

# **ATRC END USER LICENSE AGREEMENT**

**This EULA applies to all software Products licensed for use by ATRC**

Date : 27 January 2023

THE TERMS OF THIS END USER LICENSE AGREEMENT (“EULA”) GOVERN YOUR USE OF THE SOFTWARE, REGARDLESS OF ANY TERMS THAT MAY APPEAR DURING THE INSTALLATION OF THE SOFTWARE.

BY DOWNLOADING, DEPLOYING, OR USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS EULA. IF YOU DO NOT AGREE TO THE TERMS OF THIS EULA, YOU MUST NOT DOWNLOAD, DEPLOY, OR USE THE SOFTWARE, AND YOU MUST DELETE OR RETURN THE UNUSED SOFTWARE TO US OR THE ATRC CHANNEL PARTNER FROM WHICH YOU ACQUIRED IT WITHIN THIRTY (30) DAYS OF ITS ACQUISITION AND REQUEST A REFUND OF THE LICENSE FEE, IF ANY, THAT YOU PAID FOR THE SOFTWARE.

EVALUATION LICENSE. If you license the Software for evaluation purposes (an “Evaluation License”), your use of the Software is only permitted for a period of thirty (30) days (unless we specify otherwise), and you may not use the Software with production data. Notwithstanding any other provision in this EULA, an Evaluation License of the Software is provided “AS IS” without indemnification, support or warranty of any kind, express or implied.

## **1. LICENSE GRANT.**

### **1.1. General License Grant.**

We grant you a non-exclusive, non-transferable (except as set forth in Section 12.1 (Transfers; Assignment)) license to deploy the Software within the Territory and to use the Software and the Documentation during the term of the license, solely for your internal business operations, and subject to the provisions of the Product Guide. Unless otherwise set forth in the Order, licenses granted to you will be for use of object code only and will commence on Delivery.

## **1.2. Users and Third-Party Agents.**

Under the License granted to you in Section 1.1 (General License Grant), you may permit your Users to use the Software, and you may permit Third-Party Agents to deploy and use the Software on your behalf for the sole purpose of delivering services to you. You will be responsible for your Users' and Third-Party Agents' compliance with this EULA, and any breach of this EULA by a User or Third-Party Agent will be deemed to be a breach by you.

## **1.3. Copying Permitted.**

You may copy the Software and Documentation as necessary to deploy and use the number of copies licensed, but otherwise for archival purposes only.

## **1.4. Benchmarking.**

You may use the Software to conduct internal performance testing and benchmarking studies. You may only publish or distribute the results of the studies to third parties if we have reviewed and approved of the methodology, assumptions, and other parameters of the study prior to publication and distribution. Please contact us at [benchmark@ATRC.net.pk](mailto:benchmark@ATRC.net.pk) to request review and approval.

## **1.5. Services for Affiliates.**

You may use the Software to deliver IT services to your Affiliates, provided that those Affiliates may not directly use the Software.

## **1.6. Open Source Software.**

Open Source Software is licensed to you under the OSS's own applicable license terms. These OSS license terms are consistent with the license granted in Section 1 (License Grant) and may contain additional rights benefiting you. The OSS license terms take precedence over this EULA to the extent that this EULA imposes greater restrictions on you than the applicable OSS license terms. To the extent the license for any Open Source Software requires us to make available to you the corresponding source code and/or modifications (the "Source Files"), you may obtain a copy of the applicable Source Files from our website or by sending a written request, with your name and address, to ATRC. All requests should clearly specify: Open Source Files Request, Attention: General Counsel. This offer to obtain a copy of the Source Files is valid for three years from the date you acquired the Software.

