PBXact UC
End User License Agreement (EULA)

This End User License Agreement, including the Order Form which by this reference is incorporated herein (this "**Agreement**"), is a binding agreement between SANGOMA US INC. ("**Licensor**") and the person or entity identified on the Order Form as the licensee or purchaser of the Software ("**Licensee**").

LICENSOR PROVIDES THE SOFTWARE SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT LICENSEE ACCEPTS AND COMPLIES WITH THEM. BY CLICKING OR CHECKING THE "ACCEPT" BUTTON OR BOX ON THE ORDER FORM, OR BY SIGNING THE ORDER FORM, YOU (A) ACCEPT THIS AGREEMENT AND AGREE THAT LICENSEE IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENT AND WARRANT THAT: (I) YOU ARE OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (II) IF LICENSEE IS A LEGAL ENTITY, YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF LICENSEE AND BIND LICENSEE TO ITS TERMS. IF LICENSEE DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, LICENSOR WILL NOT AND DOES NOT LICENSE THE SOFTWARE TO LICENSEE AND YOU MUST NOT DOWNLOAD OR INSTALL THE SOFTWARE OR DOCUMENTATION.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR YOUR OR LICENSEE'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION, OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT, CONCERNING ANY SOFTWARE THAT LICENSEE DID NOT ACQUIRE LAWFULLY OR THAT IS NOT A LEGITIMATE, AUTHORIZED COPY OF THE SOFTWARE.

1. DEFINITIONS

For purposes of this Agreement, the following terms have the following meanings:

"**User**" means an individual person who uses the Software.

"**Documentation**" means Licensor's user manuals and guides for the Software that are made available by Licensor to Licensee.

"**Intellectual Property Rights**" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

"**Order Form**" means the order form filled out and submitted by or on behalf of Licensee, and accepted by Licensor, for Licensee's purchase of the license for the Software granted under this Agreement.

4865-6789-1240, v. 3

"**PBXact UC**" means the proprietary, commercial, non-hosted (i.e., self-managed) unified communications IP-PBX software platform developed by Licensor and based on the FreePBX platform, designed for cloud, on-premise, or hybrid deployment as a standalone software installation on customer-controlled hardware or virtual machines (e.g., PBXact Software Only deployment), or as pre-integrated software bundled with physical appliances (e.g., PBXact Appliance 100, PBXact Appliance 1200).

"**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association, or other entity.

"**Software**" means the PBXact UC software that is provided by Licensor as ordered in the Order Form (either for a cloud, on-premise, or hybrid deployment as a standard software installation, or as pre-integrated software bundled with physical appliances) in object code format, including any Updates provided to Licensee pursuant to this Agreement.

"**Updates**" means any updates, bug fixes, patches, or other error corrections to the Software that Licensor makes available.

2.   LICENSE GRANT AND SCOPE

Subject to and conditioned upon Licensee's payment of the required fees and Licensee's compliance with all terms and conditions set forth in this Agreement, Licensor hereby grants Licensee a non-exclusive, non-sublicensable, non-transferable, license, during the Term and solely by and through its Users, to:

(a)   Download and install in accordance with the Documentation one copy of the Software.

(b)   Use and run the Software as properly installed in accordance with this Agreement and the Documentation, solely as set forth in the Documentation and solely for Licensee's internal business purposes.

3.   USE RESTRICTIONS

Licensee shall not, and shall require its Users not to, directly or indirectly:

(a)   use (including making any copies of) the Software or Documentation beyond the scope of the license granted under Section 2;

(b)   modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Software or Documentation or any part thereof;

(c)   combine the Software or any part thereof with, or incorporate the Software or any part thereof in, any other programs;

(d)   reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Software or any part thereof;

(e)   remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices provided on or with the Software or Documentation, including any copy thereof;

(f)   copy the Software, in whole or in part;

(g)   use the Software in violation of any law, regulation, or rule; or

(h)   use the Software for purposes of competitive analysis of the Software, the development of a competing software product or service, or any other purpose that is to Licensor's commercial disadvantage.

