technologies reasonably believes that Licensee's use of the Products could be so enjoined, or if in IVI Technologies opinion the Product is likely to become the subject of a successful claim of such infringement, IVI Technologies shall, at its option and expense, (i) procure for Licensee the right to continue using the Product as provided in this Agreement, (ii) modify or require replacement of the Product that Licensee is then currently using so that the Product becomes non- infringing (so long as the functionality of the Products is substantially similar) or, in the event neither of the previous two options are commercially reasonable for IVI Technologies, (iii) terminate this Agreement and the rights granted hereunder and refund to Licensee the amount paid to IVI Technologies for the Product less an amount for depreciation determined on a straight-line five-year depreciation basis with a commencement date as of the respective shipment date of the applicable copies of the Product. Notwithstanding the foregoing, IVI Technologies shall have no liability for a claim to the extent based on (A) the use by Licensee of the Product more than thirty (30) days after IVI Technologies has notified Licensee of (i), (ii) or (iii),

above or (B) the version of the Product used by Licensee is not the current release version of the Product.

4.2 Notwithstanding the foregoing, IVI Technologies shall have no liability to Licensee under this Section 4 to the extent that any infringement or claim thereof is based upon (i) the combination, operation or use of a Product in combination with equipment or software not supplied by IVI Technologies hereunder where the Product would itself not be infringing, (ii) Licensee's non-compliance with designs, specifications or instructions provided by IVI Technologies to Licensee, (iii) use of a Product in an application or environment for which it was not designed or not contemplated under this Agreement, (iv) modifications of a Product by anyone other than IVI Technologies where the unmodified version of the Product would not be infringing, or (v) use by users or affiliated parties of Licensee not permitted by this Agreement.

4.3 THE FOREGOING INDEMNIFICATION PROVISIONS STATE THE ENTIRE LIABILITY OF IVI TECHNOLOGIES AND THE SOLE AND EXCLUSIVE REMEDY OF LICENSEE WITH RESPECT TO ANY INFRINGEMENT OR ALLEGED INFRINGEMENT BY IVI TECHNOLOGIES OF ANY INTELLECTUAL PROPERTY RIGHTS OR PROPRIETARY RIGHTS IN RESPECT OF THE PRODUCT OR ITS USE.

4.4 If any affiliated party or third party contractor of Licensee is specifically authorized in writing and as a term of this Agreement to use the Product pursuant to Section 2.1 hereof and Exhibit A, Licensee shall defend, indemnify and hold IVI Technologies harmless for all acts and omissions of such affiliated party and/or third party contractor.

## **5. Confidentiality; Notices**

5.1 Licensee acknowledges that the Products, including all source and/or object code and all parts and aspects thereof, and any Updates, modifications, translations, localizations, or other derivative works thereof, in whatever form, whether or not marked as confidential, the Documentation and any other documentation or materials provided with or related to the Product (collectively, the "Confidential Information"), are the valuable proprietary and trade secret information of IVI Technologies and/or its licensors and suppliers. Licensee shall (i) limit use and disclosure of the Confidential Information to its employees and its consultants who are authorized pursuant to this Agreement to use the Products and who agree to be bound by the terms of this Agreement or are otherwise bound to a confidentiality agreement containing substantially similar terms; (ii) not provide or disclose any of the Confidential Information to another party; and (iii) treat the Confidential Information with the same degree of care to avoid disclosure to any third party as is used with respect to Licensee's information of like importance which is to be kept secret, but with no less than reasonable care. The foregoing obligations shall be in addition to any obligations set forth in any separate confidentiality agreement between IVI Technologies and Licensee.

5.2 Licensee agrees, under penalty of license termination but not exclusive of any other remedies, not to cause or permit the copying of the Product for any purpose other than expressly set forth herein. Licensee may copy the Product only for archival and off-line backup purposes, but not for disaster recovery purposes unless Licensee has purchased the appropriate disaster recovery or replication license. Licensee may copy the Documentation solely for the purpose of facilitating Licensee's use of the Product in accordance with, and subject to, the terms and conditions of this Agreement. Licensee agrees not to remove any product identification, copyright notices, or other notices or proprietary restrictions from the Product.

