

HRMantra General Terms & Conditions for END USER LICENSE AGREEMENT On-Premise Clients (Indirect Sales)

1. DEFINITIONS.

1.1 “Add-on” means any development that adds new and independent functionality, but does not modify existing HRMANTRA functionality, and is developed using HRMANTRA application programming interfaces or other HRMANTRA code that allows other software products to communicate with or call on the Software.

1.2 “Affiliate” means any legal entity in the Territory in which the Licensee, directly or indirectly, holds more than fifty percent (50%) of the shares or voting rights. Any such legal entity shall be considered an Affiliate for only such time as such interest is maintained.

1.3 “Agreement” means the EULA Acceptance Form, this EULA and the Software Use Rights Schedule.

1.4 “Business Partner” means a legal entity or individual that requires access to the Software in connection with Licensee’s internal business operations, such as customers, distributors and/or suppliers of Licensee.

1.5 “Confidential Information” means, with respect to Licensee: Licensee’s marketing and business plans and/or financial information, and with respect to HRMANTRA: (a) the Software, Documentation and other HRMANTRA Materials, including without limitation the following information regarding the Software: (i) computer software (object and source codes), programming techniques and programming concepts, methods of processing, system designs embodied in the Software; (ii) benchmark results, manuals, program listings, data structures, flow charts, logic diagrams, functional specifications, file formats; and (iii) discoveries, inventions, concepts, designs, flow charts, documentation, product specifications, application program interface specifications, techniques and processes relating to the Software; (b) the research and development or investigations of HRMANTRA; and (c) product offerings, content partners, product pricing, product availability, technical drawings, algorithms, processes, ideas, techniques, formulas, data, schematics, trade secrets, know-how, improvements, inventions (whether patentable or not), marketing plans, forecasts and strategies. In addition, Confidential Information of either HRMANTRA or Licensee (the party disclosing such information being the “Disclosing Party”) includes information which the Disclosing Party protects against unrestricted disclosure to others that (i) the Disclosing Party or its representatives identifies as confidential at the time of disclosure; or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure; including, without limitation, information from, about or concerning any third party that is disclosed under this Agreement.

1.6 “Designated Unit” means information technology devices (e.g. hard disks or central processing units) identified by End User or Partner pursuant to or in connection with this Agreement that has been previously approved by HRMANTRA or otherwise officially made known to the public as appropriate for Use or interoperation with the Software.

1.7 “Distributor” means the person or entity to which HRMANTRA markets and distributes certain Software and from which the Partner bought or will buy the Software in case Partner has not or will not buy the Software from HRMANTRA directly.

1.8 “Documentation” means HRMANTRA’s then-current technical and/or functional documentation which is delivered or made available by HRMANTRA either indirectly via Distributor and/or Partner or directly to Licensee with the Software.

1.9 “Effective Date” means the effective date set out in the EULA Acceptance Form as “Effective Date”.

1.10 “EULA Acceptance Form” means the “Acceptance Form for End User License Agreement (for HRMANTRA On Premise indirect sales)” concluded between HRMANTRA and Licensee.

1.11 “EUMA” means the “HRMANTRA Delivered Support Agreement (for HRMANTRA On Premise indirect sales)” which sets out the terms and conditions under which HRMANTRA provides support to End Users.

1.12 “Export Law” means all constitutions, laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits restrictive measures, trade sanctions, embargos and other legally binding requirements of all federal, country, international, state and local governmental authorities relating to export, re-export or import.

1.13 “Intellectual Property Rights” means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

1.14 “Licensee” means the end user who is further identified in the EULA Acceptance Form as “End User”.

1.15 “Modification” means (i) a change to the delivered source code or metadata; or (ii) any development, other than a change to the delivered source code or metadata, that customizes, enhances, or changes existing functionality of the Software including, but not limited to, the creation of any new application program interfaces alternative user interfaces or the extension of HRMANTRA data structures; or (iii) any other change to the Software (other than an Add-on) utilizing or incorporating any HRMANTRA Materials.

1.16 “Partner” means the partner which is further identified in the EULA Acceptance Form as “Partner”.

1.17 “HRMANTRA” means the HRMANTRA entity which is further identified in the EULA Acceptance Form as “HRMANTRA”.