## **2. RESTRICTIONS; OWNERSHIP.**

### **2.1. License Restrictions.**

Without our prior written consent, you must not, and must not allow any third party to: (a) use the Software in an application services provider, service bureau, hosted IT services, or similar capacity for third parties, except as specified in Section 1.5 (Services for Affiliates); (b) disclose to any third party the results of any benchmarking testing or comparative or competitive analyses of the Software done by you or on your behalf, except as specified in Section 1.4 (Benchmarking); (c) make available the Software in any form to any third parties, except as specified in Section 1.2 (Users and Third-Party Agents); (d) transfer or sublicense the Software or Documentation to an Affiliate or any third party, except as expressly permitted in Section 12.1 (Transfers; Assignment); (e) use the Software in conflict with the terms and restrictions of the Software's licensing model and other requirements specified in the Product Guide and/or the applicable Order; (f) except to the extent permitted by applicable mandatory law, modify, translate, enhance, or create derivative works from the Software, or reverse engineer, decompile, or otherwise attempt to derive source code from the Software, except as specified in Section 2.2 (Decompilation); (g) remove any copyright or other proprietary notices on or in any copies of the Software; or (h) violate or circumvent any technological restrictions within the Software or specified in this EULA, such as via software or services.

## **2.2. Decompilation.**

Notwithstanding Section 2.1, you may decompile the Software to the extent the laws of the Territory give you the express right to do so to obtain information necessary to render the Software interoperable with other software; provided, however, (a) you must first request that information from us, (b) you must provide all reasonably requested information to allow us to assess your claim, and (c) we may, in our discretion, provide that interoperability information to you, impose reasonable conditions (including a reasonable fee) on that use of the Software, or offer to provide alternatives to reduce any potential adverse impact on our proprietary rights in the Software.

## **2.3. Ownership.**

The Software and Documentation (including all copies and portions), all improvements, enhancements, modifications and derivative works of the Software or Documentation, and all Intellectual Property Rights in the Software and Documentation, are and will remain the sole and exclusive property of ATRC and its licensors. Your rights to deploy and use the Software and Documentation are limited to those expressly granted in this EULA and any applicable Order. No other rights are implied with respect to the Software, Documentation, or any related Intellectual Property Rights. You are not authorized to use (and must not permit any third party to use) the Software or Documentation except as expressly authorized by this EULA or the applicable Order. We reserve all rights not expressly granted to you. We do not transfer any ownership rights in any Software or Documentation.

## **2.4. Guest Operating Systems.**

Some Software allows Guest Operating Systems and application programs to run on a computer system.

You acknowledge that you are responsible for obtaining and complying with any licenses necessary to operate any third-party software.

### **3. ORDER.**

Your Order is subject to this EULA. No Orders are binding on us until we accept them. Orders for Software are deemed accepted upon Delivery of the Software included in the Order. Purchase orders issued to us do not have to be signed by you to be valid and enforceable. All Orders are non-refundable and non-ancellable except as expressly provided in this EULA. Any refunds to which you are entitled under this EULA will be remitted to you or to the ATRC channel partner from which you purchased your Software license.

### **4. RECORDS AND AUDIT.**

You must maintain accurate records of your use of the Software sufficient to show compliance with the terms of this EULA. We have the right to audit those records and your use of the Software to confirm compliance with the terms of this EULA. That audit is subject to reasonable prior notice and will not unreasonably interfere with your business activities. We may conduct no more than one (1) audit in any twelve (12) month period, and only during normal business hours. You must reasonably cooperate with us and any third-party auditor and you must, without prejudice to our other rights, address any non-compliance identified by the audit by paying additional fees. You must reimburse us for all reasonable costs of the audit if the audit reveals either underpayment of more than five (5%) percent of the Software fees payable by you for the period audited, or that you have materially failed to maintain accurate records of Software use.

### **5. SUPPORT SERVICES.**

Support and subscription services for the Software (“Support Services”) are provided pursuant to the Support Services Terms and are not subject to this EULA. You have no rights to any updates, upgrades or extensions or enhancements to the Software unless you separately purchase Support Services or they are included with your purchase of a license to the Software as provided in the Product Guide.

## **6. WARRANTIES.**

6.1. Software Warranty: Duration and Remedy. We warrant that the Software will, for a period of ninety (90) days following notice of availability for electronic download or delivery (“Warranty Period”), substantially conform to the applicable Documentation, provided that the Software: (a) has been properly installed and used at all times in accordance with the applicable Documentation; and (b) has not been modified or added to by persons other than us or our authorized representative. We will, at our own expense and as our sole obligation and your exclusive remedy for any breach of this warranty, either replace the Software or correct any reproducible error in the Software reported by you in writing during the Warranty Period. If we determine that we are unable to correct the error or replace the Software, we will refund the fees paid for that Software, and the License for that Software will terminate.