4.   RESPONSIBILITY FOR USE OF SOFTWARE

Licensee is responsible and liable for all uses of the Software and Documentation through access thereto provided by Licensee, directly or indirectly. Specifically, and without limiting the generality of the foregoing, Licensee is responsible and liable for all actions and failures to take required actions with respect to the Software and Documentation by its Users or by any other Person to whom Licensee or a User may provide access to or use of the Software or Documentation, whether that access or use is permitted by or in violation of this Agreement.

5.   COMPLIANCE MEASURES

5.1   **Security Features.** The Software may contain technological copy protection or other security features designed to prevent unauthorized use of the Software, including features to protect against any use of the Software that is prohibited. Licensee shall not, and shall not attempt to, remove, disable, circumvent, or otherwise create or implement any workaround to, any copy protection or security features.

5.2   **Hardware Locks.** The Software may contain "hardware locks" to Licensee's specific hardware, such as, but not limited to, a network card, motherboard, and hard drives. If any "locked" hardware items fail or are replaced, the Software license linked to that hardware will deactivate. To reactivate the license, Licensee must verify to Licensor's satisfaction that Licensee is not trying to clone or receive a second license for another hardware machine.

5.3   **License Checks.** Certain Software regularly checks Licensor's servers for updated license files and to renew the license. If this check fails for two consecutive months, the license for that Software will expire; the Software will continue to operate as-is, but Licensee will not be able to make or save changes to the system until the license check succeeds.

5.4   **Audit.** During the Term, Licensor may, in Licensor's sole discretion, audit Licensee's use of the Software to ensure Licensee's compliance with this Agreement. Licensor also may, in its sole discretion, audit Licensee's systems within 24 months after the end of the Term to ensure Licensee has ceased use of the Software and removed all copies of the Software from those systems as required hereunder. Licensee shall fully cooperate with Licensor's personnel conducting an

audit and provide all access requested by Licensor to records, systems, equipment, information, and personnel, including machine IDs, serial numbers, and related information.

5.5   **Remedies.** If the audit determines that Licensee's use of the Software violates this Agreement, then:

(a)   Licensor may terminate this Agreement and the license granted hereunder, effective immediately upon written notice to Licensee; and

(b)   Licensee shall pay to Licensor, within 30 days following the date of Licensor's written request therefor, Licensor's costs incurred in conducting the audit.

Licensor's remedies set forth in this Section 5.5 are cumulative and are in addition to, and not in lieu of, all other remedies Licensor may have at law or in equity, whether under this Agreement or otherwise.

6.   MAINTENANCE AND SUPPORT

6.1   **Maintenance and Support.** Licensee may purchase maintenance and support services from Licensor, subject to the PBXact UC Maintenance and Support Terms of Service (or, from time to time, other documents containing applicable terms of service for PBXact UC maintenance and support) located on Licensor's website.

6.2   **Updates.** Maintenance and support services may include provision of Updates. Licensor may develop and provide Updates in its sole discretion, and Licensee agrees that Licensor has no obligation to develop any Updates at all or for particular issues. Licensee further agrees that all Updates will be deemed Software, and related documentation will be deemed Documentation, all subject to all terms and conditions of this Agreement. Licensee acknowledges that Licensor may provide some or all Updates via download from a website designated by Licensor, and that Licensee must have an internet connection to access those Updates. Licensor has no obligation to provide Updates via any other media. Maintenance and support services will not automatically include any new version or new release of the Software that Licensor may issue as a separate or new product, and Licensor may determine whether any issuance qualifies as a new version, new release, or Update in its sole discretion.

6.3   **Conditions and Exceptions.** Licensor reserves the right to condition the provision of maintenance and support services, including all or any Updates, on Licensee's registration of the copy of Software for which support is requested. Licensor has no obligation to provide maintenance and support services, including Updates:

(a)   for any but the most current version or release of the Software;

(b)   for any copy of Software for which all previously issued Updates have not been installed;

(c)   if Licensee is in breach under this Agreement; or

4865-6789-1240, v. 3

(d)   for any Software that has been modified other than by or with the written authorization of Licensor, or that is being used with any hardware, software, configuration, or operating system not specified in the Documentation or expressly authorized by Licensor in writing.