5.3 Benchmark results for the Product may not be disclosed or published without the written consent of IVI Technologies.

5.4 Licensee acknowledges that in the event of a breach or threat of breach of this Section 5, money damages will not be adequate. Therefore, in addition to any other legal or equitable remedies, IVI Technologies shall be entitled to seek injunctive or similar equitable relief against such breach or threat of breach.

5.5 All notices and requests in connection with this Agreement to be sent to IVI Technologies shall be given in writing and shall be sent by hand delivery, overnight courier or certified mail with proof of delivery to the following address: 8610 SW 48<sup>th</sup> Street, Miami, FL 33155, Attention: General Counsel. All notices and requests in connection with this Agreement to be sent to Licensee shall be given in writing and shall be sent by hand delivery, overnight courier or certified mail with proof of delivery to the address first set forth in the Order. Either party may change its address for receipt of notices upon written notice to the other party, and notices shall be deemed given on the day of receipt or the date evidenced on the proof of delivery, whichever is earlier.

## **6. Limitation of Liability.**

6.1 TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF IVI TECHNOLOGIES, IF ANY, FOR DAMAGES RELATING TO ANY PRODUCT, UPDATE AND/OR SERVICES SHALL BE LIMITED TO THE ACTUAL AMOUNTS PAID BY LICENSEE FOR SUCH PRODUCT, UPDATE AND/OR SERVICES. IVI TECHNOLOGIES LICENSORS AND THEIR SUPPLIERS SHALL HAVE NO LIABILITY TO LICENSEE FOR ANY DAMAGES SUFFERED BY LICENSEE OR ANY THIRD PARTY AS A RESULT OF USING THE PRODUCT, ANY UPDATE, OR ANY PORTION THEREOF, OR AS A RESULT OF ANY SERVICES RELATING THERETO. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL IVI TECHNOLOGIES, ITS LICENSORS, OR ANY OF THEIR RESPECTIVE SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT OR DATA, OR FOR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER, INCLUDING, WITHOUT LIMITATION, ANY COMMERCIAL DAMAGES OR LOSSES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, ARISING OUT OF THE USE OR INABILITY TO USE THE PRODUCT, ANY UPDATE, OR ANY PORTION THEREOF, OR ANY SERVICES, EVEN IF IVI TECHNOLOGIES, ITS LICENSORS AND/OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. EACH EXCLUSION OR LIMITATION IS INTENDED TO BE A SEPARATE AND THEREFORE SEVERABLE EXCLUSION.

## **7. Audit Rights.**

IVI Technologies may install, enable and utilize automated license tracking, management and/or enforcement solutions with the Products, which Licensee may not disrupt or alter. Licensee shall maintain books and records in connection with this Agreement and the use of the Products and any Updates and/or services provided hereunder. Such books and records shall include at a minimum the number of licenses purchased and being used by Licensee. At its expense and with reasonable written notice to Licensee, IVI Technologies or a third party appointed by IVI Technologies may audit the books, records, and if necessary, the systems on which the Product or any Update is installed for the sole purpose of ensuring compliance with the terms of this Agreement. IVI Technologies shall have the right to conduct follow-up audits as necessary. All audits shall be conducted during regular business hours at Licensee's offices and shall not interfere unreasonably with Licensee's activities. IVI Technologies shall treat all such records and books as confidential information. If any audit reveals that Licensee has underpaid license or maintenance and support fees, Licensee shall be invoiced for all such underpaid fees based on IVI Technologies list price in effect at the time the audit is completed. If the underpaid fees are in excess of five percent (5%) of the fees previously paid by Licensee, then Licensee shall also pay IVI Technologies reasonable costs of conducting the audit and enforcement of this Agreement.