### **6.2. Disclaimer of Warranty.**

OTHER THAN THE LIMITED WARRANTY IN SECTION 6.1, TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE, FOR OURSELVES AND ON BEHALF OF OUR SUPPLIERS, DISCLAIM ALL WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE, RELATING TO THE SOFTWARE AND DOCUMENTATION. NEITHER WE NOR OUR SUPPLIERS WARRANT THAT THE SOFTWARE WILL OPERATE UNINTERRUPTED, THAT IT WILL BE FREE FROM DEFECTS OR ERRORS, OR THAT IT WILL MEET (OR IS DESIGNED TO MEET) YOUR BUSINESS REQUIREMENTS.

## **7. INTELLECTUAL PROPERTY INDEMNIFICATION.**

7.1. Defense and Indemnification. Subject to the remainder of this Section 7, we will: (a) defend you against any Infringement Claim; and (b) indemnify you from all fines, damages, and costs finally awarded against you by a court of competent jurisdiction or a government agency, or agreed to in a settlement, with regard to any Infringement Claim. These obligations are applicable only if you: (i) provide us with notice of the Infringement Claim within a reasonable period after learning of the claim (provided that any delay in providing the notice will relieve us of our indemnification obligations only to the extent that the delay prejudices us); (ii) allow us sole control over the defense and settlement of the Infringement Claim; and (iii) reasonably cooperate in response to our requests for assistance with regard to the Infringement Claim. We will not, without your prior written consent, which may not be unreasonably withheld, conditioned, or delayed, enter into any settlement of any Infringement Claim that obligates you to admit any liability or to pay any unreimbursed amounts to the claimant. You may not settle or compromise any Infringement Claim without our prior written consent.

### **7.2. Remedies.**

If the Software becomes, or in our opinion is likely to become, the subject of an Infringement Claim, we will, at our option and expense: (a) procure the rights necessary for you to keep using the Software; or (b) modify or replace the Software to make it non-infringing; or (c) terminate the License to the affected Software and discontinue the related Support Services, and, upon your certified deletion of the affected Software, refund: (i) for a Perpetual License, the fees paid for the License to the affected Software, less straight-line depreciation over a three (3) year useful life beginning on the date of Delivery of the Software and any unused, prepaid fees for Support Services, or (ii) for Subscription Software, any prepaid fees, prorated for the remaining portion of the then-current Subscription Term.

### **7.3. Exclusions.**

We will have no obligation under this Section 7 or otherwise with respect to any Infringement Claim based on: (a) combination of the Software with non-ATRC products or content; (b) use for a purpose or in a manner for which the Software was not designed; (c) use of any older version of the Software when use of a newer version would have avoided the infringement; (d) any modification to the Software other than those made by us or with our express written approval; (e) any claim that relates to open source software or freeware technology or any derivative or other adaptations thereof that is not embedded by us into the Software; or (f) any Software provided on a no charge, beta, or evaluation basis.

7.4. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THIS SECTION 7 STATES YOUR SOLE AND EXCLUSIVE REMEDY AND OUR ENTIRE LIABILITY FOR ANY INFRINGEMENT CLAIMS.

### **8. LIMITATION OF LIABILITY.**

8.1. Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL WE BE LIABLE FOR ANY LOST PROFITS OR BUSINESS OPPORTUNITIES, LOSS OF USE, LOSS OF CONTENT OR DATA FOR ANY REASON (INCLUDING POWER OUTAGES, SYSTEM FAILURES, OR OTHER INTERRUPTIONS), LOSS OF REVENUE, LOSS OF GOODWILL, BUSINESS INTERRUPTION, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE, PRODUCT LIABILITY, OR OTHERWISE. THIS LIMITATION WILL APPLY REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOperating System Environment DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOOperating System Environment. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE FOREGOING LIMITATION MAY NOT APPLY.

### **8.2. Cap on Monetary Liability.**

OUR LIABILITY FOR ANY CLAIM UNDER THIS EULA WILL NOT EXCEED THE GREATER OF THE LICENSE FEES YOU PAID FOR THE SOFTWARE GIVING RISE TO THE CLAIM OR \$500.



