

## AMPCHROMA™

### END-USER LICENSE AGREEMENT THIS END-USER LICENSE AGREEMENT (“EULA”) GOVERNS YOUR ACQUISITION AND USE OF ANTENNA SOFTWARE, LLC’S (“ANTENNA”) TECHNOLOGY AND SERVICES.

BY ACCEPTING THIS EULA, BY CLICKING A BOX INDICATING YOUR ACCEPTANCE, OR BY USING THE SERVICES, YOU AND THE COMPANY YOU REPRESENT (“LICENSEE”) AGREE TO THE TERMS OF THIS EULA. YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THE LICENSEE AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS EULA AND MAY NOT USE THE SERVICES. THIS EULA IS ENFORCEABLE AGAINST ANY PERSON OR ENTITY THAT USES THE SOFTWARE AND ANY PERSON OR ENTITY THAT INSTALLS OR USES THE SOFTWARE ON ANOTHER PERSON’S OR ENTITY’S BEHALF. THE SPECIFIC TERMS OF YOUR LICENSE OF THE PRODUCT FROM YOUR RESELLER (“LICENSE PURCHASE TERMS”) MAY PROVIDE ADDITIONAL MATERIAL TERMS PERTAINING TO THIS EULA (EXAMPLE, THE SPECIFIC NUMBER OF AUTHORIZED ACTIVE ENDPOINTS, ETC.), BUT IN THE EVENT OF ANY CONFLICT BETWEEN THE TERMS OF THIS EULA AND YOUR LICENSE PURCHASE TERMS, THE TERMS OF THIS EULA SHALL CONTROL IN ALL RESPECTS.

BECAUSE YOU HAVE PURCHASED THE ANTENNA TECHNOLOGY AND SERVICES FROM AN AUTHORIZED RESELLER (THE “RESELLER”) SUCH RESELLER MAY HAVE GRANTED YOU RIGHTS OTHER THAN THOSE CONTAINED IN THIS AGREEMENT. ANTENNA HAS NO OBLIGATIONS WITH RESPECT TO ANY SUCH RIGHTS, AND YOUR SOLE COURSE OF ACTION IN THE EVENT OF ANY DISPUTE RELATING TO SUCH RIGHTS SHALL BE AGAINST SUCH RESELLER.

#### 1. DEFINITIONS

**1.1.** “Antenna Technology” means computer programs, works of authorship, know-how, inventions, processes, data, technical specifications, information and tables, and all improvements, derivative works, updates, fixes, and new releases thereof, which are used by Antenna to provide the Services.

**1.2.** “App” means a mobile application that is developed, distributed, and/or hosted using the Services.

**1.3.** “AUP” means the Antenna Acceptable Use Policy located at:  
<http://www.antennasoftware.com/company/legal/aup>.

**1.4.** “Device” means Device User’s mobile device(s), mobile phone(s), smartphone(s), tablet computer and computing device(s) (excluding laptop computers), personal digital assistant(s) (PDAs), enterprise digital assistant(s) (EDAs), and any similar or similarly functioning electronic devices which may be used to access the Services. For clarity, each separate Device used by a single Device User shall count as a separate Device for the purposes of this agreement (e.g., a smartphone and a tablet using the same App shall still be treated as two separate Devices).

**1.5.** “Device User” means an individual user of an App developed, distributed, and/or hosted through the Services. Device Users may include but are not limited to Licensee employees, consultants, contractors and agents.

**1.6.** “Device User Data” means Personal Information and Non-PII.

**1.7.** “Intellectual Property Rights” means any intellectual property or proprietary rights, including but not limited to copyrights, moral rights, trademarks (trade names and service marks), patents (including

patent applications) and trade secrets, recognized in any country or jurisdiction in the world.

**1.8.** “Licensee” has the meaning given in the introduction to this EULA.

**1.9.** “Licensee Content” has the meaning given in Section 8.2.

**1.10.** “Non-PII” (non-personally identifiable information) means information that cannot be used to identify specific individuals. Examples of Non-PII may include, without limitation, demographic data (not combined with Personal Information), IP address (not combined with Personal Information), and browser type. Non-PII may be derived from Personal Information.