1.18 “HRMANTRA Delivered Support” means HRMANTRA’s support offering to directly provide support to End Users subject to the terms and conditions set out in the EUMA.

1.19 “HRMANTRA Group” means HRMANTRA Parent and any of its Affiliates.

1.20 "HRMANTRA Materials" means any software, programs, tools, systems, data or other materials made available to Licensee directly by HRMANTRA or via Partner prior to or after the Effective Date including, but not limited to, the Software and Documentation.

1.21 "HRMANTRA Parent" means HRMANTRA Software Private Limited, an Indian company, located at 65-70, Kesar Residency, Sector 3, Charkop, Kandivali (West), Mumbai-400067, India.

1.22 "Software" means (i) any and all software products licensed to Licensee under this Agreement as specified in the EULA Acceptance Form, all as developed by or for the HRMANTRA Group and delivered by HRMANTRA either indirectly via Distributor and/or Partner or directly to Licensee; (ii) any new versions, releases, updates, upgrades, patches, fixes and corrections thereof, made available through unrestricted shipment pursuant to HRMANTRA support or warranty obligation; and (iii) any complete or partial copies or replacements of any of the foregoing.

1.23 "Software Use Rights Schedule" means the Software Use Rights Schedule current at the Effective Date of the EULA Acceptance Form which is made available at: www.hrmantra.com.

1.24 "Territory" means the territory stated in the EULA Acceptance Form.

1.25 "Third Party Software" means (i) any and all software products licensed to Licensee under this Agreement as specified in the EULA Acceptance Form, all as developed by or for companies other than the HRMANTRA Group and delivered by HRMANTRA either indirectly via Distributor and/or Partner or directly to Licensee; (ii) any new versions, releases, updates, upgrades, patches, fixes and corrections thereof, made available through unrestricted shipment pursuant to HRMANTRA support or warranty obligation; and (iii) any complete or partial copies or replacements of any of the foregoing.

1.26 "Use" means to activate the processing capabilities of the Software, load, execute, access, employ the Software, or display information resulting from such capabilities.

2. LICENSE GRANT.

2.1 License.

2.1.1 Subject to Licensee's compliance with all the terms and conditions of this Agreement, HRMANTRA grants to Licensee a non-exclusive, non-transferable license to Use the Software, Documentation, and other HRMANTRA Materials at specified site(s) within the Territory to run Licensee's and its Affiliates' internal business operations (including customer back-up and passive disaster recovery) and to provide internal training and testing for such internal business operations, unless terminated in accordance with the terms of this Agreement. Licensee may make Modifications and/or Add-ons to the Software in furtherance of its permitted Use under this Agreement, and shall be permitted to use Modifications and Add-ons with the Software in accordance with this Section 2.1.1 and Section 6.3. Licensee shall not: (i) use the HRMANTRA Materials to provide services to third parties (e.g., business process outsourcing, service bureau applications or third party training) other than to Affiliates (subject to Section 2.2); (ii) lease, loan, resell, sublicense or otherwise distribute the HRMANTRA Materials, other than distribution to Affiliates (subject to Section 2.2); (iii) distribute or publish keycode(s); (iv) make any Use of or perform any acts with respect to the HRMANTRA Materials other than as expressly permitted in accordance with the terms of this Agreement; (v) use Software components other than those specifically identified in the EULA Acceptance Form, even if it is also technically possible for Licensee to access other Software components Licensee may permit Business Partners to Use the Software only through screen access, solely in conjunction with Licensee's Use, and may not Use the Software to run any of Business Partners' business operations.

2.1.2 Licensee agrees to install the Software only on Designated Units located at Licensee's facilities and in Licensee's direct possession. With advance written notice to HRMANTRA, the information technology devices may also be located in the facilities of an Affiliate and be in the Affiliate's direct possession. Licensee must be appropriately licensed as stated in the Software Use Rights Schedule for any individuals that Use the Software, including employees or agents of Affiliates and Business Partners. Use may occur by way of an interface delivered with or as a part of the Software, a Licensee or third-party interface, or another intermediary system. If Licensee receives licensed Software that replaces previously licensed Software, its rights under this Agreement with regard to the previously licensed Software end when it deploys the replacement Software for Use on productive systems following a reasonable testing period. At the date the rights to the previously licensed Software end Licensee shall comply with Section 5.2 of this Agreement with respect to such previously licensed Software.

