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or content that advocates discrimination, hatred, or violence based on considerations of race, ethnicity, national origin, language, gender, age, disability, religion, sexual orientation, status as a veteran, or membership in any other social group.

6.4.7 Alcohol, Tobacco, Weapons and Drugs. Your Public Workspaces will not contain any content that facilitates or glamorizes excessive or irresponsible use of alcohol or tobacco products, drugs, or weapons.

6.4.8 Age Ratings. If the content of any of Your Public Workspaces requires an age rating, You will provide end users with any required information in the description of the applicable Public Workspaces. The name, description and any other related content that You provide with Your Public Workspaces will be appropriate for the applicable age rating.

7. Confidentiality.

7.1 Definition of Confidential Information. “Confidential Information” means all information disclosed by Licensor to You, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including without limitation includes the terms and conditions of this Agreement, all Ordering Forms, the Licensed Product, technical data, trade secrets or know-how, including but not limited to research, product plans and specifications, computer software and programs (including object code and source code), data, databases and database technologies, developments, inventions, processes, compilations, flowcharts, formulae, technology, sketches, designs, drawings, diagrams, manuals, schematics, samples, engineering, hardware configuration information, or marketing, finance or other business information disclosed to You. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to Licensor, (b) was known to You prior to its disclosure by Licensor without breach of any obligation owed to Licensor, (c) is received from a third party without breach of any obligation owed to Licensor, or (d) was independently developed by You.

7.2 Protection of Confidential Information. You will use the same degree of care that You use to protect the confidentiality of Your own confidential information (but not less than reasonable care) and not disclose or otherwise make available to any third party and not use any Confidential Information for any purposes beyond the scope of this Agreement.

7.3 Compelled Disclosure. If You are requested or required by any law, rule, regulation, legal or investigative process to disclose any information that You are not permitted to disclose, You shall provide Licensor with prompt notice of each such request and the information requested so that Licensor may seek to prevent disclosure or the entry of protective order. If disclosure is required and a protective order is not obtained, You shall disclose only such information that You are legally required to disclose.

8. Intellectual Property Rights.

8.1 Licensed Product. All right, title and interest, in and to the Licensed Product and all copyrights, trademarks, service marks, patents, trade secrets and other proprietary rights embodied herein, and any improved, updated, modified, or additional parts thereof, will at all times remain the property of Licensor. The Licensed Product is protected by United States copyright, patent and other intellectual property laws and international treaty provisions. Licensee may not remove the copyright notice or any other proprietary notices from the Licensed Product. Nothing herein will give or be deemed to give Licensee any

right, title or interest in or to the same. Licensor reserves all rights not expressly granted in this Agreement.

8.2 Licensee Domains. All Licensee Domains are and shall remain the property of Licensee. Licensee shall have the sole and exclusive ownership rights in all Licensee Domains but the use thereof shall be subject to and limited upon the expiration of the licenses to the Licensed Product.

8.3 Licensee Domains Included in Public Workspaces. Licensee may elect to contribute Licensee Domains to the Public Libraries by including them in Public Workspaces. If Licensee elects to contribute Licensee Domains by including them in Public Workspaces, Licensee shall be deemed to have granted a perpetual, unlimited license for Licensor and all end users to load and run such Licensee Domains, to modify such Licensee Domains and to develop and distribute new Domains that incorporate such Licensee Domains.

9. NO WARRANTY. THE LICENSED PRODUCT IS PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. LICENSOR MAKES NO REPRESENTATIONS ABOUT THE SUITABILITY OF THE LICENSED PRODUCT FOR LICENSEE'S INTENDED REQUIREMENTS OR PURPOSES. LICENSOR DOES NOT WARRANT THAT THE LICENSED PRODUCT WILL OPERATE WITHOUT INTERRUPTION OR IS ERROR-FREE. LICENSOR EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. LICENSOR DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY HOSTING PROVIDERS. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY. IN THAT EVENT, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DELIVERY OF THE LICENSED PRODUCT. LICENSEE MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE. LICENSOR DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT LICENSEE'S USE OF THE LICENSED PRODUCT WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS OR LAWS OR REGULATIONS. THIS DISCLAIMER APPLIES TO, BUT IS NOT LIMITED TO, THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"), THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT ("HITECH") OR OTHER FEDERAL OR STATE STATUTES OR REGULATIONS, AS MAY BE AMENDED FROM TIME TO TIME. LICENSEE IS SOLELY RESPONSIBLE FOR ENSURING THAT HIS OR HER USE OF THE LICENSED PRODUCT IS IN ACCORDANCE WITH APPLICABLE LAW.

