

## END USER LICENSE AGREEMENT

### (RESELLER CUSTOMERS)

This End User License Agreement (“Agreement”) is entered into effective as of the last day counter-signed below or otherwise accepted (“Effective Date”) by and between the customer entity counter-signing this Agreement below (“You”) and Avesha, Inc., a Delaware corporation (including its affiliates, collectively, “Avesha”).

Whereas, Avesha is the owner of the Software (as defined below) which You wish to use;

Whereas, on or about the Effective Date, You are entering into an agreement (“Reseller Agreement”) with Amazon Web Services, Inc. (“Reseller”) pursuant to which Reseller shall make the Software available to you under terms and conditions as more particularly described in the Reseller Agreement,

Whereas, Avesha would not provide the Software to Reseller for use by You without Your agreement to be bound by the terms and conditions of this Agreement,

Now, therefore, in consideration of the foregoing and the mutual covenants set forth below, the sufficiency of which is hereby acknowledged, the parties agree to the terms and conditions set forth below.

#### **Section 1. Definitions.**

Some of the capitalized terms used in this Agreement are defined below.

- (a) “Avesha Site” means avesha.io and any other website operated or maintained by Avesha.
- (b) “Documentation” means any user documentation and manuals (including electronic versions) provided by Avesha for the Software, as such may be amended from time to time and at any time by Avesha in its sole discretion and without notice.
- (c) “Feedback” means any and all customer comments, testimonials, recommendations, reviews, feedback, inquiries, support queries, troubleshooting, maintenance questions, error reports, suggestions, advice, and other communications you provide to Avesha from time to time regarding the Software, Documentation, Additional Services, Deliverables, any Avesha Site, or any other product or service made available by Avesha or through any Avesha Site.
- (d) “Node” means a piece of equipment, such as by way of example and without limitation, a personal computer or peripheral device, attached to a computer network.
- (e) “Software” means Avesha<sup>SM</sup> Smart Application Framework software licensed to You under this Agreement including any Update or Upgrade.
- (f) “Update” means a fix or compilation of fixes released by Avesha to improve or correct operations in the Software released by Avesha from time to time and at any time in Avesha’s sole discretion and without notice.

(g) “Upgrade” means any new version of the Software which bears the same product name, including version changes evidenced by a number immediately to either the left or right of the decimal released by Avesha from time to time and at any time in Avesha’s sole discretion and without notice.

## **Section 2. Software License and Use.**

(a) Subject to Your compliance with the terms and conditions of this Agreement and the Reseller’s Agreement with You, Avesha hereby grants to You a limited, nonexclusive, non-transferable, non-sublicensable, revocable license to access, install, deploy, and use the Software on multiple Nodes to connect remote system environments.

(b) You hereby acknowledge that there are technological measures in the Software that are designed to prevent unlicensed use of the Software, audit your use of the Software for the purposes of determining the fees payable by you, and prevent use of the Software following the termination of this Agreement.

(c) You may not use the Software or any Avesha Site in any manner which could damage, disable, overburden, infect, or impair any Avesha Site, the Software, or any other product or service made available by Avesha or through any Avesha Site, or interfere with any other person’s use and enjoyment of any Avesha Site, the Software, or any other product or service made available by Avesha or through any Avesha Site.

(d) You shall not do or attempt to do, and shall not permit, encourage, or authorize anyone else to do or attempt to do, any of the following: (i) modify, disassemble, decompile, reverse engineer, sub-license, loan, transfer, or copy all or any portion of the Software; (ii) circumvent or disable any security, monitoring, audit, or other technological feature of the Software; (iii) market, distribute, sell, or publicly display or demonstrate the Software; (iv) use the Software to develop, create, or engineer products or services that are similar to or competitive with the Software; (v) gain unauthorized access to any service, account, computer system or network or any person or entity including, without limitation, the Software, any Avesha Site, or any product or service made available by Avesha or through any Avesha Site.

(e) If Avesha releases any Updates or Upgrades, Avesha shall update or upgrade the Software and such Software, as updated with the Update or upgraded with the Upgrade, shall continue to be covered by this Agreement during the Term.

(f) In connection with your use of the Software, you shall be permitted to access, download, and use the Documentation.