2.1.3 The terms and conditions of this Agreement relative to "Software" apply to Third Party Software except (i) Licensee shall not make Modifications and/or Add-ons to Third Party Software or otherwise modify Third Party Software unless expressly authorized by HRMANTRA; and (ii) subject to Section 12.9, as otherwise stated in the Software Use Rights Schedule.

2.2 Affiliate Use. Affiliates' Use of the Software, Documentation and other HRMANTRA Materials to run their internal business operations as permitted under Section 2.1.1 is subject to the following: (i) Licensee ensures that the Affiliate agrees in writing to comply with the terms of this Agreement; and (ii) a breach of the Agreement terms by Affiliate shall be considered a breach by Licensee hereunder. If Licensee has an affiliate or subsidiary with a separate license or support agreement for HRMANTRA software with any member of the HRMANTRA Group or any other distributor of HRMANTRA software, the Software shall not be Used to run such affiliate's or subsidiary's business operations even if such separate agreement has expired or is terminated, unless otherwise agreed to in writing by the parties.

3. VERIFICATION. HRMANTRA shall be permitted to audit (at least once annually and in accordance with HRMANTRA standard procedures, which may include on-site and/or remote audit) the usage of the HRMANTRA Materials. Licensee shall cooperate reasonably in the conduct of such audits. In the event an audit reveals that (i) Licensee underpaid license fees and/or HRMANTRA support fees and/or (ii) that Licensee has Used the Software in excess of the license quantities or levels stated in the EULA Acceptance Form, Licensee shall pay such underpaid fees and/or for such excess usage based on the then-current HRMANTRA price list, terms and conditions in effect at the time of the audit, and shall order the Software license quantities or levels used in excess from the Partner and/or HRMANTRA and execute an additional EULA Acceptance Form to affect the required licensing of any additional quantities or levels. Reasonable costs of HRMANTRA's audit shall be paid by Licensee if the audit results indicate usage in excess of the licensed quantities or levels. HRMANTRA reserves all rights at law and equity with respect to both Licensee's underpayment of license fees or HRMANTRA support fees and usage in excess of the license quantities or levels. HRMANTRA may delegate to Partner or request Partner

to perform any of the rights listed under this Section 3.

4. ELECTRONIC DELIVERY

In cases of electronic delivery, HRMANTRA makes the Software available for download from a network at its own cost, and Licensee is responsible for the cost of downloading the Software.

5. TERM.

5.1. Term. This Agreement and the license granted hereunder shall become effective on the Effective Date and shall continue in effect thereafter unless terminated upon the earliest to occur of the following: (i) thirty days after Licensee gives HRMANTRA written notice of Licensee's direction to terminate this Agreement, for any reason; (ii) thirty days after HRMANTRA gives Licensee written notice of Licensee's material breach of any provision of this Agreement (other than Licensee's breach of its obligations under Sections 6, 10 or 11, which breach shall result in immediate termination); (iii) immediately if Licensee files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or a petition for the opening of insolvency proceedings or similar proceedings if filed against the Licensee.

For the avoidance of any doubt, termination of this Agreement shall strictly apply to all Software licensed under this Agreement, its appendices, schedules, addenda and order documents and any partial termination of this Agreement by Licensee shall not be permitted in respect of any part of this Agreement, its appendices, schedules, addenda, order documents.

5.2 End of Term Duties. Upon any termination hereunder, Licensee and its Affiliates shall immediately cease Use of all HRMANTRA Materials and Confidential Information. Within thirty (30) days after any termination, Licensee shall irretrievably destroy or upon HRMANTRA's request deliver to HRMANTRA all copies of the HRMANTRA Materials and Confidential Information in every form, except to the extent it is legally required to keep it for a longer period in which case such return or destruction shall occur at the end of such period. Licensee must certify to HRMANTRA in writing that it has satisfied its obligations under this Section 5.2. Licensee agrees to certify in writing to HRMANTRA that it and each of its Affiliates has performed the foregoing. Sections 3, 4, 5.2, 6, 7.2, 8, 9, 10, 12.4, 12.5, 12.6 and 12.8 shall survive such termination. In the event of any termination hereunder, Licensee shall not be entitled to any refund by HRMANTRA of any payments made by Licensee to HRMANTRA. Termination shall not relieve Licensee from its obligation to pay fees that remain unpaid.