**1.11.** “Personal Information” means any information: (a) that identifies or can be used to identify, contact, or locate the person to whom such information pertains; or (b) from which identification or contact information of an individual person can be derived. Personal Information includes, but is not limited to: name, address, phone number, fax number, email address, and Cardholder Data. Additionally, to the extent any other information (such as a personal profile, unique identifier, biometric information, or IP address) is associated or combined with Personal Information, then such information also will be considered Personal Information.

**1.12.** “Reseller” has the meaning given in the introduction to this EULA.

**1.13.** “Service(s)” means the applicable service(s) provided by Antenna as specified in the License Purchase Terms and further described in the User Guide.

**1.14.** “Security and Privacy Policy” has the meaning given in Section 6.1.

**1.15.** “Term” has the meaning given in Section 12.1.

**1.16.** “User Guide” means the detailed user guides for the individual Services.

**1.17.** Other capitalized terms used in this EULA are defined in place.

## **2. LICENSE**

Antenna grants Licensee a non-exclusive and non-transferable license to (i) access and use Antenna Technology (including downloading of client components for use of certain features of the Antenna Technology), and (ii) allow Device Users to access, download, and use Apps, as and to the extent set forth in this EULA and in the License Purchase Terms. To the extent Antenna includes any third party software in the Antenna Technology or any Apps, Licensee’s use of such Antenna Technology or Apps shall be subject to any restrictions in the applicable third party software license as set forth at [www.antennasoftware.com/company/legal/licensing.htm](http://www.antennasoftware.com/company/legal/licensing.htm). Licensee will not (a) reverse engineer, disassemble, decompile or otherwise attempt to derive source code from the Antenna Technology, (b) make the Antenna Technology available to any third parties other than as expressly permitted in this EULA, (c) modify, adapt, translate or create derivative works based on the Antenna Technology except as expressly permitted by this EULA, (d) reproduce any portion of the Antenna Technology except as expressly permitted in this EULA, or (e) permit or authorize any party to do any of the foregoing. The foregoing license shall also extend to subcontractors of Licensee, but only to the extent that such subcontractors are performing services for or on behalf of Licensee and only in support of such services.

## **3. SERVICES**

**3.1.** Antenna will provide to Licensee the Services in accordance with the then-current Service Catalog.

**3.2.** Licensee may provide certain Licensee Content in connection with the Services. Licensee is obligated to ensure that (i) the Licensee Content is suitable for publication through the Services, (ii) the Licensee Content is consistent with the Antenna AUP, and (iii) Licensee has all rights needed to publish the Licensee Content through the Services. Should any Licensee Content be, in Antenna’s sole determination, inappropriate or otherwise objectionable or undesirable (whether for editorial, legal, business, or other reasons) or otherwise inconsistent with the AUP, Antenna may immediately suspend Licensee’s use of the Services until the Licensee Content is removed or corrected. If Licensee repeatedly violates the AUP, Antenna may immediately terminate this

EULA, effective upon notice to Licensee. Without limiting the generality of the foregoing, Licensee agrees that any Licensee Content or Apps developed by Licensee will be compliant with any regulations applicable to Licensee’s industry and/or the functionality of such App (e.g., compliance with CAN-SPAM).

## **3.3. Third Party Products and Services.**

**3.3.1.** Antenna may from time to time make available to Licensee access to third-party products or services, including but not limited to marketplaces for applications (e.g., the “iPhone App Store” or the “Android Market”). Any acquisition by Licensee of such non-Antenna products or services (including access through use of the Antenna Services), and any exchange of data between Licensee or Device Users and any non-Antenna provider, is subject to the terms of Licensee’s relationship with such provider, including any applicable terms of use or agreement Licensee may enter into with such third party provider. Antenna makes no warranty regarding the operation of such products or services.

**3.4.** Licensee acknowledges and agrees that Antenna may allow third party providers of non-Antenna products and services to access Licensee Content or Device User Data as required for the interoperation of such products and services with the Services. Antenna will not be responsible for any disclosure, modification or deletion of Licensee Content or Device User Data resulting from any such access by third party products and services; any responsibility of the third party provider will be governed solely by Licensee’s agreement with such third party provider.