10. LIMITATION OF LIABILITY. IN NO EVENT WILL LICENSOR BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE, OPERATION OR PERFORMANCE OF THE LICENSED PRODUCT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY SOLELY IN THE CIRCUMSTANCES WHERE NOT PERMITTED. IN NO EVENT SHALL LICENSOR'S LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES PAID BY LICENSEE TO LICENSOR HEREUNDER.

11. Indemnification. Licensee agrees to indemnify, defend and hold Licensor harmless from all claims, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any: (a) Licensee's breach of this Agreement; (b) claims made or brought against Licensor by a third party alleging that Licensee Data infringes or misappropriates

such third party's intellectual property rights or violates applicable law, (c) failure by Licensee to obtain all necessary consents related to Licensee Data, and (d) any reasonable costs and attorneys' fees required for Licensor to respond to a subpoena, court order or other official government inquiry regarding Licensee Data. Licensor may request indemnification under this provision, provided that Licensor: (i) promptly provides written notice of the claim to Licensee, (ii) provides sole control of the defense and settlement to Licensee (provided any settlement unconditionally releases Licensor of all liability in the matter), and (iii) provides all available information and reasonable assistance at Licensee expense.

12. Professional Services. Licensee may order Professional Services under an Ordering Form describing the work to be performed, fees and any applicable dependencies and other technical specifications or related information. Each Ordering Form that includes Professional Services must be signed by both parties before Licensor shall commence work under such Ordering Form. Licensee shall have a right to use any deliverables, including any documentation and training materials, delivered as part of the Professional Services solely in connection with Licensee's permitted use of the Licensed Product, subject to all the same terms and conditions as apply to the Agreement (including in Section 3.4 (Restrictions)), and subject to any additional terms and conditions provided with the deliverables. If Licensor incurs any travel or lodging expenses in connection with Professional Services, Licensee shall pay all reasonable travel and lodging expenses, including transportation, lodging, meals and other direct expenses incurred in connection with the Professional Services, which will be invoiced at actual cost.

13. License Fees, Invoicing and Payment. You license the Licensed Product from Licensor. This Agreement is between You and Licensor solely. The applicable license fees are specified in the applicable Ordering Form or by an Authorized Reseller. Licensor may offer free or discounted pricing programs from time to time covering certain usage of the Licensed Product. Licensor may discontinue free or discounted pricing programs at any time. Standard pricing will apply after a free or discounted pricing program ends or if You exceed the limitations by the free or discounted pricing program. You must comply with any additional terms, restrictions or limitations for a free or discounted pricing program as described in the offer terms or on the applicable pricing page. Any published pricing is subject to change without prior notice. The payment terms and conditions for the fees payable to Licensor are specified in the applicable Ordering Form. The payment terms and conditions for the applicable fees payable to an Authorized Reseller are as specified by the applicable Authorized Reseller. All fees paid to Licensor are non-refundable except as explicitly permitted by Licensor. If the Ordering Form specifies that payment will be by a credit card, You will provide Licensor with valid and updated credit card information. Licensor may terminate this Agreement and invalidate Your software access if the billing or contact information is false, fraudulent or invalid. **YOU AUTHORIZE LICENSOR TO CHARGE SUCH CREDIT CARD FOR ALL LICENSED PRODUCT LISTED IN THE ORDERING FORM FOR THE INITIAL SUBSCRIPTION TERM AND ANY RENEWAL SUBSCRIPTION TERM(S) AS SET FORTH IN SECTION 14.2.1 (SUBSCRIPTION LICENSES). SUCH CHARGES SHALL BE MADE IN ADVANCE, EITHER ANNUALLY OR IN ACCORDANCE WITH ANY DIFFERENT BILLING FREQUENCY STATED IN THE APPLICABLE ORDERING FORM.** If the Ordering Form specifies that payment will be by a method other than a credit card, Licensor will invoice You in advance and otherwise in accordance with the relevant Ordering Form. Unless otherwise stated in the Ordering Form, invoiced charges are due net thirty (30) days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Licensor and notifying Licensor of any changes to such information. You shall pay all fees associated with the Licensed Product, Professional Services and any other fee as set forth in the applicable Ordering Form. All fees are quoted and payable in United States dollars. Except as expressly set forth herein, all fees are non-refundable once paid. Unless timely provided with a valid certificate of exemption or other evidence that items are not taxable, Licensor or Authorized Partner will invoice You for all applicable taxes including, but not limited to, VAT, GST, sales tax, consumption tax and service tax. You will make all payments free and clear of, and without reduction for, any withholding or other taxes; any such taxes imposed on payments by You hereunder will be Your sole responsibility. If any invoiced amount is not received by Licensor by

the due date, then without limiting Licensor's rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) Licensor may condition future subscription renewals and Ordering Form(s) on payment terms shorter than those specified in this Section 13 (Invoicing and Payment).