6. INTELLECTUAL PROPERTY RIGHTS.

6.1 Reservation of Rights. The HRMANTRA Materials and HRMANTRA Confidential Information and all title, rights and interest, especially, without limitation, any Intellectual Property Rights embodied therein are the sole and exclusive property of the HRMANTRA Group or their licensors, subject to any rights, title or interest expressly granted to Licensee in Section 2 and 6.3 herein. Except for the rights set forth in Section 2 and 6.3 herein, Licensee is not permitted to modify or otherwise make derivative works of the Software or other HRMANTRA Materials.

6.2 Protection of Rights. Licensee is not entitled to copy, translate, disassemble, decompile nor reverse engineer the Software or other HRMANTRA Materials. Licensee must not create or attempt to create the source code from the object code of the Software or other HRMANTRA Materials. Licensee is permitted to back up data in accordance with good information technology practice and for this purpose to create the necessary backup copies of the Software. Backup copies on transportable discs or other data media must be marked as backup copies and bear the same copyright and authorship notice as the original discs or other data media, unless technically infeasible. Licensee must not change or remove HRMANTRA's copyright and authorship notices.

6.3 Modifications/Add-ons.

6.3.1 Licensee shall comply with HRMANTRA's registration procedure prior to making Modifications or Add-ons. All Modifications and all rights associated therewith shall be the exclusive property of HRMANTRA or their licensors. All Add-ons developed by HRMANTRA (either independently or jointly with Licensee) and all rights associated therewith shall be the exclusive property of HRMANTRA or their licensors. Licensee agrees to execute those documents reasonably necessary to secure HRMANTRA's rights in the foregoing Modifications and Add-ons. All Add-ons developed by or on behalf of Licensee without HRMANTRA's participation ("Licensee Add-on"), and all rights associated therewith, shall be the exclusive property of Licensee subject to HRMANTRA's rights in and to the Software and HRMANTRA Materials; provided, Licensee shall not commercialize, market, distribute, license, sublicense, transfer, assign or otherwise alienate any such Licensee Add-ons. HRMANTRA retains the right to independently develop its own Modifications or Add-ons to the Software, and Licensee agrees not to take any action that would limit HRMANTRA's sale, assignment, licensing or use of its own Software or Modifications or Add-ons thereto.

6.3.2 Any Modification developed by or on behalf of Licensee without HRMANTRA's participation or Licensee Add-on must not (and subject to other limitations set forth herein): enable the bypassing or circumventing any of the restrictions set forth in this Agreement and/or provide Licensee with access to the Software to which Licensee is not directly licensed; nor unreasonably impair, degrade or reduce the performance or security of the Software; nor render or provide any information concerning HRMANTRA software license terms, Software, or any other information related to HRMANTRA Materials.

6.3.3 Licensee covenants, on behalf of itself and its successors and assigns, not to assert against HRMANTRA or its affiliated companies, or their resellers, distributors, suppliers, commercial partners and customers, any rights in any (i) Licensee Add-ons or Modifications or (ii) other functionality of the HRMANTRA Software accessed by such Licensee Add-ons or Modifications.

7. PERFORMANCE WARRANTY.

7.1 Warranty. HRMANTRA warrants that the Software will substantially conform to the specifications contained in the Documentation for six months following delivery of the Software. The warranty does not apply: (i) if the Software is not used in accordance with the Documentation; or (ii) if the nonconformance is caused by a Modification or Add-on (other than a Modification or Add-on made by a member of the HRMANTRA Group which is provided through HRMANTRA support or under warranty), Partner, Licensee, another third party, third-party software, third party database or any other software not distributed by HRMANTRA; or (iii) to any Licensee unlicensed activities. HRMANTRA does not warrant that the Software will operate uninterrupted or that it will be free from minor defects or errors

that do not materially affect such performance, or that the applications contained in the Software are designed to meet all of Licensee's business requirements. Provided Licensee notifies HRMANTRA in writing with a specific description of the Software's nonconformance within the warranty period and HRMANTRA validates the existence of such nonconformance, HRMANTRA will, at its option: a) repair or replace the nonconforming Software, or b) refund the license fees paid by Licensee to Partner for the applicable nonconforming Software to Licensee in exchange for a return of such nonconforming Software. This is Licensee's sole and exclusive remedy under this warranty. Licensee's written notification of any nonconformance must include sufficient detail for HRMANTRA to analyze the alleged nonconformance. Licensee must provide commercially reasonable assistance to HRMANTRA in analyzing and remediating any nonconformance of the Software.