7.   COLLECTION AND USE OF INFORMATION

7.1   **Collection of Information.** Licensee acknowledges that Licensor may, directly or indirectly through the services of third parties, collect and store information regarding use of the Software and about equipment on which the Software is installed or through which it otherwise is accessed and used, through (a) the provision of maintenance and support services; and (b) security measures included in the Software as described in Section 5.

7.2   **Use of Information.** Licensee agrees that Licensor may use that information for any purpose related to any use of the Software by Licensee or on Licensee's equipment, including but not limited to: (a) improving the performance of the Software or developing Updates; and (b) verifying Licensee's compliance with the terms of this Agreement and enforcing Licensor's rights, including all Intellectual Property Rights in and to the Software.

8.   INTELLECTUAL PROPERTY RIGHTS

Licensee acknowledges and agrees that the Software and Documentation are provided under licensed, and not sold, to Licensee. Licensee does not acquire any ownership interest in the Software or Documentation under this Agreement, or any other rights thereto, other than to use the same in accordance with the license granted and subject to all terms of this Agreement. Licensor and its licensors and service providers reserve and shall retain their entire right, title, and interest in and to the Software and all Intellectual Property Rights arising out of or relating to the Software, except as expressly granted to Licensee in this Agreement. Licensee shall safeguard all Software (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access. Licensee shall promptly notify Licensor if Licensee becomes aware of any infringement of Licensor's Intellectual Property Rights in the Software and fully cooperate with Licensor in any legal action taken by Licensor to enforce its Intellectual Property Rights.

9.   FEES AND PAYMENT

9.1   **Payment.** Licensee shall pay all amounts due and owing under this Agreement within the earlier of: (i) 30 days from the date of invoice; or (ii) the payment due date set forth in the Order Form. Paid amounts are non-refundable, except as may be expressly set forth herein. Any renewal of the license or maintenance and support services hereunder shall not be effective until the fees for the renewal have been paid in full.

9.2   **Taxes.** All amounts payable by Licensee under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, 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.

9.3 **Late Payment.** If Licensee fails to make any payment when due then, in addition to all other remedies that may be available to Licensor:

(a) Licensor may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law;

(b) Licensee shall reimburse Licensor for all costs incurred by Licensor in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs, and collection agency fees; and

(c) if the failure continues for 3 days, Licensor may: (i) disable Licensee's use of the Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license hereunder; or (iii) terminate this Agreement.

9.4 **Payment Disputes.** Licensee must notify Licensor in writing within 60 days of the date Licensor invoices Licensee for any amounts due under this Agreement that Licensee wishes to dispute. Licensee shall act reasonably and in good faith and shall cooperate diligently with Licensor to resolve a billing dispute. Licensor will not charge Licensee a late fee or suspend a license over unpaid amounts that are in dispute, unless Licensee does not cooperate diligently with Licensor, or Licensor determines the dispute is not reasonable or brought in good faith by Licensee. Any invoice for which no timely dispute notification is received will be deemed accepted by Licensee as true and correct, and Licensee shall pay all amounts due under the invoice.

9.5 **No Deductions or Setoffs.** All amounts payable to Licensor under this Agreement shall be paid by Licensee to Licensor in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

10. TERM AND TERMINATION

10.1 **Term.** This Agreement shall remain in effect for the term set forth on the Order Form or until earlier terminated as set forth herein (the "**Term**").

10.2 **Termination for Breach.** If Licensee breaches this Agreement, Licensor may terminate this Agreement effective upon written notice to Licensee.

10.3 **Termination for Insolvency.** Licensor may terminate this Agreement, effective immediately, if Licensee files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency law, makes or seeks to make a general assignment for the benefit of its creditors or applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property.

10.4   Effect of Termination. Upon termination of this Agreement, any licenses granted hereunder will also terminate, and Licensee shall cease using and destroy all copies of the Software and Documentation. No termination shall affect Licensee's obligation to pay all amounts that may have become due before termination, or entitle Licensee to any refund, in each case except as set forth in Section 11.3(b).

11.   LIMITED WARRANTIES, REMEDIES, AND DISCLAIMER

11.1   Limited Warranty. Licensor warrants that, for one year following the purchase date set forth on the Order Form: (a) any media on which the Software is provided will be free of material damage and defects in materials and workmanship under normal use; (b) the Software will substantially contain the functionality described in the Documentation, and (c) the Software will substantially perform in accordance with the documentation if the Software is operated in accordance with the Documentation.