## **4. COMPLIANCE WITH LAWS**

Each party will, at its cost and expense, obtain all necessary regulatory approvals, licenses, and permits applicable to its business and comply with all laws and regulations applicable to its business and the performance of its obligations under this EULA, as such laws and regulations may be revised from time to time. Without limiting the generality of the foregoing, the Antenna Technology and any Apps developed using the Antenna Technology may be subject to US or foreign jurisdictions’ export control laws, rules and regulations. Licensee shall fully comply with all such laws, rules and regulations in the export, resale or other disposition of the Products.

## **5. CONFIDENTIALITY**

**5.1. Confidential Information.**

**5.1.1.** “Confidential Information” of a party means any non-public, commercially proprietary or sensitive information (or materials) belonging to, concerning or

in the possession or control of the party or its affiliates (the "Furnishing Party") that is furnished, disclosed or otherwise made available to the other party (the "Receiving Party") (or entities or persons acting on the Receiving Party's behalf) in connection with this EULA and which is either marked or identified in writing as confidential, proprietary, secret or with another designation sufficient to give notice of its sensitive nature, or is of a type that a reasonable person would recognize it to be commercially sensitive. In the case of Antenna, Confidential Information includes all information relating to the Antenna Technology and the delivery of the Services. In the case of Licensee, Confidential Information includes Personal Information of Device Users. In the case of both parties, Confidential Information includes information concerning the party's and/or its affiliates' products, marketing strategies, financial affairs, employees, customers or suppliers, regardless of whether or how it is marked.

**5.2.** The obligations relating to Confidential Information set forth in this EULA do not apply to any particular information of the Furnishing Party (other than Personal Information) that the Receiving Party can demonstrate: (i) was in the possession of, or was rightfully known by, the Receiving Party without an obligation to maintain its confidentiality prior to receipt from the Furnishing Party; (ii) was or has become generally available to the public other than as a result of disclosure by the Receiving Party or its agents; or (iii) was independently developed by the Receiving Party without use of or reference to any Confidential Information of the Furnishing Party.

**5.3. Obligations.**

**5.3.1.** Each party acknowledges that it may be furnished, receive or otherwise have access to Confidential Information of the other party in connection with this EULA.

**5.3.2.** As necessary to accomplish the purposes of this EULA, the Receiving Party may disclose Confidential Information of the Furnishing Party to any employee, officer, director, contractor, agent or representative of the Receiving Party who has a legitimate need to know the information in question for the purposes of this EULA and who is bound to the Receiving Party to protect the confidentiality of the information in a manner substantially equivalent to that required of the Receiving Party pursuant to this EULA. The Receiving Party may also disclose Confidential Information of the Furnishing Party to the Receiving Party's regulatory agencies and auditors, provided that prior to such disclosure, they are made aware of the Receiving Party's obligations of confidentiality.

**5.3.3.** The Receiving Party will use at least the same degree of care as the Receiving Party employs to avoid unauthorized use or disclosure of its own

confidential information of a similar nature, but in no event less than reasonable care.

**5.3.4.** If any unauthorized disclosure, loss of, or inability to account for any Confidential Information of the Furnishing Party occurs, the Receiving Party will promptly so notify the Furnishing Party and will cooperate with the Furnishing Party and take such actions as may be necessary or reasonably requested by the Furnishing Party to minimize the violation and any damage resulting from it.

**5.3.5.** Upon termination or expiration of this EULA, the Receiving Party will return or, at the Furnishing Party's request, destroy, all Confidential Information received from the Furnishing Party in connection with this EULA, except as otherwise required to be maintained pursuant to this EULA or applicable law or regulation.

**6. DEVICE USER DATA**

**6.1.** Ownership of Device User Data. Licensee will own all Personal Information and Non-PII relating to Device Users.

**6.2.** Permitted Uses of Device User Data. Antenna's use of Device User Data (including Personal Information and Non-PII) will at all times be subject to the terms of the then-current AMPchroma Security and Personal Information Policy document (the "Security and Privacy Policy"), the most current version of which is always available at <http://www.antennasoftware.com/company/legal/spip>.