7.2 Express Disclaimer. HRMANTRA AND ITS LICENSORS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES, CONDITIONS OR GUARANTEES WITH RESPECT TO THE SOFTWARE EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

8. THIRD PARTY CLAIMS.

8.1 Infringement and Defense of Licensee. HRMANTRA will, at its sole discretion, either defend Licensee against or settle any claim brought against Licensee in the Territory if such claim (i) is brought by any owner of the Intellectual Property Right specified below giving rise to the claim and (ii) alleges that Licensee's Use of the Software, in accordance with the terms and conditions of this Agreement, constitutes a direct infringement or misappropriation of such owner's patent claim(s), copyright, trademark or trade secret right. HRMANTRA will pay damages finally awarded against Licensee (or the amount of any settlement HRMANTRA enters into) with respect to such claims. This obligation of HRMANTRA does not apply if the alleged infringement or misappropriation results from (i) Use of the Software in conjunction with any software or service other than the Software; (ii) Use of the Software in conjunction with an apparatus other than a Designated Unit; (iii) failure to promptly use an update provided by a member of the HRMANTRA Group if such infringement or misappropriation could have been avoided by use of the update; or (iv) any Use not permitted by this Agreement. This obligation of HRMANTRA will also not apply if Licensee fails to timely notify HRMANTRA in writing of any such claim; however Licensee's failure to provide or delay in providing such notice shall not relieve HRMANTRA of its obligations under this Section except to the extent HRMANTRA is prejudiced by Licensee's failure to provide or delay in providing such notice. HRMANTRA is permitted to control fully the defense and any settlement of any such claim as long as such settlement does not include a financial obligation on or admission of liability by Licensee. In the event Licensee declines HRMANTRA's proffered defense, or otherwise fails to give full control of the defense to HRMANTRA's designated counsel, then Licensee waives HRMANTRA's obligations under this Section 8.1. Licensee must reasonably cooperate in the defense of such claim and provide HRMANTRA with all relevant information and reasonable support. Licensee may appear in any proceedings concerning such claim or legal dispute, at its own expense, through counsel reasonably acceptable to HRMANTRA. HRMANTRA expressly reserves the right to cease such defense of any claim(s) in the event the Software is no longer alleged to infringe or misappropriate, or is held not to infringe or misappropriate, the third party's rights. HRMANTRA may settle or mitigate damages from any claim or potential claim by substituting alternative substantially equivalent non-infringing programs and supporting documentation for the Software. Licensee must not undertake any action in response to any infringement or misappropriation, or alleged infringement or misappropriation of the Software that is prejudicial to HRMANTRA's rights.

8.2 The liability limitations contained in Section 9 below apply to all claims made under this Section 8. Any limitations to the liability and obligations of HRMANTRA according to this Section 8 will also apply for the benefit of any member of the HRMANTRA Group and their respective licensors.

8.3 THE PROVISIONS OF THIS SECTION 8 STATE THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY AND OBLIGATION OF HRMANTRA AND ITS LICENSORS TO LICENSEE, AND IS LICENSEE'S SOLE REMEDY, WITH RESPECT TO THE INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

9. LIMITATIONS OF LIABILITY.

9.1 Not Responsible. HRMANTRA and its licensors will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation; or (ii) if the defect or liability is caused by Licensee or Partner, a Modification or Add-on (other than a Modification or Add-on made by a member of the HRMANTRA Group which is provided through HRMANTRA support or under warranty), or third-party software; or (iii) if the Software is used in conjunction with any third party software for which the Licensee lacks sufficient rights from the third party vendor for such use; or (iv) for any Licensee activities not permitted under this Agreement. HRMANTRA AND ITS LICENSORS WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE SOFTWARE AND/OR THIRD PARTY SOFTWARE LICENSED HEREUNDER.