14. Term and Termination.

14.1 Term of Agreement. This Agreement is effective as of the date that You first accepts the terms of this Agreement or as otherwise defined in the applicable Ordering Form and shall continue until the earlier to occur of the expiration of the applicable license term or the termination of this Agreement as set forth below. For clarification, the term of the licenses granted under this Agreement may be designated as a (a) subscription term, (b) limited term (e.g., Evaluation Version or Beta Version), or (c) perpetual term, and shall be specified in the applicable Ordering Form at the time of purchase.

14.2 License Term.

14.2.1 Subscription Licenses. If Your license is a subscription, then the term of the subscription shall be one (1) year or as otherwise specified in the Ordering Form. You may, however, renew or reinstate Your subscription. Subscription renewals are subject to the terms of Licensor's then-current End User License Agreement.

14.2.2 Evaluation Versions and Beta Versions. If Your license is an Evaluation Version or Beta Version, then its term shall be limited to the period of time as specified in the applicable registration form or form of similar import. If the applicable registration form or form of similar import fails to state a license term, then the term of Your license shall be thirty (30) days from date that You first receive the Licensed Product, whether via download or otherwise.

14.2.3 Perpetual Licenses. If the applicable Ordering Form states that Your license is "Perpetual," then Your license is perpetual, subject to termination by Licensor as provided under this Agreement.

14.3 Termination. Licensor may terminate this Agreement immediately without notice to You if You breach any term of this Agreement, including, without limitation, breaching the scope of the license granted or Your obligations under this Agreement. Termination is not an exclusive remedy of Licensor and the exercise by Licensor of any remedy under this Agreement will be without prejudice to any other remedies Licensor may have under this Agreement, by law or otherwise.

14.4 Payment upon Termination. If this Agreement is terminated by Licensor in accordance with Section 14.3 (Termination), You will pay any unpaid fees covering the remainder of the term of all Ordering Forms. In no event will termination relieve You of Your obligation to pay any fees payable to Licensor for the period prior to the effective date of termination.

14.5 Access to Data. Unless Licensor determines otherwise, Licensor will provide You with access to Licensee Data that has been uploaded to or submitted to Your Private Workspaces or Public Workspaces following expiration or termination of this Agreement provided You submit a written request to Licensor for access to such Licensee Data within fourteen (14) days after the effective date of termination. If you fail to submit such written request within fourteen (14) days after the effective date of termination, you will no longer have access to such Licensee Data and Licensor shall not be liable to You for any damages or losses You may incur as a result of not having access to such Licensee Data.

14.6 Effect of Expiration or Termination. Upon expiration or termination, all of Your rights to use the Licensed Product shall cease, and You will no longer have the ability to access the Licensee Domains. At such time, You must cease the use of the Licensed Product for which You have not paid in full and destroy or return to Licensor, at Licensor's discretion, all copies of the Licensed Product in its possession, including any and all archival copies. Expiration or termination of this Agreement constitutes termination of the license granted herein. Licensor will have no obligation to provide any transition services or access to Licensee Data, including Licensee Data as included in Public Workspaces or Private Workspaces, except as expressly stated in Section 14.5 (Access to Data) above.

14.7 Survival. All provisions that by their nature are intended to survive expiration or termination of this Agreement shall survive expiration or termination of this Agreement. Any obligation to pay fees prior to such termination and the provisions of Sections 7, 8, 9, 10, 11, 13, 14, 15 and 16 or any other provision of this Agreement that by its terms shall be deemed to so survive, shall survive expiration or termination of the Agreement for any reason.

15. Subscription Workspaces

15.1 Subscription Workspace Content that You License from End Users through Subscription Workspaces

15.1.1 Subscription Workspace Content Scope and Responsibility. Subscription Workspace Content is licensed by the Subscription Workspace Owner, not Licensor. Licensor has no responsibility for the Subscription Workspace Content. Licensor is not responsible for providing support services for Subscription Workspace Content. You should contact the Subscription Workspace Owner to determine if any support services are available.