### **8.3. Exclusions.**

THE LIMITATION OF LIABILITY IN SECTIONS 8.1 AND 8.2 WILL NOT APPLY TO (i) OUR INDEMNIFICATION OBLIGATIONS UNDER SECTION 7 OF THIS EULA OR (ii) ANY LIABILITY WHICH MAY NOT BE EXCLUDED BY LAW.

### **8.4. Further Limitations.**

Our suppliers have no liability of any kind under this EULA. You may not bring a claim directly against any of them under this EULA. Our liability with respect to any third-party software embedded in the Software is subject to this Section 8. You may not bring a claim under this EULA more than eighteen (18) months after the cause of action arises.

## **9. TERMINATION.**

9.1. EULA Term. The term of this EULA begins on Delivery of the Software and continues until this EULA is terminated in accordance with this Section 9.

### **9.2. Termination for Cause.**

We may terminate this EULA effective immediately upon written notice to you if: (a) any payment due under this EULA is not received within ten (10) days after receiving our written notice that payment is past due; (b) you materially breach any other provision of this EULA and fail to cure within thirty (30) days after receipt of our written notice of the breach; (c) you materially breach any provision of this EULA in a manner that cannot be cured; or (d) you terminate or suspend your business.

### **9.3. Termination for Insolvency.**

We may terminate this EULA effective immediately upon written notice to you if you become insolvent, admit in writing your inability to pay your debts as they mature, make an assignment for the benefit of creditors, become subject to control of a trustee, receiver or similar authority, or become subject to any bankruptcy or insolvency proceeding.

### **9.4. Effect of Termination.**

Upon termination of this EULA: (a) all Licenses to the Software granted to you under this EULA will immediately end; (b) you must stop all use of the Software and return to us or certify destruction of the Software and License Keys (including copies), and (c) you must return or, if we request, destroy, any of our or our suppliers' Confidential Information in your possession or under your control (other than information that must be retained pursuant to law). Any provision that, by its nature and context is intended to survive termination or expiration of the EULA, will survive, including Sections 1.6 (Open Source Software), 2 (Restrictions; Ownership), 4 (Records and Audit), 6.2 (Software Disclaimer of Warranty), 8 (Limitation of Liability), 9 (Termination), 10 (Confidential Information), 12 (General), 13 (Definitions), and 14 (Terms Applicable to U.S. Federal End Users). Except as otherwise expressly provided in this EULA or as required by applicable law or regulation, termination of this EULA will not entitle you to any refunds, credits, or exchanges.

## **10. CONFIDENTIAL INFORMATION.**

10.1. Protection. Either party may use Confidential Information of the other party disclosed to it in connection with this EULA to exercise its rights and perform its obligations under this EULA or as otherwise permitted by this EULA. The Recipient will disclose the Discloser's Confidential Information only to the Recipient's employees or contractors who have a need to know the Confidential Information for purposes of this EULA and who are under a duty of confidentiality no less restrictive than as specified in this Section 10. Recipient will protect the Discloser's Confidential Information from unauthorized use, access, or disclosure in the same manner as the Recipient protects its own confidential or proprietary information of a similar nature but with no less than reasonable care.

## **10.2. Exceptions.**

The Recipient's obligations under Section 10.1 with respect to any of the Discloser's Confidential Information will terminate if the Recipient can demonstrate that the information: (a) was already rightfully known to the Recipient at the time of disclosure by the Discloser without any obligation of confidentiality; (b) was disclosed to the Recipient by a third party who had the right to make that disclosure without any confidentiality restrictions; (c) is, or through no fault of the Recipient has become, generally available to the public; or (d) was independently developed by Recipient without access to or use of Discloser's Confidential Information. In addition, the Recipient will be allowed to disclose Confidential Information to the extent that disclosure is required by law or by order of a court or similar judicial or administrative body of competent jurisdiction, provided that the Recipient notifies the Discloser of the required disclosure promptly and in writing and cooperates with the Discloser, at the Discloser's request and expense, in any lawful action to contest or limit the scope of the required disclosure.

## **10.3. Injunctive Relief.**

Nothing in this EULA limits either party's ability to seek equitable relief.

