



This **Panzura End User License Agreement (“Agreement”)** is legally binding between the purchasing entity identified on the applicable ordering document (e.g., quote or purchase order) (“**Customer**”) and Panzura, LLC. (“**Panzura**”) regarding Customer’s purchase, evaluation, and/or license of the Product(s), as described below. This Agreement is effective as of the earlier of the date set forth on the applicable ordering document or the date that Customer accepted this Agreement as described above.

1. Definitions.

1.1. “**Customer Content**” means any and all data, information, sound, text, images, and other content submitted by Customer to or through the Product(s).

1.2. “**Documentation**” means any user instructions, manuals, and online help files regarding the use of the Product(s) that are generally provided by Panzura in connection with the Product(s).

1.3. “**Product(s)**” means collectively, the Software.

1.4. “**Software**” means Panzura’s commercially released machine-executable object code version of its proprietary software, as may be more fully described in the applicable ordering document.

2. Software Licenses and Restrictions.

2.1. **License.** Subject to the terms and conditions of this Agreement, Panzura grants to Customer a non-exclusive, non-sublicensable and non-transferable license to (a) use the Software solely for its own internal needs; and (b) use the Documentation in connection with the permitted use of the Product(s).

2.2. **Restrictions.** Customer will not: (i) copy or reproduce the Product(s); (ii) modify or create any derivative works of the Product(s); (iii) decompile, disassemble, or reverse engineer the Product(s) (iv) redistribute, encumber, sell, rent, lease, sublicense, or otherwise transfer rights to the Product(s); (v) remove or alter any trademark, logo, copyright or other proprietary notices, legends, symbols or labels in the Product(s); (vi) provide access to or disclose the Product(s) to any third party, or use the Product(s) to create or provide any offering or service, whether or not it is similar or competitive to the Product(s), including without limitation processing third party data files as a consultant, service provider or otherwise; (vii) extract or use any software or content that is furnished by Panzura except as part of the Product(s); (viii) use the Product(s) for any unlawful purpose; (ix) use the Product(s) in connection with the storage or transmission of infringing, libelous, or otherwise unlawful or tortuous material, or in violation of any third-party privacy rights. or (x) publish or disclose to any third party any performance or benchmark tests or analyses relating to the Product, except for internal use by the Customer.



3. **Infrastructure Requirements.** Customer is responsible for acquiring, installing, configuring, maintaining, securing, and backing up all systems architecture, information technology infrastructure, networking (including Internet), and storage components that connect to the Product(s).

4. **Term and Termination.**

4.1. **Term of Agreement.** This Agreement will be effective from the date of purchase of the Product(s) and shall end upon the earlier of: (i) the end of the License Term (if any) specified in the applicable ordering document (and any renewal thereof), or (ii) the termination of this Agreement pursuant to Section 4.3. In the case of an evaluation of the Software, this Agreement will terminate at the conclusion of the evaluation period as stated on the applicable ordering document, unless Customer purchases and/or licenses the Software prior to the conclusion of the evaluation period.

4.2. **Term of Software Licenses.** The Software License Term shall be specified in the applicable ordering document.

4.3. **Termination.** This Agreement may be terminated for cause by either party, in the event that the other party commits a material breach of this Agreement and does not cure such breach within thirty (30) days of receipt of written notice specifying such breach and the intent to terminate.

4.4. **Effect of Termination.** Upon termination of this Agreement, all rights granted to Customer with respect to term and subscription-based Software and Documentation will terminate, and Customer will immediately discontinue use of such Software and Documentation and any of Panzura's Confidential Information. Upon request by Panzura, Customer will certify in writing to Panzura within thirty (30) days that the affected copies of the Software, in whole or in part, in any form, and any Confidential Information, have either been returned to Panzura or destroyed in accordance with Panzura's instructions.

4.5. **Survival.** Section 2.2, 3, 4, 5, 7, and 14 through 19, inclusive shall survive the termination of this Agreement.

4.6 **Term of Customer Content Storage.** Customer acknowledges, understands and agrees to the storage of Customer Content and any other personal information in the United States. However, Customer also acknowledges, understands and agrees that Customer or other third parties that it collaborates with, may access the Products, including, but not limited to, applicable Customer Content, from outside of the United States (subject at all times to applicable law(s), regulation(s) and order(s)) and that nothing shall otherwise prohibit the processing of Customer Content or other information outside of the United States.



Panzura will at all times act in accordance with applicable laws, regulations and orders when determining the appropriate period for the storage and retention of Customer's Content. Panzura's standard retention period for all Customer Content will be no greater than ninety (90) days unless otherwise required by applicable laws, regulations and orders. Panzura will continue to store Customer's Content until the applicable retention period has expired, at which time, it will be automatically and without notice entitled to purge and dispose of all Customer Content in the manner it deems necessary unless otherwise expressly agreed upon in writing by Customer and Panzura. Customer hereby acknowledges, understands and agrees that extended retention of Customer Content beyond the original ninety (90) day retention period will require additional payment of fees by Customer.