**6.3.** Licensee Privacy Policy. The parties acknowledge that Licensee will maintain the relationship with the Device Users, and Licensee's privacy policy will govern the use of all Device User Data. Licensee represents and covenants that its privacy policy permits (and will continue to permit) Licensee to provide Antenna with any Personal Information provided by Licensee related to this EULA.

**7. AUDIT RIGHTS**

Licensee will maintain accurate books and records relating to the consumption of Services for at least three (3) years after the provision of services. No more than once in any rolling twelve (12) month period, and upon at least thirty (30) days' prior notice, Reseller (or a reputable independent third party hired by Reseller) may, at Reseller's own expense, audit and review any such books and records as related to this EULA in order to verify the number of Devices using the Services under this EULA (an "Audit"). Licensee will reasonably cooperate with all Audits, including making available relevant records and documents at its principal business address during normal business hours.

## **8. PROPRIETARY RIGHTS**

**8.1.** Ownership by Antenna. As between the parties, Antenna is the exclusive owner of and retains all right, title and interest in and to the Antenna Technology, and, subject to Licensee's rights in the Licensee Content set forth in Section 8.2, the Services, including without limitation any templates and any and all other Intellectual Property Rights in or to the Services.

**8.2.** Ownership by Licensee. Licensee is the exclusive owner of and retains all right, title and interest in and to any and all Licensee-specific: text, data images, design, structure, graphic images, audio, video and audiovisual material, trademarks, and other materials, to the extent such materials are contributed by Licensee for incorporation into any materials developed in connection with the Services (collectively "Licensee Content"), including without limitation all Intellectual Property Rights therein.

**8.3.** License Grant to Licensee Content. Licensee grants to Antenna a nonexclusive, worldwide and royalty-free right and license during the Term to store, reproduce, display, perform, transmit and use the Licensee Content in any App or mobile website as reasonably necessary for the purpose of providing the Services.

**8.4.** Trademarks.

**8.4.1.** Each party (the "Using Party") agrees that, with respect to its use of the other party's (the "Owning Party") trademarks, marks and trade names ("Marks") provided or otherwise identified by the Owning Party for the Using Party's use: (i) as between the parties, all rights in and to such Marks are owned by the Owning Party, (ii) the Using Party will do nothing inconsistent with such ownership, (iii) all uses of such Marks will inure to the sole benefit of and be on behalf of the Owning Party, (iv) the Using Party will use the Owning Party's Marks in accordance with any guidelines for the use of such Marks as provided by the Owning Party from time to time, (v) the Using Party will not alter any such Marks and will use only exact reproductions thereof as supplied by the Owning Party, and (vi) at the Owning Party's reasonable request, all depictions of such Marks that the Using Party intends to use will be submitted to the Owning Party for approval of design, color, or other details.

**8.4.2.** Licensee acknowledges that any web pages or Apps from which Licensee or Device Users access the Services will include the mark "Powered by Antenna Software, LLC"

**8.4.3.** or such other designation as Antenna reasonably selects.

**8.5.** No Other Licenses. Except as specifically provided in this EULA, Licensee does not grant to

Antenna any right or license, express or implied, in the Licensee Content or any Licensee Intellectual Property Rights. Except as specifically provided in this EULA, Antenna does not grant to Licensee any right or license, express or implied, in the Services, the Antenna Technology or any Antenna Intellectual Property Rights.

**8.6.** Suggestions. Antenna will have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Licensee or Device Users, relating to the operation of the Services.

## **9. DISCLAIMER OF WARRANTIES**

If any form of limited warranty for the Services is offered by Your Reseller, all terms of that Services warranty offered will be set forth in the License Purchase Terms, and any such Services warranty will be administered exclusively by your Reseller, and no Services warranty of any kind is otherwise offered or administered by Antenna. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANTENNA PROVIDES THE SERVICES AND TECHNOLOGY, DOCUMENTATION, ANY SUPPORT, AND ANY INTERNET-LINKED SERVICES OR COMPONENTS "AS IS" AND "WITH ALL FAULTS", AND HEREBY DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