11. ACCOUNT, OPERATIONS AND USAGE DATA. We collect your contact information and information about your purchase to manage your account and fulfill your Orders. We also process (a) information necessary to facilitate the delivery of the Software, including verifying compliance with the terms of this EULA, invoicing, and providing Support Services, and (b) Software configuration, performance, and usage data for the purposes of improving ATRC products and services and user experience, and other analytics purposes as set forth in the Product Guide. To the extent any of that data includes information which identifies an individual, we will process that information in accordance with ATRC's Products & Services Privacy Notice available at <https://www.ATRC.com/help/privacy.html>.

## **12. GENERAL.**

### **12.1. Transfers;**

Assignment. Except to the extent transfer may not legally be restricted or as permitted by our transfer and assignment policies and in all cases following the process set forth at [www.ATRC.com/support/policies/licensingpolicies.html](http://www.ATRC.com/support/policies/licensingpolicies.html), you must not assign this EULA, any Order, or any right or obligation pursuant to this EULA, or delegate any performance under this EULA, without our prior written consent, which consent will not be unreasonably withheld, conditioned, or delayed. Any other attempted assignment or transfer by you will be void. We may use our Affiliates or other suppliers to provide services to you, provided that we remain responsible to you for the performance of the services.

### **12.2. Notices.**

Any notice by us to you under this EULA will be given: (a) by email to the email address associated with your account, if you have subscribed to this method of receiving notices; or (b) by posting in the ATRC customer portal. You must direct legal notices or other correspondence to ATRC, Inc., 3401 Hillview Avenue, Palo Alto, California 94304, United States of America, Attention: Legal Department.

### **12.3. Waiver.**

Waiver of a breach of any provision of this EULA will not constitute a waiver of any later breach of that provision, or waiver of a breach of any other provision.

## **12.4. Severability.**

If any part of this EULA is held to be invalid or unenforceable, all remaining provisions will remain in force to the extent feasible to effectuate the intent of the parties.

## **12.5. Compliance with Laws.**

Each party must comply with all laws applicable to the actions contemplated by this EULA.

## **12.6. Export Control;**

Government Regulations. You acknowledge that the Software is provided subject to the U.S. Export Administration Regulations, may be subject to the export control laws of the applicable territory, and that diversion contrary to applicable export control laws is prohibited. You represent that (1) you are not, and are not acting on behalf of, (a) any person who is a citizen, national, or resident of, or who is controlled by the government of any country to which the United States has prohibited export transactions; or (b) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List; and (2) you will not permit the Software to be used for, any purposes prohibited by law, including, any prohibited development, design, manufacture or production of missiles or nuclear, chemical or biological weapons. The Software and Documentation are deemed to be “commercial computer software” and “commercial computer software documentation”, respectively, pursuant to Defense Federal Acquisition Regulation Supplement (“DFARS”) Section 227.7202 and Federal Acquisition Regulation (“FAR”) Section 12.212(b), as applicable. Any use, modification, reproduction, release, performing, displaying or disclosing of the Software and Documentation by or for the U.S. Federal Government shall be governed solely by the terms and conditions of this EULA.

## **12.7. Construction.**

The headings of sections of this EULA are for convenience and are not to be used in interpreting this EULA. As used in this EULA, the word “including” means “including but not limited to”.

## **12.8. Language.**

This EULA is in English, and the English language version governs any conflict with a translation into any other language.

## **12.9. Governing Law.**

If your billing address is in the United States, this EULA is governed by the laws of the State of California and the federal laws of the United States. If your billing address is outside the United States, this EULA is governed by the laws of Ireland. Conflict of law rules are expressly disclaimed. The U.N. Convention on Contracts for the International Sale of Goods does not apply.

## **12.10. Third-Party Rights.**

Other than as expressly provided in this EULA, this EULA does not create any rights for any person who is not a party to it, and only persons who are parties to this EULA may enforce any of its terms or rely on any exclusion or limitation contained in it.

## **12.11. Order of Precedence.**

In the event of conflict or inconsistency among the Product Guide, this EULA and the Order, the following descending order of precedence applies unless otherwise set forth in an enterprise license agreement: (a) the Product Guide, (b) this EULA and (c) the Order. This EULA supersedes any conflicting or additional terms and conditions of any purchase order, acknowledgement or confirmation, or other document issued by you for or regarding the Software.

