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1. DEFINITIONS AND INTERPRETATIONS

- 1.01 "Agreement" or "License" or "EULA" shall mean this End User License Agreement.
- 1.02 "Licensee" or "You" or "Your" shall mean You, the individual or business entity licensing the Product under the terms of this Agreement.
- 1.03 "Intellectual Property" means current and future worldwide rights under patent law, copyright law, trade secret law, trademark law, moral rights law, and other similar rights.
- 1.04 "Update" means maintenance of, or a fix to, a version of the Product, including, but not limited to: a hot fix, patch, or enhancement, none of which function as a standalone service or other software package and which do not have an additional cost for any existing Licensee.
- 1.05 "Upgrade" means a major, standalone version of the Product, which may include additional applications, features, or functionality.
- 1.06 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.07 Words in the singular shall include the plural and vice versa.

- 1.08 A reference to one gender shall include a reference to the other genders.
- 1.09 A reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of any amendment or reenactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts; provided that, as between the Parties, no such amendment or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any Party.
- 1.10 A reference to writing or written includes e-mail.
- 1.11 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.12 Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.13 References to articles, sections, or clauses are to the articles, sections, and clauses of this Agreement.
- 2. LICENSE GRANT.** The Licensor shall grant to You a non-exclusive license for the use and installation of the Product subject to all the terms and conditions set forth herein. Furthermore, this EULA shall also govern all software Updates and Upgrades provided by the Licensor that would replace, overwrite and/or supplement the original installed version of the Product, unless those other Updates and Upgrades are covered under a separate license, in which case the terms of that license will govern.
- 3. TERMINATION.** Should You breach this EULA, Your right to the use of the Product will immediately terminate and shall terminate without any notice being given. However, all provisions of this EULA, except for the License grant, shall survive termination and will remain in effect. Upon termination of the License grant, You **MUST** destroy all copies of the Product.
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- 4.01 PROTECTED PRODUCT.** The Product is protected by copyright and other Intellectual Property laws and treaties, and as such all rights, title, and interest in and to the content offered, including but not limited to, any photographs, images, video animation, text, and music, that may be incorporated as part of the offered content. Such offered content is protected by copyright laws and international treaty provisions. Therefore, offered content must be treated as any other copyrighted material, with the exception that it is allowable for You to make copies as provided by the License. However, printed material, which may accompany any offered content, may not be copied.

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- 6. UPDATES/UPGRADES.** The Licensor may find the need to make available Updates or Upgrades for the Product, in accordance with the herein contained terms and conditions of this EULA. It shall be at the sole discretion of the Licensor to make conditional releases of said Updates or Upgrades to You upon Your acceptance of another EULA or execution of another separate agreement. Should You elect to install and make use of these updates, You are therefore agreeing to be subject to all applicable license, terms and conditions of this EULA and/or any other agreement.
- 7. DISCLAIMER OF WARRANTY.** The Licensor shall use reasonable efforts consistent with prevailing industry standards to maintain the Product in a manner which minimizes errors and interruptions.

HOWEVER, THE LICENSOR DOES NOT WARRANT THAT THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES THE LICENSOR MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE PRODUCT.

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- 9. EXPORT CONTROLS.** By installing the Product, You hereby agree that You will comply with all applicable export laws, restrictions and all regulations of the U.S. Department of Commerce, U.S. Department of Treasury, and any other U.S. or foreign agency or authority with regards to this provision of the EULA. You expressly agree not to export or re-export, nor allow the export or re-export of the offered content in violation of any such law, restriction or regulation, including without limitation, export or re-export to any country subject to any and all applicable U.S. trade embargoes or to any prohibited destination, in any group specified in the current "Supplement No. 1 to Part 740 or the Commerce Control List specified in the then current Supplement No. 1 to Part 738 of the U.S. Export Administration Regulations (or any successor supplement or regulations)."
- 10. U.S. GOVERNMENT END USERS.** The offered content is licensed by the U.S. Government with RESTRICTED RIGHTS. The use, duplication of, or the disclosure by the U.S. Government, shall be subject to restrictions in accordance with DFARS 252.227-7013 of the Technical Data and Computer Software clause, and 48 DCR 52.227-19 of the Commercial Computer Software clause, as applicable.
- 11. MISCELLANEOUS**

 - 11.01 SUCCESSORS AND ASSIGNS.** This EULA, in its entirety, shall be legally binding upon and inure to the benefit of the Licensor and You, the Licensor's respective successors and permitted assigns.
 - 11.02 SEVERABILITY.** If any provision of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, the remaining provisions shall not be affected.
 - 11.03 WAIVER.** If there is any waiver of any breach or failure to enforce any of the provisions contained herein, it shall not be deemed as a future waiver of said terms or a waiver of any other provision of this EULA.
 - 11.04 AMENDMENTS.** Any waiver, supplementation, modification, or amendment to any provision of this EULA, shall only be effective when done so in writing and signed off by the Licensor and You.

- 11.05 GOVERNING LAW.** This EULA shall be governed solely by the laws of the United States.
- 11.06 ASSIGNMENTS.** You may not assign or transfer any part of this License without the written consent of the Licensor, except that, if a change of control occurs (including a sale or merger), the Party experiencing the change of control may ensure this License remains in full force and effect by providing written notice to the other Party within thirty (30) days after the change of control.
- 11.07 VALID AND BINDING.** This Agreement constitutes a valid and legally binding obligation of the Parties, enforceable against the Parties in accordance with its terms, subject in all respects to the effects of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium, and other laws relating to or affecting creditors' rights generally and general equitable principles.
- 11.08 EFFECT OF TITLE AND HEADINGS.** The title of the Agreement and the headings of Sections, and Clauses are included for convenience and shall not affect the meaning of the Agreement or the Section.
- 11.09 FORCE MAJEURE.** Except for payment obligations, if either Party is prevented from performing or is unable to perform any of its obligations under this License due to causes beyond the reasonable control of the Party invoking this provision, including but not limited to acts of God, acts of civil or military authorities, riots or civil disobedience, wars, strikes or labor disputes (each, a "**Force Majeure Event**"), such Party's performance shall be excused and the time for performance shall be extended accordingly provided that the Party immediately takes all reasonably necessary steps to resume full performance.