## **10. DISCLAIMER OF DAMAGES**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ANTENNA BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, OR FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF, OR IN ANY WAY RELATED TO, THE USE OF, OR INABILITY TO USE, THE ANTENNA TECHNOLOGY, OR THROUGH PROVISION OF (OR FAILURE TO PROVIDE) THE SERVICES, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF ANTENNA, AND EVEN IF ANTENNA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 11. LIMITATION OF LIABILITY

NOTWITHSTANDING ANY DAMAGES THAT YOU MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED HEREIN AND ALL DIRECT OR GENERAL DAMAGES IN CONTRACT OR ANYTHING ELSE), IN ALL EVENTS THE ENTIRE LIABILITY OF ANTENNA UNDER ANY PROVISION OF THIS EULA AND YOUR EXCLUSIVE REMEDY HEREUNDER SHALL BE LIMITED TO THE GREATER OF: i) THE ACTUAL DAMAGES YOU INCUR IN REASONABLE RELIANCE ON THE ANTENNA TECHNOLOGY OR SERVICES, NOT TO EXCEED THE LICENSE PURCHASE AMOUNT AND FEES ACTUALLY PAID BY LICENSEE FOR THE ANTENNA TECHNOLOGY OR SERVICES; OR ii) US\$500.00. THE FOREGOING DISCLAIMERS (SECTIONS 10 AND 11), AND LIMITATIONS OF LIABILITY AND REMEDIES SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

## 12. TERM AND TERMINATION

**12.1.** Term. The term of this EULA will commence on the Effective Date and continue for as long as the License Purchase Terms are in effect or for a period as otherwise specified in the License Purchase Terms (the "Term"), unless earlier terminated as set forth in Section 12.2.

**12.2.** Compliance; Termination. Licensee agrees that within thirty (30) days of request by Antenna or Antenna's authorized representative, Licensee will fully document and certify that, as of the date of the request, Licensee's use of the Antenna Technology is in conformity with the License Purchase Terms and the terms of this EULA. Without prejudice to any other rights, Antenna may terminate this EULA and Licensee's license rights hereunder, if Licensee violates or fails to comply with the terms, conditions and restrictions herein. In such event, upon receipt of notification from Antenna, Licensee must immediately cease all use of the Antenna Technology and promptly destroy all copies of the Antenna Technology, and upon request provide written certification of Licensee's fulfillment of this obligation. In addition, Antenna may terminate this Agreement upon written notice if Licensee ceases to do business in the ordinary course or is insolvent (i.e., unable to pay its debts in the ordinary course as they come due), or is the subject of any liquidation or insolvency proceeding which is not dismissed within ninety (90) days, or makes any assignment for the benefit of creditors.

**12.3.** Effect of Termination. Upon the expiration or termination of this EULA:

**12.3.1.** Upon request, each party will return to the other party all Confidential Information received from such other party;

**12.3.2.** All licenses granted under this EULA will cease unless expressly stated otherwise;

**12.3.3.** Licensee will remove or terminate all links to the Services; and

**12.3.4.** Antenna will remove all reference to Licensee from its website and any promotional materials published following termination.

**12.4.** Survival. Sections 5, 6, 8.1, 8.2, 8.5, 8.6, 9, 10, 11, 12, and 13 will survive the termination or expiration of this EULA for any reason.

## 13. MISCELLANEOUS

**13.1.** Injunctive Relief. The parties acknowledge that the breach or threatened breach of Section 2 or 4, or any infringement or misappropriation of either party's Intellectual Property Rights by the other party, would cause irreparable harm to the non-breaching party, the extent of which would be difficult to ascertain. Accordingly, in addition to all other remedies available to it at law, a party may seek immediate injunctive relief if there is a breach or threatened breach of such Sections, or any infringement or misappropriation of its Intellectual Property Rights, by the other party or any of the other party's employees or subcontractors.

**13.2.** Virus. Antenna will use industry-available tools to prevent Viruses from being coded or introduced into the Antenna Technology. If a Virus is found to have been introduced into Licensee's systems by the Antenna Technology, Antenna will use commercially reasonable efforts to provide a virus-free version of the Antenna Technology and to assist Licensee to remove the Virus. "Virus" shall mean (i) program code or programming instruction or set of instructions intentionally designed to disrupt, disable, harm, interfere with or otherwise adversely affect computer programs, data files or operations; or (ii) other code typically described as a virus or by similar terms, including Trojan horse, worm or backdoor.