## **12.12. Entire Agreement.**

This EULA, together with all accepted Orders and the Product Guide, contains the entire agreement of the parties with respect to the subject matter of this EULA and supersedes all previous or contemporaneous communications, representations, proposals, commitments, understandings and agreements, whether written or oral, between the parties regarding its subject matter. This EULA may be amended only in a writing signed by authorized representatives of both parties.

## **13. DEFINITIONS.**

13.1. “Affiliate” means, with respect to a party at a given time, an entity that is directly or indirectly controlled by, is under common control with, or controls that party, where “control” means an ownership, voting, or similar interest representing fifty percent (50%) or more of the total interests outstanding of that entity.

13.2. “Confidential Information” means information or materials provided by one party (“Discloser”) to the other party (“Recipient”) which is in tangible form and labelled “confidential” or the like, or information which a reasonable person knew or should have known to be confidential. The following information is considered our Confidential Information whether or not marked or identified as such: (a) License Keys; (b) information regarding our pricing, product roadmaps or strategic marketing plans; and (c) non-public materials relating to the Software.

13.3. “Delivery” means either delivery of the physical media (if applicable) or the date you are notified of availability for electronic download.

13.4. “Documentation” means that documentation that we generally provide with the Software, as revised by us from time to time, and which may include end user manuals, operation instructions, installation guides, release notes, and on-line help files regarding the use of the Software.

13.5. “Guest Operating Systems” means instances of third-party operating systems licensed by you, installed in a Virtual Machine, and run using the Software.

13.6. “Infringement Claim” means any claim by a third party that the Software infringes any patent, trademark or copyright of that third party, or misappropriates a trade secret (but only to the extent that the misappropriation is not a result of your actions) under the laws of: (a) the United States; (b) Canada; (c) the European Economic Area; (d) the United Kingdom; (e) Australia; (f) New Zealand; (g) Japan; or (h) the People’s Republic of China, to the extent that those countries are part of the Territory for the License.

13.7. “Intellectual Property Rights” means all worldwide intellectual property rights, including copyrights, trademarks, service marks, trade secrets, know how, inventions, patents, patent applications, moral rights, and all other proprietary rights, whether registered or unregistered.



13.8. “License” means a license granted under Section 1.1 (General License Grant).

13.9. “License Key” means a serial number that enables you to activate the Software.

13.10. “License Term” means the duration of a License as specified in the Order.

13.11. “Open Source Software” or “OSS” means software components embedded in the Software and provided under separate license terms.

13.12. “Order” means a purchase order, enterprise license agreement, or other ordering document for Software governed by this EULA, issued by you to us or to your ATRC channel partner and is accepted by us as set forth in Section 3 (Order).

13.13. “Perpetual License” means a License to the Software with a perpetual term.

13.14. “Product Guide” means the current version of the ATRC Product Guide at the time of your Order.

13.15. “Support Services Terms” means our then-current support policies, copies of which are posted on our website.

13.16. “Software” means the ATRC computer programs listed on our commercial price list to which you acquire a license under an Order, together with any related software code we provide pursuant to a support and subscription service contract and that is not subject to a separate license agreement.

13.17. “Subscription Software” means Software that is licensed for a specific term (“Subscription Term”).

13.18. “Territory” means the country or countries in which you have been invoiced, except as otherwise provided in the Product Guide.

13.19. “Third-Party Agent” means a third party delivering information technology services to you pursuant to a contract with you.

13.20. “U.S. Federal End User” means any of the following agencies or establishments of the U.S. Federal Government: (a) executive departments as defined by 5 U.S.C. 101, (b) military departments as defined by 5 U.S.C. 102, (c) government corporations as defined by 5 U.S.C. 103, (d) independent establishments as defined by 5 U.S.C. 104, and (e) any establishment in the legislative or judicial branch of the U.S. Federal Government (except the Senate, the House of Representatives, the Architect of the Capitol, and any activities under the Architect’s direction).