15.1.2 NO SUBSCRIPTION WORKSPACE CONTENT WARRANTY. SUBSCRIPTION WORKSPACE CONTENT IS PROVIDED "AS IS," "WITH ALL FAULTS," AND "AS AVAILABLE." LICENSOR MAKES NO REPRESENTATIONS ABOUT THE SUITABILITY OF SUBSCRIPTION WORKSPACE CONTENT FOR LICENSEE'S INTENDED REQUIREMENTS OR PURPOSES. LICENSOR DOES NOT WARRANT THAT SUBSCRIPTION WORKSPACE CONTENT WILL OPERATE WITHOUT INTERRUPTION OR IS ERROR-FREE. LICENSOR EXPRESSLY DISCLAIMS ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT IN RELATION TO SUBSCRIPTION WORKSPACE CONTENT. LICENSOR DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY HOSTING PROVIDERS IN RELATION TO SUBSCRIPTION WORKSPACE CONTENT. SOME STATES DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY. IN THAT EVENT, ANY IMPLIED WARRANTIES ARE LIMITED IN DURATION TO NINETY (90) DAYS FROM THE DELIVERY OF THE SUBSCRIPTION WORKSPACE CONTENT. LICENSEE MAY HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE. LICENSOR DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT LICENSEE'S USE OF THE SUBSCRIPTION WORKSPACE CONTENT WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS OR LAWS OR REGULATIONS. THIS DISCLAIMER APPLIES TO, BUT IS NOT LIMITED TO, THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA"), THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT ("HITECH") OR OTHER FEDERAL OR STATE STATUTES OR REGULATIONS, AS MAY BE AMENDED FROM TIME TO TIME. LICENSEE IS

SOLELY RESPONSIBLE FOR ENSURING THAT HIS OR HER USE OF THE SUBSCRIPTION WORKSPACE CONTENT IS IN ACCORDANCE WITH APPLICABLE LAW.

15.1.3 SUBSCRIPTION WORKSPACE CONTENT LIMITATION OF LIABILITY. IN NO EVENT WILL LICENSOR BE LIABLE TO LICENSEE OR ANY THIRD PARTY FOR ANY DIRECT, SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS) ARISING OUT OF OR IN CONNECTION WITH THE USE, OPERATION OR PERFORMANCE OF SUBSCRIPTION WORKSPACE CONTENT, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT LICENSOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY SOLELY IN THE CIRCUMSTANCES WHERE NOT PERMITTED. IN NO EVENT SHALL LICENSOR'S LIABILITY UNDER THIS AGREEMENT EXCEED THE TOTAL AMOUNT OF FEES PAID BY LICENSEE TO LICENSOR HEREUNDER.

15.2 Subscription Workspace Content that You License to End Users through Subscription Workspaces

15.2.1 Creating Subscription Workspaces. To create a Subscription Workspace, You must agree to the terms of Licensor's Subscription Workspace License Agreement that appears when You attempt to create a Subscription Workspace.

15.2.2 Subscription Workspace License Agreement. The terms of the Subscription Workspace License Agreement describes the relationship between You as a Subscription Workspace Owner and Licensor and governs Your use of the Subscription Workspace.

16. Miscellaneous.

16.1 Breach. Licensee acknowledges that monetary damages may be inadequate to protect Licensor from a breach of this Agreement and that any such breach may cause irreparable harm to Licensor. Accordingly, Licensor may seek equitable relief against any breach or threatened breach, including, without limitation, an injunction restraining any breach or threatened breach, without having to prove the inadequacy of monetary damages or irreparable harm.

16.2 Changes to this Agreement. Licensor may change the terms of this Agreement at any time at its sole discretion. Any such change to the terms of this Agreement shall become effective after the date that: (a) Licensor provides notice to You of such change in accordance with Section 16.3 (Notices), (b) You signify acceptance electronically, including without limitation, by Your checking a box or clicking on an "agree" or similar button, or (c) Licensor posts such changes to its website. You also agree notices have the same meaning and effect as if Licensor had provided You with a paper copy. Your continued use of the Licensed Product shall also constitute acceptance of such modified Agreement.

16.3 Notices. Any notices relating to this Agreement shall be in writing. Notices to Licensor relating to this Agreement will be deemed given (a) when delivered personally, (b) three business days after having been sent by commercial overnight carrier with written proof of

delivery, or (c) five business days after having been sent by first class or certified mail, postage prepaid, to this Ke Labs address:

Ke Labs, Inc.
3500 DePauw Blvd., Suite #1080
Indianapolis, IN 46268
Attention: President

Ke Labs' notices to You as required under this Agreement will be deemed given by Ke Labs when sent to You at the email address or mailing address that You provided to Ke Labs. You consent to receive notices by email and agree that any such notices that Ke Labs sends You electronically will satisfy any legal communication requirements. A party may change its email or mailing address by giving the other written notice as described above. Notices must be given in the English language.