## **Section 3. Support Services.**

(a) Avesha will provide a basic call center support service with 24/7/365 availability during the Term with respect to questions regarding the use of the Software (“Support Services”).

(b) You may purchase enhanced or premium support services (“Premium Support”) from Reseller on such terms and conditions as may be agreed by You and Reseller from time to time. In the event that You contract with Reseller for Premium Support, but Reseller, for any

reason, does not provide such Premium Support to You, Avesha shall have no liability to you for such Premium Support.

#### **Section 4. User Fees.**

(a) The fee (“User Fee”) payable by You for Your rights under Sections 2 and 3 of this Agreement shall be such amount or amounts as may be set forth in the Reseller Agreement between You and Reseller.

(b) You acknowledge and agree that in the event that Reseller fails for any reason to pay Avesha for Your use of the Software, Avesha may terminate your rights under this Agreement.

#### **Section 5. Ownership.**

(a) Avesha owns all right, title, and interest, including all intellectual property rights, in and to the Software, Documentation, Support Services, and all Avesha Sites including, without limitation, any improvements, modifications, and enhancements to any of the foregoing including, without limitation, any improvements, modifications, or enhancements suggested or recommended by, or based on, the Feedback. Except for those rights expressly granted in this Agreement, no other rights, either express or implied, are granted to You.

(b) Avesha owns all trademark rights in and to any trademarks and service marks used at any time and from time to time in connection with the Software, Documentation, Support Services, Avesha Sites, and any other product or service made available by Avesha or through any Avesha Site, and no license to use or reproduce any such trademark or service mark is granted, or shall be deemed granted, by this Agreement.

(c) All proprietary rights or attribution notices including, without limitation, any trademark, patent, or copyright notice, shown or included on Software, Documentation, Support Services, Avesha Sites, and any other product or service made available by Avesha or through any Avesha Site shall not be removed, covered, altered, or defaced by You.

(d) You hereby assign to Avesha all right, title, and interest in and to the Feedback including, without limitation, all patent rights and copyright. In the event that such assignment is not enforceable for any reason, then You agree to do one or more of the following (including performing such acts as may reasonably be required), at Avesha’s reasonable request: (i) transfer or assign to Avesha all of Your rights regarding the Feedback or (ii) grant to Avesha a perpetual, exclusive, irrevocable, worldwide, royalty-free license to use the Feedback for any reason or purpose.

#### **Section 6. Provided “As is”; Limited Warranty, and Limited Liability.**

(a) Except as provided in Section 6(b), the Software, Documentation, Support Services, and Avesha Sites are provided “as is.” Your use of the Software, Documentation, Support Services, and Avesha Sites is entirely at Your own risk.

(b) Avesha represents and warrants to You that Avesha has all necessary title and rights to enter into this Agreement and to provide to you the Software, Documentation, Support Services, Additional Services, Deliverables, and associated licenses as described in this Agreement without infringing the rights of any other person or entity.

(c) WITH RESPECT TO THE SOFTWARE, THE DOCUMENTATION, THE SUPPORT SERVICES, AVESHA SITES, AND ANY OTHER PRODUCT OR SERVICE MADE AVAILABLE BY AVESHA OR THROUGH ANY AVESHA SITE, AVESHA HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, AND ACCURACY. AVESHA DOES NOT WARRANT THAT THE SOFTWARE, ANY AVESHA SITE, OR ANY OTHER PRODUCT OR SERVICE MADE AVAILABLE BY AVESHA OR THROUGH ANY AVESHA SITE WILL OPERATE ERROR FREE OR THAT OPERATION OF THE SOFTWARE, AVESHA SITE, OR OTHER PRODUCT OR SERVICE WILL BE SECURE OR UNINTERRUPTED, OR THAT THE SOFTWARE, AVESHA SITE, OR OTHER PRODUCT OR SERVICE WILL NOT INTERFERE WITH ANY OTHER SOFTWARE, HARDWARE, OR SYSTEM.