13.21. “User” means an employee, contractor, or Third-Party Agent that you have authorized to use the Software as permitted under this EULA.

13.22. "Virtual Machine" means a software container that can run its own operating system and execute applications like a physical machine.

13.23. "ATRC", "We", or "Us" means "Applied Technology Research Center" a sole proprietorship of Khawar Nehal based in Pakistan.

13.24. "You" means you individually or the legal entity that you represent. If you are entering into the EULA for an entity, you represent that you have the authority to bind that entity.

## **14. Customer's Use Rights**

If Customer complies with its volume licensing agreement, it may use the software as expressly permitted in the Product Terms. Customer needs a License for each Product and separately licensed functionality used on a device or by a user.

## **15. Rights to Use Other Versions and Lower Editions**

For any permitted copy or Instance, Customer may create, store, install, run or access in place of the version licensed, a copy or Instance of a prior version, different permitted language version, different available platform version (for example, 32 bit or 64 bit) or a permitted lower edition. The use rights for the licensed version still apply. Licenses for prior versions and lower editions do not satisfy the licensing requirements for a Product.

## **16. Third Party Software**

The software may contain third party proprietary or open source programs or components that are licensed under separate terms that are presented to Customer during installation or in the "Third Party Notices" file accompanying the software. The software may also contain third party open source programs that ATRC, not the third party, licenses to Customer under ATRC's license terms.

## **17. Pre-Release Code, Updates or Supplements, Additional Functionality**

ATRC may offer updates or supplements to the Products. Customer may use the updates or supplements to the Products, pre-release code, additional functionality and optional add-on services to the Products, subject to specific terms (if any) that accompany them. Some Products require automatic updates, as described in the Product-Specific License Terms.

## **18. Restrictions**

Customer may be licensed to use the Products to offer commercial hosting services to third parties. Customer may NOT work around any technical limitations in the Products or restrictions in Product documentation, or separate the software for use in more than one platform under a single License (even if the Operating System Environments are on the same physical hardware system), unless expressly permitted by ATRC. Rights to access the software on any device do not give Customer any right to implement ATRC patents or other ATRC intellectual property in the device itself or in any other software or devices.

## **19. Outsourcing Software Management**

### **19.1 Outsourcing on Dedicated Devices**

Customers may use licensed copies of the software on devices that are under the day-to-day management and control of Authorized Outsourcers, provided all such devices are and remain fully dedicated to Customer's use.

### **19.2 Flexible Virtualization Benefit**

Customers with subscription licenses or Licenses with active Software Assurance (including CALs) may use licensed copies of the software on devices, including shared Servers, that are under the day-to-day management and control of Authorized Outsourcers.

### **19.3 Outsourcing on Cloud Solution Provider-Hosters**

Customers with subscription licenses or Licenses with active Software Assurance (including CALs) may access their licensed copies of software that is provided by a Cloud Solution Provider-Hoster and installed on that partner's devices.

## **20. License Assignment and Reassignment**

Before Customer uses software under a License, it must assign that License to a device or user, as appropriate. Customer may reassign a License to another device or user, but not less than 90 days since the last reassignment of that same License, unless the reassignment is due to (i) permanent hardware failure or loss, (ii) termination of the user's employment or contract or (iii) temporary reallocation of CALs, Client Management Licenses and user or device SLs to cover a user's absence or the unavailability of a device that is out of service. Customer must remove the software or block access from the former device or to the former user.

## **20.1 Technical Measures**

ATRC may use technical measures to enforce terms that restrict Customer's use of certain versions of Product and may verify compliance with those terms as provided in Customer's license agreement. Some Products are protected by technological measures and require activation or validation, as well as a product key, to install or access them.

## **20.2 Activation and validation**

Customer shall use the appropriate product key provided by ATRC for activation and validation of the software Product being installed by the Customer. Customer's right to use the software after the time specified in the software Product may be limited unless it is activated. Customer is not licensed to continue using the software if it has unsuccessfully attempted to activate. The customer may not circumvent activation or validation.