- 16.4 Binding Effect and Assignment.** This Agreement shall be binding upon and inure to the benefit of Licensee's and Licensor's respective successors and assigns. Licensor retains the right to assign this Agreement in its sole discretion. Licensee may not assign this Agreement, in whole or in part, without the prior written permission of Licensor
- 16.5 Force Majeure.** Neither Licensor nor Licensee will be in violation of this Agreement if the failure to perform the obligation is due to an event beyond either party's control, such as significant failure of a part of the power grid, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organized labor action, terrorism, or other events of a magnitude or type for which precautions are not generally taken in the industry.
- 16.6 Export Control Laws and Regulations.** You acknowledge that the Licensed Product, and its technology, is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of certain foreign governments. You shall not, and shall not allow any third party to, export from the United States or allow the re-export or re-transfer of any part of the Licensed Product: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. Government; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>); (iii) to any known end user or for any known end use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority. If an export/import license, permit, or other government required authority (collectively referred to as "government authorization") is required in order for Licensor to transfer the Licensed Product under this document and such government authorization to non-Licensor party is not approved, then Licensor is not obligated to proceed with such transfer until the required government authorization is granted. The citations in this Section 16.6 (Export Control Laws and Regulations) shall be deemed updated as necessary from time to time to reflect any successor provisions of the same import.
- 16.7 Anti-Corruption.** Licensee has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Licensor's employees or any Authorized Partner of Licensor in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Licensee learns of any violation of the above restriction, Licensee will use reasonable efforts to promptly notify Licensor as provided in Section 16.3 (Notices).

- 16.8 U.S. Government End Users.** The following applies to U.S. government licensees: The Licensed Product (which includes technical data, commercial computer software and commercial computer software documentation) is a commercial item as defined in FAR 2.101. Government rights in the Licensed Product include only those rights customarily provided to the public and are provided in accordance with FAR 12.211 (Technical Data) and 12.212 (Computer and, for Department of Defense purchases, DFAR 252.227-7015 (Technical Data – Commercial Items) and 227.7202-3 Rights in Commercial Computer Software or Computer Software Documentation). The Licensed Product was developed fully at private expense. All other use is prohibited. The citations in this Section 16.8 (U.S. Government End Users) shall be deemed updated as necessary from time to time to reflect any successor provisions of the same import.
- 16.9 Governing Law, Lawsuits.** This Agreement is governed by the laws of the State of Indiana, exclusive of any Indiana choice of law principle that would require the application of the law of a different jurisdiction, and the laws of the United States of America, as applicable. Exclusive venue for all disputes arising out of this Agreement shall be in the state or federal courts in Marion County, Indiana and the parties each agree not to bring an action in any other venue. Licensee waives all objections to this venue and agrees not to dispute personal jurisdiction or venue in these courts. Each party agrees that it will not bring a claim under this Agreement more than two years after the time that the claim accrued
- 16.10 Relationship of the Parties.** The parties' relationship is that of independent contractors and not business partners. Neither of the parties is the agent for the other, and neither party has the right to bind the other on any agreement with a third party.
- 16.11 No Waiver.** Licensor's failure to exercise or delay in exercising any of its rights under this Agreement will not constitute a waiver, forfeiture, or modification of such rights. Licensor's waiver of any right under this Agreement will not constitute a waiver of any other right under this Agreement or of the same right on another occasion. Licensor's waiver of any right under this Agreement must be in writing.
- 16.12 Entire Agreement and Severability.** Unless otherwise specified in this Agreement, this Agreement is the complete and exclusive statement of the agreement between Licensor and Licensee and supersedes any or prior agreement, oral or written, and any other communications between Licensor and Licensee regarding such subject matter. If any provision in this Agreement is held invalid or unenforceable by a body of competent jurisdiction, such provision will be construed, limited or, if necessary, severed to the extent necessary to eliminate such invalidity or unenforceability. The remaining provisions of this Agreement will remain in full force and effect.
- 16.13 Authorized Partner.** If You acquire the Licensed Product under an agreement with an Authorized Partner ("Partner Agreement"), then, notwithstanding anything to the contrary in this Agreement: (a) Your use of the Licensed Product is subject to any additional terms as included in the Partner Agreement. The Partner Agreement may not modify any of the terms of this Agreement. The Partner Agreement is between You and the Authorized Partner and is not binding on Licensor.