11.2   Warranty Exceptions. The warranties set forth in Section 11.1 will not apply and will become null and void (i) if Licensee breaches any provision of this Agreement; or (ii) if Licensee, any User, or any other Person provided access to the Software, whether or not in violation of this Agreement:

(a)   installs or uses the Software on or in connection with any hardware or software not specified in the Documentation or expressly authorized by Licensor in writing;

(b)   modifies or damages the Software, or the media on which it is provided, including abnormal physical or electrical stress; or

(c)   misuses the Software, including any use of the Software other than as specified in the Documentation or expressly authorized by Licensor in writing.

11.3   Remedies. If, during the period specified in Section 11.1, any Software covered by the warranty set forth in that Section fails to perform substantially in accordance with the Documentation, and the failure is not excluded from warranty pursuant to Section 11.2, Licensor will, subject to Licensee's promptly notifying Licensor in writing of the failure, at its sole option, either:

(a)   repair or replace the Software, provided that Licensee provides Licensor with all information Licensor requests to resolve the reported failure, including sufficient information to enable Licensor to recreate the failure; or

(b)   refund the amounts paid for the affected Software, subject to Licensee's ceasing all use of and, if requested by Licensor, returning to Licensor all copies of that Software.

If Licensor repairs or replaces the Software, the warranty will continue to run from the initial date specified on the Order Form, and not from Licensee's receipt of the repair or replacement. The remedies set forth in this Section 11.3 are Licensee's sole remedies and Licensor's sole liability under the limited warranty set forth in Section 11.1.

11.4   **Disclaimer.** EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 11.1, THE SOFTWARE AND DOCUMENTATION ARE PROVIDED TO LICENSEE "AS IS" AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, LICENSOR, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, WITH RESPECT TO THE SOFTWARE AND DOCUMENTATION, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, LICENSOR PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE LICENSED SOFTWARE WILL MEET LICENSEE'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE, OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS, OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED.

12.   LIMITATION OF LIABILITY

12.1   **No Consequential or Indirect Damages**. IN NO EVENT WILL LICENSOR OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY USE, INTERRUPTION, DELAY, OR INABILITY TO USE THE SOFTWARE; LOST REVENUES OR PROFITS; DELAYS, INTERRUPTION, OR LOSS OF SERVICES, BUSINESS, OR GOODWILL; LOSS OR CORRUPTION OF DATA; LOSS RESULTING FROM SYSTEM OR SYSTEM SERVICE FAILURE, MALFUNCTION, OR SHUTDOWN; FAILURE TO ACCURATELY TRANSFER, READ, OR TRANSMIT INFORMATION; FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION; SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION; OR BREACHES IN SYSTEM SECURITY; OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES, WHETHER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER THE DAMAGES WERE FORESEEABLE AND WHETHER OR NOT LICENSOR WAS ADVISED OF THE POSSIBILITY OF THE DAMAGES.

12.2   **Maximum Liability**. IN NO EVENT WILL LICENSOR'S AND ITS AFFILIATES', INCLUDING ANY OF ITS OR THEIR RESPECTIVE LICENSORS' AND SERVICE PROVIDERS', COLLECTIVE AGGREGATE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR

EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, EXCEED THE TOTAL AMOUNT PAID TO LICENSOR PURSUANT TO THIS AGREEMENT FOR THE SOFTWARE THAT IS THE SUBJECT OF THE CLAIM.

12.3 **Acknowledgement.** The limitation of liability provisions set forth in this Section 12 will apply even if the non-breaching Party's remedies under this Agreement fail of their essential purpose. Licensor and Licensee are entering into this Agreement in reliance upon the limitations of liability set forth in this Section 12, and those limitations reflect an allocation of risk between them and form an essential basis of the bargain between them.

13. EXPORT REGULATION

The Software may be subject to US export control laws, including the Export Control Reform 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.