## **8. Termination.**

8.1 IVI Technologies may terminate this Agreement by written notice at any time if Licensee defaults in the performance of any provision of this Agreement and fails to cure such default to the satisfaction of IVI Technologies within thirty (30) days after such notice. This remedy shall not be exclusive and shall be in addition to any other remedies which IVI Technologies may have under this Agreement or otherwise.

8.2 Any purported transfer or assignment of this Agreement or the licenses granted hereunder by Licensee or other action by Licensee in contravention of Section 2.10 above or any purported transfer or assignment of this Agreement or the licenses granted hereunder as a result of Licensee's bankruptcy, insolvency, or liquidation or as a result of an assignment of Licensee's assets for the benefit of creditors shall be void and this Agreement and the licenses granted hereunder shall thereupon automatically terminate without further notice or action by IVI Technologies.

8.3 Within ten (10) days of the date of expiration or termination of this Agreement and/or any of the licenses granted hereunder, Licensee shall return all copies of the Products, including all Updates, and related Documentation to IVI Technologies or, if requested by IVI Technologies, destroy such Products, Updates and Documentation and certify in writing to such return or destruction.

## **9. Miscellaneous.**

9.1 If IVI Technologies offers maintenance and support for the Product, and if Licensee orders and pays for such maintenance and support, such maintenance and support shall be provided in accordance with IVI Technologies' then current and applicable maintenance and support policies.

9.2 THIS AGREEMENT, INCLUDING ANY EXHIBITS AND ANY LICENSE ADDENDUM(S), CONSTITUTES THE COMPLETE AGREEMENT BETWEEN THE PARTIES WITH RESPECT TO THE PRODUCT AND SUPERCEDES ANY OTHER AGREEMENT, PROPOSAL, COMMUNICATION OR ADVERTISING, ORAL OR WRITTEN, SIGNED OR UNSIGNED, WITH RESPECT TO THE PRODUCT. To the extent there are any terms and conditions contained in Licensee's purchase order or other documentation supplied by Licensee such terms and conditions shall be deemed to be stricken and the terms and conditions of this Agreement shall govern. In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force and effect.

9.3 For administrative convenience, IVI Technologies invoices may be issued by a local affiliate of IVI Technologies.

9.4 This Agreement has been drawn up in English at the express wish of the parties. Le present contrat a ete redige en anglais a la demande expresse des parties.

9.5 Except as otherwise expressly set forth herein, this Agreement is governed by the laws of the State of Florida, without regard to its choice of law principles, and without regard to the provisions of any state Uniform Computer Information Transactions Act or similar federal, state, local or foreign laws, regulations or conventions.

9.6 This Agreement may not be modified or amended except in a writing executed by both IVI Technologies and Licensee.

9.7 Failure or delay on the part of IVI Technologies to exercise any right, power, privilege or remedy hereunder shall not constitute a waiver thereof. A waiver of default shall not operate as a waiver of any other default or of the same type of default on future occasions.

9.8 The parties expressly disclaim the application of the United Nations Convention on Contracts for the International Sale of Goods.

9.9 If the Product is acquired outside the United States local law may apply.

#### **EXHIBIT A**

##### **TERM OF LICENSE:**

Perpetual, unless otherwise specified in the applicable Order or the Product is provided to Licensee on an evaluation basis in which case the Product will be provided for a limited term subject to an Evaluation License as described below.

##### **APPLICABLE FEES:**

Any applicable license fees or maintenance and support fees will be set forth in the Order.

##### **AFFILIATE USE, IF ANY:**

See Order.

##### **ADDITIONAL TERMS, IF ANY:**

##### **Runtime License Checker:**

The Products may include code to verify that Licensee has not exceeded the license keys issued by IVI Technologies (the "Runtime License Checker") and in the event that the Runtime License Checker determines that Licensee has exceeded its license the Products may cease to operate.