## **20.3 Product Keys**

An assigned product key is required for licensed use of the software. All product keys are Confidential Information of ATRC. Notwithstanding anything to the contrary in Customer's licensing agreement, Customer may not disclose product keys to third parties. Customer may not provide unsecured access to its key management service (KMS) machines over an uncontrolled network. In the event of unauthorized use or disclosure of product keys or KMS keys, ATRC may prevent further activations, deactivate or block product keys from activation or validation, and take other appropriate action.

## **21. Notices**

Where indicated in the Use Rights section of each Product Entry, the following notices apply:

### **21.1 Internet-based Features**

Software Products may contain features that connect and send information over the Internet, without additional notice to Customer, to ATRC's systems and those of its Affiliates and service providers. Use of that information is described in the terms accompanying the internet-based features, Product documentation, and ATRC Privacy Statement. Unless stated otherwise, ATRC is a controller of Personal Data processed in connection with Customer's use of Internet-based features in software Products. When ATRC is a controller for Internet-based features, ATRC will handle the Personal Data in accordance with the ATRC Privacy Statement, and the Data Protection Addendum terms do not apply.

### **21.2 Malware protection**

ATRC cares about protecting customers' devices from malware. The software is authorized by the customer to turn on malware protection if other protection is not installed or has expired. If in order to do so, other antimalware software needs to be disabled or may have to be removed, ATRC shall inform the customer and both parties shall mutually finalize and implement the policy on how to manage malware protection.

## **22. Font Components, Images, and Sounds**

While Customer runs the software, it may access and use icons, images, sounds and media included with the software only from a Licensed Device and may use the fonts included with or installed by that software to display and print content. Customer may only embed fonts in content as permitted by the embedding restrictions in the fonts; and temporarily download them to a printer or other output device to print content.

## **23. Included Technologies**

Products may include other ATRC technology components subject to their own license terms. If separate terms for these components are required, then ATRC shall inform the customer and both parties shall mutually agree to those terms.

## **24. Benchmark Testing**

Customer must obtain ATRC's prior written approval to disclose to a third party the results of any benchmark test of any product.

## **25. Multiplexing**

Hardware or software that a Customer uses to:

- pool connections or reduce the number of Operating System Environment's, devices, or users a Product directly manages;
- reduce the number of devices or users that directly or indirectly access or use a Product;
- or access data a Product itself processes or generates;

does not reduce the number of Licenses of any type that a customer needs.

## **26. Administrative and Support Rights**

Customer may allow access to server software running in any permitted Operating System Environment by two users without licensing solely for administrative purposes. Customer may also allow remote access to other Products solely for purposes of providing technical product support to Licensed Users or on Licensed Devices.

## **27. Distributable Code**

Refer to the Product Entries for software that contains code and text files Customer is permitted to distribute "Distributable Code". The code and text files listed below are also Distributable Code that may be used as described below. In the case of a conflict between the following terms and Distributable Code terms published in the Product Entry, the terms in the Product Entry govern Customer's use of Distributable Code.

## **27.1 Distribution Requirements**

If Customer distributes any Distributable Code. Customer must:

- Only distribute it with Customer's programs, where Customer's programs provide significant primary functionality to the Distributable Code;
- require distributors and external end users to agree to terms that protect the Distributable Code at least as much as Customer's volume licensing agreement, including the Product Terms;
- indemnify, defend, and hold harmless ATRC from any claims, including attorneys' fees, related to the distribution or use of Customer's programs, except to the extent that any claim is based solely on the Distributable Code included in Customer's programs.

## **27.2 Distribution Limitations**

Customer may not:

- alter any copyright, trademark or patent notice in the Distributable Code;
- use ATRC's trademarks in Customer's programs' names or in a way that suggests its programs come from or are endorsed by ATRC;
- distribute Distributable Code in or with any malicious or, deceptive programs or in an unlawful manner; or
- modify or distribute the source code of any Distributable Code so that any part of it becomes subject to an Excluded License. An Excluded License is one that requires, as a condition of use, modification or distribution, that the code be disclosed or distributed in source code form, or that others have the right to modify it.

## **28. Software Plus Services**

ATRC may provide services with Products through software features that connect with ATRC or service provider computer systems over the Internet. It may change or cancel the services at any time. Customer may not use the services in any way that could harm them or impair anyone else's use of them. Customer may not use the services to try to gain unauthorized access to any service, data, account or network by any means.