9.2 Exclusion of Damages; Limitation of Liability. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING, EXCEPT FOR (I) DAMAGES RESULTING FROM (a) UNAUTHORIZED USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION, (b) FRAUD OR WILFUL MISCONDUCT AND (c) DEATH OR PERSONAL INJURY ARISING FROM EITHER PARTY'S GROSS NEGLIGENCE OR ARISING FROM EITHER PARTY'S WILLFUL MISCONDUCT OR (II) HRMANTRA'S OBLIGATIONS UNDER SECTION 8.1, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM WILL HRMANTRA, ITS LICENSORS OR LICENSEE BE LIABLE TO EACH OTHER OR ANY OTHER PERSON OR ENTITY FOR AN AMOUNT IN EXCESS OF THE LICENSE FEES PAID BY LICENSEE TO PARTNER FOR THE SOFTWARE DIRECTLY CAUSING THE DAMAGES OR BE LIABLE IN ANY AMOUNT FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR PROFITS, WORK STOPPAGE, DATA LOSS, COMPUTER FAILURE OR MALFUNCTION, ATTORNEYS' FEES, COURT COSTS, INTEREST OR EXEMPLARY OR PUNITIVE DAMAGES.

9.3 Exclusions and Limitations for Third Party Software. SUBJECT TO THE EXCLUSION OF DAMAGES STATED IN SECTION 9.2 AND WITH RESPECT TO THIRD PARTY SOFTWARE, UNDER NO CIRCUMSTANCES AND REGARDLESS OF THE NATURE OF ANY CLAIM SHALL HRMANTRA OR ITS LICENSORS' BE LIABLE FOR AN AMOUNT IN EXCESS OF THE PAID LICENSE FEES FOR THE THIRD PARTY SOFTWARE DIRECTLY CAUSING THE DAMAGES.

9.4 The provisions of this Agreement allocate the risks between HRMANTRA and Licensee. The license fees paid by Licensee reflect this allocation of risk and the limitations of liability herein. It is expressly understood and agreed that each and every provision of this Agreement which provides for a limitation of liability, disclaimer of warranties or exclusion of damages, is intended by the Parties to be severable and independent of any other provision and to be enforced as such.

10. CONFIDENTIALITY.

10.1. Use of Confidential Information. Confidential Information must not be used or reproduced in any form except as required to accomplish the intent of this Agreement. Any reproduction of any Confidential Information of the Disclosing Party shall remain the property of the Disclosing Party and shall contain any and all confidential or proprietary notices or legends which appear on the original. With respect to the Confidential Information of the Disclosing Party, the party receiving the Confidential Information ("**Receiving Party**"): (a) shall take all Reasonable Steps (defined below) to keep all Confidential Information strictly confidential; and (b) shall not disclose any Confidential Information of the other to any person other than its bona fide individuals whose access is necessary to enable it to exercise its rights and/or perform its obligations hereunder, and who are under obligations of confidentiality substantially similar to those set forth herein. As used herein "Reasonable Steps" means those steps the Receiving Party takes to protect its own similar proprietary and confidential information, which shall not be less than a reasonable standard of care. Confidential Information of either Party disclosed prior to execution of this Agreement shall be subject to the protections afforded hereunder.

10.2. Exceptions. The above restrictions on the use or disclosure of the Confidential Information shall not apply to any Confidential Information that: (a) is independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information, or is lawfully received free of restriction from a third party having the right to furnish such Confidential Information; (b) has become generally available to the public without breach of this Agreement by the Receiving Party; (c) at the time of disclosure, was known to the Receiving Party free of restriction; or (d) the Disclosing Party agrees in writing is free of such restrictions.

10.3. Confidential Terms and Conditions; Publicity. Licensee shall not disclose the terms and conditions of this Agreement to any third party except for the Partner and the Distributor. Neither Party shall use the name of the other Party in publicity, advertising, or similar activity, without the prior written consent of the other, except that Licensee agrees that any member of the HRMANTRA Group may use Licensee's name in customer listings or, at times mutually agreeable to the Parties, as part of HRMANTRA Group's marketing efforts (including without limitation reference calls and stories, press testimonials, site visits, HRMANTRAPHIRE participation). HRMANTRA will make reasonable efforts to avoid having the reference activities unreasonably interfere with Licensee's business. Licensee agrees that HRMANTRA may share information on Licensee with any other member of the HRMANTRA Group for marketing and other business purposes and that Licensee has secured permission from its employees to allow HRMANTRA to share business contact information with any other member of the HRMANTRA Group.