14. GENERAL PROVISIONS

14.1 **Choice of Law and Venue**. This Agreement and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, are governed by, and construed in accordance with, the laws of the State of Florida, including its statutes of limitations, without giving effect to any conflict-of-laws rules or other rules that would result in the application of the laws of a different jurisdiction. Any adversarial proceeding to resolve any dispute arising out of or relating to this Agreement, whether sounding in contract, tort, or statute, must be instituted exclusively in the Twelfth Judicial Circuit in and for Sarasota County, Florida, or the United States District Court for the Middle District of Florida, Tampa Division, and any appellate court from those courts. The Parties irrevocably submit to the personal and exclusive jurisdiction of those courts and waive any claim that those courts are an improper venue for any adversarial proceeding brought in accordance with this Section.

14.2 **Waiver of Jury Trial.** EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) IT HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (B) IT MAKES THIS WAIVER KNOWINGLY AND VOLUNTARILY, AND (C) IT HAS DECIDED TO ENTER INTO THIS AGREEMENT IN CONSIDERATION OF, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

14.3   **Attorneys' Fees and Costs.** If a Party institutes any legal action against the other Party arising out of or relating to this Agreement, including, but not limited to, contract, equity, tort, fraud, and statutory claims, the prevailing Party in the action is entitled to receive, and the non-prevailing Party shall pay (in addition to all other remedies to which the prevailing Party may be entitled) the costs and expenses incurred by the prevailing Party in conducting or defending the action, including actual attorneys' fees and expenses and court costs, even if not recoverable by law.

14.4   **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 the failure or delay is caused by any circumstances beyond Licensor's reasonable control, including but not limited to: (i) acts of God; (ii) flood, fire, earthquake, epidemics, or explosion; (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (iv) government order, law, or actions; (v) embargoes or blockades in effect on or after the date of this Agreement; (vi) national or regional emergency; (vii) strikes, labor stoppages or slowdowns, or other industrial disturbances; and (viii) shortage of adequate power or transportation facilities.

14.5   **Notices.** All notices given pursuant to this Agreement (each, a "**Notice**") must be delivered via email to, respectively, Licensor at legal@sangoma.com, and Licensee at its email address then associated with its account with Licensor. A Notice is effective only if the party giving Notice has complied with the requirements of this Section. A Notice is effective on the date it is sent. Licensor may change its email for purposes of this Section by sending Licensee notice of the change.

14.6   **Entire Agreement.** This Agreement 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, representations, and warranties, both written and oral, with respect to the subject matter.

14.7   **Assignment.** Licensee may not assign any of its rights or obligations under this Agreement, in whole or in part, whether by operation of law or otherwise, without the prior written consent of Licensor. Licensor may assign any of its rights or obligations under this Agreement, in whole or in part, without consent. Any purported assignment in violation of this Section is null and void. No assignment will relieve the assigning Party of any of its obligations under this Agreement unless the non-assigning party enters into a novation releasing the assigning party of its obligations.

14.8   **Change of Control.** Any Change of Control shall be deemed a prohibited assignment under Section 14.7. A "**Change of Control**" occurs if: (i) Licensee merges with another entity; (ii) a majority of Licensee's voting stock is sold or transferred, directly or indirectly; (iii) any person or entity that does not currently control Licensee acquires the power to direct Licensee's management or policies; or (iv) any of these events occur with respect to any parent entity or ultimate beneficial owner of Licensee. Any Change of Control without Licensor's prior written

consent gives Licensor the right to terminate this Agreement and all licenses immediately upon notice.

14.9   **Third-Party Beneficiaries.** Except for third parties whose liability is limited pursuant to Section 11, there are no third-party beneficiaries of this Agreement and nothing in this Agreement, express or implied, is intended to confer on any person other than the Parties any rights, remedies, obligations or liabilities.

14.10   **Modifications.** This Agreement may be modified by Licensor without prior written notice at any time, in Licensor's sole discretion. Licensee acknowledges that this Agreement may be updated from time to time. Licensee shall periodically review this Agreement as posted on Licensor's website for any changes. The latest version of this Agreement will be posted on Licensor's website, and Licensee's continued actions as authorized or contemplated by this Agreement after a change to this Agreement will constitute Licensee's agreement to the change.

14.11   **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, that invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable that term or provision in any other jurisdiction.

4865-6789-1240, v. 3