5. **Payment.** Customer shall pay all amounts net thirty (30) days from the date of invoice. Product(s) will be invoiced at time of shipment. Any fees for professional services will be invoiced according to Panzura's then-current list price for Professional Services, or in accordance with any applicable Statement of Work ("SOW") or Services Agreement entered into by and between the Parties. All fees are nonrefundable. Customer will be responsible for all taxes resulting from the purchases other than taxes on Panzura's net income.

6. **Limited Warranty.**

6.1. Panzura warrants for a period of ninety (90) days from shipment the Software will substantially conform to the Documentation.

6.2. The liability of Panzura hereunder shall be limited to providing maintenance releases of the Software that Panzura generally makes available from time to time.

6.3. The Product(s) contain some components subject to open source software, freeware, shareware, or similar licensing or distribution models ("Open Source Components"). Without limiting the generality of the foregoing, Panzura's warranty obligations under this Agreement do not apply to Open Source Components. Where required by the terms of relevant open source software licenses, Panzura provides the source code form of Open Source Components upon written request sent to the following email address: legal@panzura.com.

7. **7. WARRANTY DISCLAIMER.** EXCEPT AS SET FORTH IN SECTION 7, PANZURA AND ITS LICENSORS AND SUPPLIERS DISCLAIM ANY AND ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, REGARDING OR RELATING TO THE PRODUCT(S) AND DOCUMENTATION, OR ANY OTHER MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, AND FITNESS FOR A PARTICULAR PURPOSE, ANY WARRANTY THAT THE PRODUCT(S) WILL BE UNINTERRUPTED, ERROR-FREE, OR THAT CUSTOMER CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED.



8. PRODUCT SUPPORT.

8.1. During Customer's paid Product Support subscription, Panzura will provide Product Support to Customer at the applicable service level, as described at www.panzura.com/services.

8.2. Panzura will have no obligation to provide Product Support for: (a) improper installation of the Software; (b) any modification of the Software not made by Panzura unless it is pre-approved in writing by Panzura; (c) any version of the Software running on any platform that is not supported by Panzura or (d) any version of the Software that has reached its end of support life.

8.3. The initial Product Support period will be specified in the applicable ordering document from the effective date of this Agreement. Reinstatement of lapsed Product Support, if any, is subject to Panzura's then-current support services reinstatement policy and fees in effect on the date the reinstatement is granted.

8.4. Panzura reserves the right to charge additional support fees at its then standard professional services rates for support services performed in connection with reported problems which are later determined to have been due to Customer error or third-party hardware or software. Any configuration or integration work must be separately quoted by Panzura's professional services organization and agreed by the parties in writing.

9. INDEMNIFICATION.

9.1 Panzura agrees that it will, at its own expense, defend all suits or proceedings instituted against Customer and pay any award or damages finally assessed against Customer in such suits or proceedings, insofar as the same are based on any third party claim that the Product(s) or any parts thereof furnished under this Agreement constitute an infringement in the United States of any United States patent, copyright trade secret or other intellectual property right of a third party; provided, however, that Customer (i) gives immediate written notice to Panzura of the institution of the suit or proceedings, (ii) gives Panzura sole control of the defense and settlement of such suits or proceedings, and (iii) gives Panzura all needed information, assistance, and authority to enable Panzura to do so. Notwithstanding the foregoing, Panzura will not be responsible for, and the foregoing indemnity obligation shall not apply to (a) any use of the Product(s) in combination with any other device, product, service, process, equipment, infrastructure or material not furnished by Panzura, (b) any use of the Product(s) that is not their intended use; or (c) any modification of any Product(s) by anybody other than Panzura. In the event that Panzura believes that any claim is likely to occur, Panzura may, at its sole option and expense, either (i) secure for Customer the right to continue using such item(s), (ii) replace such item(s) with non-infringing item(s), or (iii) require the return of such item(s) and refund the sums paid therefor. THE FOREGOING STATES PANZURA'S ENTIRE LIABILITY AND OBLIGATION (EXPRESS, STATUTORY, IMPLIED OR OTHERWISE) WITH RESPECT TO INTELLECTUAL PROPERTY INFRINGEMENT OR CLAIMS THEREFOR.



9.2 Customer agrees to indemnify, defend, and hold Panzura, its directors, officers, employees and agents harmless from all loss, liability, claims, demands, judgments, and expenses, including, without limitation, attorneys' fees, arising out of, or in any way connected with Customer's or its representative(s)' use of the Product(s) or Customer Content, including without limitation any claim that the collection, transfer, storage or use of any Customer Content infringes the rights of a third party or any law, regulation or directive.