11. ASSIGNMENT. Licensee may not, without HRMANTRA's prior written consent, assign, novate, delegate, pledge, subcontract or otherwise transfer this Agreement, or any of its rights or obligations under this Agreement, or the HRMANTRA Materials or HRMANTRA Confidential Information, to any party, whether voluntarily or by operation of law, including by way of sale of assets, merger or consolidation. HRMANTRA may assign, novate, delegate, pledge, subcontract or otherwise transfer this Agreement or any of its rights or obligations thereunder (in whole or in part) to any member of the HRMANTRA Group. HRMANTRA and any other member of the HRMANTRA Group may use third parties as sub-contractors for fulfilling any of its rights or obligations under this Agreement. HRMANTRA will continue to be liable for such obligations.

12. GENERAL PROVISIONS.

12.1. Retention of data. With regard to business transactions covered by this Agreement, End User must retain any records for a period of ten years starting on 1st of January of the year following the year during which the data were transmitted or otherwise transferred, or for the minimum period prescribed by applicable law, whichever is longer. In addition, Licensee must maintain current, complete and accurate reports on all of HRMANTRA's Confidential Information in its possession or in the possession of its representatives.

12.2. Severability. It is the intent of the parties that in case any one or more of the provisions contained in this Agreement shall be held to be wholly or in part illegal, invalid or unenforceable in any respect, such illegality, invalidity or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein. The illegal, invalid or unenforceable provision will be replaced by a valid and enforceable provision which approximates as closely as possible the intent of the invalid or unenforceable provision. This will also apply in the case of contractual gaps.

12.3. No Waiver. If either Party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any other provision hereof.

12.4. Counterparts. This Agreement may be signed in one or more counterparts, each of which will be considered an original but all of which together form one and the same instrument and will be treated as if the signatures on the counterparts were on a single copy. This Agreement may be validly executed by means of transmission of signed facsimile, pdf or any other documented form for which a process has been provided by HRMANTRA. Signatures sent by fax, pdf, email or other electronic means for which a process has been provided by HRMANTRA shall be deemed original signatures.

12.5. Regulatory Matters. The Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials as well as parts of any of these (e.g. new versions, releases, updates, upgrades, patches, fixed or correction of a software product) are subject to Export Laws of various countries, including, without limitation, the laws of the United States, the EU, Ireland and India. Licensee agrees that it will not submit the Software, HRMANTRA Delivered Support, Documentation or other HRMANTRA Materials or parts of any of these to any government agency for licensing consideration or other regulatory approval without the prior written consent of HRMANTRA, and that it will not export, re-export or import any Software, HRMANTRA Delivered Support, Documentation and/or HRMANTRA Materials to countries, persons or entities prohibited by any applicable Export Law. In that context, Licensee is responsible for complying with all applicable Export Laws. If HRMANTRA or any other member of the HRMANTRA Group wants to deliver and/or grant access to Software, HRMANTRA Delivered Support, Documentation other HRMANTRA Materials, or parts of any of these directly to a Licensee, Licensee will support HRMANTRA and any other member of the HRMANTRA Group in obtaining any required authorization, approval or other consent from the competent authorities by providing any necessary or useful declarations or other necessary or useful information, e.g. Licensee certificates, as may be requested by HRMANTRA or any other member of the HRMANTRA Group. Licensee acknowledges that the delivery of and/or granting of access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials as well as parts of any of these may be subject to the prior obtaining of export or import authorizations or both from the competent authorities and that this process may (i) considerably delay or prevent the delivery of and/or granting of access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials or part of any of these,

(ii) impact HRMANTRA's ability or the ability of any other member of the HRMANTRA Group to provide HRMANTRA Delivered Support or other services and lead to HRMANTRA or any other member of the HRMANTRA Group having to limit, suspend or terminate Licensee's access to HRMANTRA Delivered Support services or other services.