(d) AVESHA SHALL NOT, UNDER ANY THEORY, BE LIABLE OR BE HELD LIABLE TO YOU, RESELLER, OR ANY THIRD PARTY FOR ANY DAMAGES OF ANY KIND RESULTING FROM OR CAUSED BY THE SOFTWARE, DOCUMENTATION, SUPPORT SERVICES, AVESHA SITES, OR OTHER PRODUCT OR SERVICE MADE AVAILABLE BY AVESHA OR THROUGH ANY AVESHA SITE INCLUDING, WITHOUT LIMITATION, ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR ANY CLAIM FOR LOST PROFITS, LOSS OF BUSINESS, LOSS OF GOODWILL, OR ANTICIPATED SAVINGS, EVEN IF AVESHA KNEW, SHOULD HAVE KNOWN, OR HAD BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES. EXCEPT AS SPECIFICALLY PROVIDED IN SECTIONS 4(b) AND 7(c), UNDER NO CIRCUMSTANCES SHALL AVESHA'S TOTAL LIABILITY TO ALL PERSONS OF ANY OR ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED TEN DOLLARS (\$10.00).

(e) As files may be altered or damaged at any time, You agree to take appropriate measures to routinely back up Your systems and files in accordance with the importance of such systems and files and the risk to you of the unavailability of such systems and files.

## **Section 7. Term and Termination.**

(a) This Agreement will begin on the Effective Date and will remain in effect until terminated by either party upon written notice to the other party ("Term") or terminated by the Reseller.

(b) Upon the termination of this Agreement for any reason, Your rights under this Agreement will immediately terminate except as otherwise provided in this Agreement.

(c) The provisions of Sections 5 through to and including 8 shall survive the termination of this Agreement.

## **Section 8. Miscellaneous Provisions.**

(a) Notices to a party must be in writing and sent to the party's address or email address shown on the signature page attached hereto, or such other address as provided by a party by

written notice given under this Section 8(a), by hand delivery, internationally recognized courier service, certified mail, return receipt requested, prepaid first class mail, or electronic mail.

(b) This Agreement will be governed by the laws of the Commonwealth of Massachusetts without reference to, or the application of, conflict of law principles. To the extent allowed by applicable law, the terms of the United Nations Convention on the International Sale of Goods will not apply, even where adopted as part of the domestic law of the country whose law governs the relationship.

(c) All disputes arising out of or related to this Agreement, will be subject to the exclusive jurisdiction of the state and federal courts located in Boston, Massachusetts, and the parties agree and submit to the personal and exclusive jurisdiction and venue of these courts. Notwithstanding the foregoing, the parties agree that in the event of the breach, threatened breach, or potential breach by You of the provisions of Section 5, (i) Avesha could suffer adverse effects which might not be fully compensable by money damages and (ii) Avesha shall be entitled to seek any and all equitable relief in any court anywhere having jurisdiction, including, without limitation, injunctions and specific performance, with respect to any such breach, threatened breach, or potential breach. If a party initiates legal proceedings related to this Agreement, the prevailing party will be entitled to recover reasonable attorney's fees.

(d) You warrant that You will comply with all laws in connection with Your use of any Software, Documentation, Avesha Sites, Additional Services, and Deliverables including, without limitation, applicable export laws and restrictions.

(e) Neither party will be liable for delay or failure to perform that arises out of causes beyond the reasonable control and without the fault or negligence of such party. A party will give prompt notice of any condition likely to cause any delay or default.

(f) You will not assign this Agreement, or your rights or obligations under this Agreement except (i) with the prior written consent of Avesha or (ii) in connection with the sale of all or substantially all of Your assets. Any assignment in violation of this Agreement is void. This Agreement binds and inures to the benefit of the parties and their successors and permitted assigns. Avesha may assign this Agreement at any time with notice to You.

(g) This Agreement is the entire agreement between the You and Avesha relating to the subject matter hereof. No waiver or modification of this Agreement will be valid unless in writing signed by each party. If any part of this Agreement is found to be illegal, unenforceable, or invalid, such part shall be deemed amended to the minimum extent necessary to render it legal, enforceable, and valid and the remaining portions of this Agreement will remain in full force and effect.

(h) The parties are independent contractors, and this agreement does not create an agency, employment, partnership, or joint venture relationship.

(i) You agree that, unless You inform Avesha otherwise in writing, during the Term, Avesha may use You as a commercial reference.

(j) This Agreement may be executed in counterparts and electronically including, without limitation, by automated e-sign services.