##### **Use Restrictions:**

1. **Application Specific.** If the Order lists a specific application authorized for use with the Product(s), or if Licensee obtained the Product(s) in conjunction with a software application provided by a third party, the Product(s) is/are licensed for use only with such application. Use with any other application/product is strictly prohibited.
2. **Term License.** If the Order specifies that Licensee's license to the Product(s) is/are for a term ("Term"), then the term of this Agreement and Licensee's license to the Product(s) hereunder shall expire on the expiration date stated in the Order unless sooner terminated in accordance with Section 8 of the Agreement. Upon completion of the Term, Licensee shall return all Product(s) licensed under the Order and associated documentation and related information (including all copies) to IVI Technologies, or certify its destruction in a writing delivered to IVI Technologies. All license rights in and to the Product(s) licensed under the terms of the Agreement shall terminate at the end of the Term.
3. **Operating Systems or Platforms.** If the Order specifies that Licensee's license to the Product(s) is/are limited to a specific Operating System ("OS") or Platform, then the Product(s) is/are licensed with the additional restriction that it be used solely in conjunction with the specified OS or Platform. Use with any other OS or Platform is strictly prohibited.
4. **Competitive Use.** Licensee may not use the Product(s) to develop, test, support or market products that are competitive with and/or provide similar functionality to the Product(s).



5. Evaluation License Only. Licensee acknowledges and agrees that the evaluation period may not be extended by uninstalling and re-installing the Product(s) or by any other means other than IVI Technologies' written consent.

Other:

#### **LICENSE MODELS AND DEFINITIONS:**

The license model for the Product(s) purchased is set forth in the Order. The description of each IVI Technologies license model is set forth below.

For purposes of this Exhibit A, the following terms shall have the following definitions:

“Authorized User”: An Authorized User is a single individual who has been designated to use the Product.

“Client Device”: A Client Device is any input technology that allows the Licensee to access the Product, including but not limited to a workstation, a personal computer, a PDA device, a cellular phone, a laptop or other device that is operated by an individual.

“Non-Human Operated Device”: A Non-Human Operated Device is a device that is not operated by an individual including, but not limited to, a temperature device, a production line bar code scanner, or a tracking device.

“Platform”: A Platform is the specific combination of the hardware and the operating system, a change to either would constitute a platform change.

“Process”: A Process is any automated process that is not initiated by a Client Device or a Non-Human Operated Device and includes, without limitation, automated controls and background jobs.

“Server”: A logical computer with one or more CPUs on which the Product resides, along with the applications utilizing the Product, and which can be accessed by other computers. The term “Server” includes, but is not limited to, web servers, batch servers and application servers.

Authorized User License: If the Product is licensed on an Authorized User basis, then the Product may be used on a single computing machine which may be accessed by the number of Authorized Users specified in the Order. In no event shall the number of persons authorized to have access to the Product exceed the number of Authorized Users identified in the Order. The right to use the Product is not based on concurrent users, but instead on an actual “Authorized User” basis. Licensee must, upon request by IVI Technologies, identify each Authorized User who will have access to the Product and provide that information to IVI Technologies.

Core Licenses: A Product licensed on a “Core” basis grants Licensee the right to run the Product on a single Core on a single server. The total number of Cores on the machine may not exceed the total number licensed to Licensee. Additional Core License(s) are required for each Core of the server on which the Product runs, including, without limitation, servers configured for disaster recovery, load balancing, clustering, development, testing and reporting.

For purposes of the “Core” license model:

“Core” means a core of a CPU as allocated by Licensee made up of an independent processor combined onto a single integrated circuit or silicon chip, in both virtualized and/or non-virtualized environment, and regardless of whether used in a production or non-production (e.g. test, development) environment.

“CPU” means a computer processing unit, also known as a processor or microprocessor. It can contain multiple cores in both virtualized and/or non-virtualized environment.

CPU: A CPU License grants Licensee the right to run the Product, or an application which can access the Product, on a single core processing unit (“CPU”) on a single server and on a single Platform. Each processor core of a multiple core processor in a server shall count as one (1) CPU. Additional CPU License(s) are required for each CPU that runs the Product, including, without limitation, servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A CPU License may not be transferred from one CPU or one Platform to another.