Neither HRMANTRA nor any other member of the HRMANTRA Group assumes any responsibility or liability:

- a) for any delay caused in the delivery and/or granting of access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials or parts of any of these due to export or import authorizations or both having to be obtained from the competent authorities;
- b) if any required authorization, approval or other consent for the delivery of and/or granting of access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials or parts of any of these cannot be obtained from the competent authorities;
- c) if the delivery of and/or granting of access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials or parts of any of these is prevented due to applicable Export Laws; and
- d) if access to HRMANTRA Delivered Support or other services has to be limited, suspended or terminated due to applicable Export Law.

HRMANTRA may terminate this Agreement and the license granted hereunder with thirty days' prior written notice if HRMANTRA or any relevant member of the HRMANTRA Group may not deliver or grant access to Software, HRMANTRA Delivered Support, Documentation and HRMANTRA Materials to Licensee due to an embargo or other comparable trade sanction, which is expected to be in place for six months or longer.

12.6 Governing Law; Limitations Period. This Agreement and any claims (including any non-contractual claims) arising out of or in connection with this Agreement are governed by the laws of India and to the exclusion of the international law of conflicts and the UN Sales Convention. The exclusive place of jurisdiction for all disputes arising out of or in connection with this Agreement (including any dispute regarding the existence, validity or termination of this Agreement) is Mumbai, India. Licensee must initiate a cause of action for any claim(s) arising out of or relating to this Agreement and its subject matter within one (1) year from the date when Licensee knew, or should have known after reasonable investigation, of the facts giving rise to the claim(s).

12.7 Notices. All notices or reports which are required or may be given pursuant to this Agreement shall be in writing and shall be deemed duly given when delivered to the respective executive offices of HRMANTRA and Licensee at the addresses first set forth in the EULA Acceptance Form. Where in this Section 12.6 or elsewhere in this Agreement a written form is required, except for any notice of termination or notice of a material breach which shall occur by exchange of letter(s), that requirement can be met by facsimile transmission, exchange of letters or other written form, including email or other electronic means for which a process has been provided by HRMANTRA.

12.8 Force Majeure. Any delay or nonperformance of any provision of this Agreement (other than for the payment of amounts due hereunder) caused by conditions beyond the reasonable control of the performing party shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing performance.

12.9 Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement between HRMANTRA and Licensee, and all previous representations, discussions, and writings are merged in, and superseded by this Agreement and the Parties disclaim any reliance on any such representations, discussions and writings. This Agreement shall prevail over any additional, conflicting, or inconsistent terms and conditions which may appear on any purchase order or other document furnished by Licensee to HRMANTRA. This Agreement shall prevail over any additional, conflicting or inconsistent terms and conditions which may appear in any clickwrap end user agreement included in the Software. This Agreement does not create any partnership, joint venture or principal-and-agent relationship.

12.10 Amendments. Any modification, amendment or supplement to this Agreement (including this Section 12.10 (Amendments) must be made in writing or in any other documented form for which a process has been provided by HRMANTRA.

12.11 Effective Date. If a Party signs a part of this Agreement but fails to date its signature, the date that the other Party receives the signing Party's signature will be deemed to be the date on that the signing Party signed that part of the Agreement.

12.12 WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION COMMENCED UNDER OR IN CONNECTION TO THIS AGREEMENT.

12.13 Hierarchy. The following order of precedence shall be applied in the event of conflict or inconsistency between provisions of the components of this Agreement: (i) the EULA Acceptance Form; (ii) the EULA; (iii) the Software Use Right Schedule except with respect to third party pass-through terms for Third Party Software stated in the Software Use Rights Schedule, in which case the Software Use Rights Schedule shall prevail over any conflict or inconsistency in any component of this EULA solely with respect to such third party pass-through terms.

12.14 Survival. Sections 6.1 (Reservation of Rights), 6.2 (Protection of Rights), 7 (Performance Warranty), 8 (Third Party Claims), 9 (Limitations of Liability), 10 (Confidentiality), 12.1 (Retention of data), 12.2 (Severability), **Error! Reference source not found.** (Governing Law; Limitations Period), 12.12 (Waiver of Jury Trial) shall survive any termination of this Agreement.