**13.3.** Assignment. Neither party may assign or delegate this EULA or any of its rights or duties hereunder, directly, indirectly, by operation of law or otherwise, without the written consent of the other, and any such purported assignment or delegation will be void. Notwithstanding the foregoing, each party may assign this EULA in connection with the sale or other transfer of all or substantially all of Antenna's equity or assets to which this EULA relates or to a successor entity in the event of re-organization. Subject to the foregoing, this EULA will be binding upon and inure to the benefit of the parties and their permitted successors and assigns.

**13.4. Waiver.** No failure or delay by either party in exercising any right, power, or remedy under this EULA will operate as a waiver of any such right, power or remedy.

**13.5. Choice of Law; Jurisdiction, Venue.** This EULA will be governed by the laws of the State of New York, without regard to its conflicts of laws provisions. Each party irrevocably consents to the exclusive jurisdiction of and venue in the federal or state courts in New York County, New York.

**13.6. Notices.** Any notice, notification, demand or request provided under this EULA must be in writing and sent to the party's address provided in this Section 13.5 by (a) FedEx or other comparable overnight courier (signature required), (b) registered or certified mail, postage prepaid, return receipt requested, (c) personal delivery with a signed receipt, or (d) email, with read receipt requested. All notices, notifications, demands or requests so given will be deemed given and received (w) if mailed, seven (7) days after being deposited in the mail, (x) if sent via overnight courier, the next business day after being deposited, (y) if personally delivered, when delivered, and (z) if sent by email, when the read receipt is received by the sender.

**For Notices to Antenna:**

Antenna Software, LLC  
111 Town Square Place  
Jersey City, NJ 07310  
Attn: Business Officer

gfeinberg@pega.com

**For Notices to Licensee:**

Address and contact person and email address of contact person as indicated in the License Purchase Terms

**13.7. No Unauthorized Representations.** Licensee will not make any representation or statement of any kind concerning the Services or the Antenna Technology without the prior written authorization of Antenna.

**13.8. Reference.** Antenna may list Licensee as a client in marketing materials.

**13.9. No Third Party Beneficiaries.** Nothing express or implied in this EULA is intended to confer, nor will it confer, any rights, remedies, obligations or liabilities whatsoever upon any person other than the parties hereto and their respective permitted successors and assigns.

**13.10. Subcontractors.** To the extent that Licensee uses subcontractors in connection with this EULA, Licensee shall be responsible for ensuring the compliance of its subcontractors with the terms of this EULA, including but not limited to the Confidentiality terms of Section 5 and the Proprietary Rights terms of Section 8, and such party shall be responsible for any breach of this Agreement by its subcontractors.

**13.11. Severability.** If any provision of this EULA will be held by a court of competent jurisdiction to be contrary to law, such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of this EULA will remain in full force and effect.

**13.12. Force Majeure.** Neither party will be deemed in default hereunder, nor will it hold the other party responsible for, any cessation, interruption or delay in the performance of the affected party's obligations hereunder due to causes beyond its reasonable control, including, but not limited to: earthquake, flood, fire, storm or other natural disaster, act of God, labor controversy or threat thereof, civil disturbance or commotion, disruption of the public markets, war or armed conflict or the inability to obtain sufficient material, supplies, labor, transportation, power or other essential commodity or service required in the conduct of its business, including internet access, or any change in or the adoption of any law, ordinance, rule, regulation, order, judgment or decree, provided, however, that the affected party makes commercially reasonable efforts to perform despite such event, which reasonable efforts will include, at a minimum, implementing a reasonable disaster recovery/business continuity plan for an operation of the size and kind of the affected party.

**13.13. Titles and Headings.** The titles, captions and headings of this EULA are included for ease of reference only and will be disregarded in interpreting or construing this EULA. Unless otherwise specifically stated, all references in this EULA to "Sections" will mean Sections of this EULA.

**13.14. Complete Understanding and Amendment.** This EULA constitutes the final, complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes any prior or contemporaneous agreement, either written or oral. No modification, amendment or waiver of any provision of this EULA will be effective unless in writing and signed by both parties.