10. **LIMITATION OF LIABILITY.** PANZURA'S LIABILITY ARISING OUT OF THIS AGREEMENT AND/OR SALE WILL BE LIMITED TO REFUND OF THE PURCHASE PRICE. IN NO EVENT WILL PANZURA BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT, LOSS OF DATA, LOSS OF USE, BUSINESS INTERRUPTION, SECURITY BREACH, OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES) WHETHER OR NOT PANZURA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY ARISING OUT OF THIS AGREEMENT. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS AGAINST CUSTOMER. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

THE PRODUCT(S) ARE NOT DESIGNED, INTENDED, OR WARRANTED FOR USE IN ANY AERONAUTICAL, NUCLEAR, MEDICAL, LIFE-SAVING OR LIFE SUSTAINING SYSTEMS, OR FOR ANY OTHER APPLICATION IN WHICH THE USE OF THE SUPPORTED SOFTWARE COULD CREATE A SITUATION WHERE PERSONAL INJURY OR DEATH MAY OCCUR.

11. **Confidentiality.** "Confidential Information" means any and all information related to a party's business that is labeled or identified as "confidential" or "proprietary"; or otherwise is of such a type or disclosed in such a way that a reasonable person would understand that the information disclosed is confidential or proprietary, including without limitation software, source code and specifications, trade secrets, development plans, technical information, business forecasts and strategies. Without limiting the foregoing, the Product(s), their structure, organization, code, and related documentation are the "Confidential Information" of Panzura. Each party agrees (i) to hold the other party's Confidential Information in strict confidence, (ii) not to disclose such Confidential Information to any third parties, except as described below and (iii) not to use any Confidential Information except for the purposes of this Agreement. Each party may disclose the other party's Confidential Information to its responsible employees and contractors with a bona fide need to know, but only to the extent necessary to carry out the purposes of this Agreement, and only if such employees and contractors are subject to a nondisclosure agreement sufficient to protect the other party's Confidential Information hereunder. The restrictions set forth in this section will not apply to any Confidential Information that the receiving party can demonstrate (a) was known to it prior to its disclosure by the disclosing party; (b) is or becomes publicly known through no wrongful act of the receiving party; (c) has been rightfully received from a third party authorized to make such disclosure without restriction; (d) is independently developed by the receiving party without reference to the disclosing party's Confidential Information. The parties agree that a breach of this section may cause irreparable damage which money cannot satisfactorily remedy and therefore, the parties agree that in addition to any other remedies available at law or hereunder, the disclosing party will be entitled to seek injunctive relief for any threatened or actual disclosure by the receiving party.

12. **Proprietary Rights.** The Product(s) and Documentation contain Panzura's proprietary information that is protected to the maximum extent by applicable intellectual property and other laws. Except for the license granted under Section 2.1, Panzura reserves all right, title and interest to the Software and Documentation,



including without limitation any modifications, enhancements, improvements, customizations, maintenance releases, revisions or derivative works thereof. There is no implied license, right or interest granted in any copyright, patent, trade secret, trademark, invention or other intellectual property right under this Agreement.

13. **Government.** The Product(s) are “commercial items” as that term is defined at 48 C.F.R. 2.101; the Software and Documentation consists of “commercial computer software” and “commercial computer software documentation” as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Product(s) and any other software and documentation covered under this Agreement with only those rights set forth herein.
14. **CHANGES TO THIS EULA.** Panzura at all times reserves the right to at any time modify this EULA, including, but not limited to, any of the terms and conditions set forth herein, at its sole discretion. The most current version of this EULA will at all times be placed at www.panzura.com/eula. User’s continued use of PDS after Panzura publishes an updated version of this EULA, if at all, shall be deemed as User’s acceptance of, and consent to, the updated version of this EULA.

Any terms or conditions appearing in any purchase order, acknowledgement, or confirmation that are different from or in addition to those specified in this EULA will not at any time be binding upon Panzura or any of its affiliates or subsidiaries unless otherwise expressly agreed in writing by Panzura.

15. **Miscellaneous.** This Agreement will be governed by and construed under the laws of the State of Texas without regard to its conflict of laws provisions. The federal and state courts in Collin County, Texas will have exclusive jurisdiction and venue to adjudicate any dispute arising out of this Agreement. This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof and supersedes all prior discussions, proposals, and understandings between them. Without limiting the generality of the foregoing, this Agreement will supersede the terms of Customer’s form of purchase order, acknowledgment or other business forms notwithstanding Panzura’s acceptance or acknowledgment of such business forms. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless set forth in writing signed by officers of both parties hereto. Customer agrees not to export the Product(s) in violation of the laws and regulations of the United States or any other nation. In no event may Customer assign this Agreement or its rights and obligations under this Agreement. Panzura shall have the right to assign this Agreement to any successor to its business or assets to which this Agreement relates, whether by merger, sale of assets, sale of stock, reorganization or otherwise. This Agreement will be binding upon and inure to the benefit of the parties hereto, their permitted successors and assigns. If any provision of this Agreement is held to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. Any notices or communication under this Agreement will be in writing and will be hand delivered, sent by registered or certified mail return receipt requested, by nationally-recognized express courier with a tracking system, or by confirmed facsimile transmission to the party receiving such communication, at the receiving party’s address set forth on the applicable ordering document, or such other address as a party may in the future specify to the other party.