Developer: A Developer License limits Licensee’s access and use of the Product to internal application development and support purposes only. If the license is for components of the Product only, then such right is limited to such components. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit A. A Developer License may not be transferred.

Server: A Server License grants Licensee the right to install and use a Product, or an application which can access the Product, on a single Server and on a single Platform. Additional Server license(s) are required for each Server that runs the Product including, without limitation, Servers configured for disaster recovery, load balancing, clustering, development, testing and reporting. A Server License may not be transferred from one from Server or Platform to another.

Disaster Recovery: A Disaster Recovery License shall only be used by Licensee for the sole purpose of application recovery in the event a system fails or crashes or the Product or database files become corrupt. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit A. A Disaster Recovery License may be transferred from one server or CPU to another with prior notice to IVI Technologies so long as such change is permitted by the underlying license model. No Disaster Recovery license is required for a switch from a primary server to secondary server so long as the primary server is permanently disabled. However a Disaster Recovery license is required for any other temporary reassignment between the primary server and any other server. The foregoing transfer right shall not affect the assignment prohibition set forth in Section 2.10 of this Agreement.

Evaluation: If a Product is licensed on an evaluation basis, the Product may be used by Licensee solely for evaluation and testing purposes and not for deployment or production purposes for a period of fifteen (15) days from download or receipt (as the case may be) or at the end of such longer or shorter period of time as may be determined by IVI Technologies at its discretion. LICENSEE UNDERSTANDS AND ACKNOWLEDGES THAT THE PRODUCT LICENSED TO LICENSEE PURSUANT TO AN EVALUATION LICENSE CONTAINS A DISABLING DEVICE THAT WILL AUTOMATICALLY DISABLE THE PRODUCT FIFTEEN (15) DAYS FROM INSTALLATION OR AT THE END OF SUCH LONGER OR SHORTER PERIOD OF TIME AS MAY BE DETERMINED BY IVI TECHNOLOGIES AT ITS DISCRETION. THE WARRANTIES SET FORTH IN SECTION 3 OF THE AGREEMENT DO NOT APPLY. IVI TECHNOLOGIES MAKES NO WARRANTIES WITH RESPECT TO A PRODUCT LICENSED ON AN EVALUATION BASIS, EXPRESS, IMPLIED, OR ARISING BY CUSTOM OR TRADE USAGE, AND SPECIFICALLY MAKES NO WARRANTY OF INFRINGEMENT, MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit A.

Testing and Staging License: A Testing and Staging License grants Licensee the right to use the Product for internal quality assurance testing purposes only and Licensee may not deploy the

Product in a production environment. Licensee shall be further subject to the license terms of the appropriate license model for the Product set forth in this Exhibit A. A Testing and Staging License may not be transferred.

Workstation Basis: If the Product is licensed on a Workstation basis, each Workstation using or accessing the Product must be licensed. A license must be purchased for each Workstation using or accessing the Product. A "Workstation" shall be defined as a computer 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. In no event shall the number of workstations utilizing or accessing the Product exceed the number of Workstations identified in the Order.

**THIRD PARTY TERMS AND RESTRICTIONS:**

The Product may contain or be accompanied by certain third-party components which are subject to additional restrictions. These components, if any, are identified in, and subject to, special license terms and conditions set forth in either the "[readme].txt" file or the [notices.txt] file accompanying the Product ("Special Notices"). The Special Notices include important licensing and warranty information and disclaimers. In the event of conflict between the Special Notices and the other portions of this Agreement, the Special Notices will take precedence (but solely with respect to the non-proprietary third party component(s) to which the Special Notice relates). Unless otherwise expressly stated in the Special Notices for any particular third party component, all third party components included in or accompanying the Product may be used solely in connection with the operation of the Product subject to and in accordance with the terms and conditions of this Agreement.

**IVI TECHNOLOGIES MAINTENANCE AND SUPPORT PLAN (IF ANY):**

As indicated in the applicable Order.