

GENERATIVE TECHNOLOGIES

ENTERPRISE LICENSE CUSTOMER TERMS AND CONDITIONS

The Parties agree as follows:

1. Definitions.

- 1.1 **“Approved Servers”** has the meaning set forth in the Order.
- 1.2 **“Authorized User”** means Customer’s employees, consultants, contractors, and agents who are authorized by Customer to use the Software under this Agreement.
- 1.3 **“Documentation”** means Generative Technologies’s end user documentation relating to the Software.
- 1.4 **“Generative Technologies IP”** means the Software, the Documentation, and any and all intellectual property provided to Customer or any Authorized User in connection with the foregoing.
- 1.5 **“Harmful Code”** means any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data processed thereby.
- 1.6 **“License Limitations”** means the usage limitations set forth in this Agreement and the Order, including without limitation any limitations on the number of Authorized User seats (if any), and the applicable product, pricing, and support tiers agreed-upon by the Parties.
- 1.7 **“License Term”** means the time period identified on the Order.
- 1.8 **“Order”** means: (i) a purchase order, order form, or other ordering document entered into by the Parties that incorporates this Agreement by reference; or (ii) if Customer registered for the Software through Generative Technologies’s online ordering process, the results of such online ordering process.
- 1.9 **“Software”** means the Software identified in the Order, in object code form, as licensed to Customer for use by Authorized Users in accordance with this Agreement.
- 1.10 **“Third-Party Products”** means any third-party products provided with, integrated with, or incorporated into the Software.

2. License and Use.

2.1 Software License. Subject to and conditioned on Customer’s compliance with the terms and conditions of this Agreement, including without limitation the License Limitations, Generative Technologies hereby grants Customer, during the License Term, a limited, worldwide, non-transferable (except in compliance with Section 12.8), and non-sublicensable (except as necessary to install the Software on the Approved Servers) license to install the Software on the Approved Servers and to use the Software for Customer’s internal business purposes. Each Authorized User must have its own unique account for the Software and Authorized Users may not share their account credentials with one another or any third party. Customer will be responsible for all of the acts and omissions of its Authorized Users in connection with this Agreement and for all use of Authorized Users’ accounts.

2.2 Documentation License. Subject to and conditioned on Customer’s compliance with the terms and conditions of this Agreement, Generative Technologies hereby grants to Customer a non-exclusive, non-transferable (except in compliance with Section 12.8), and non-sublicensable license to use the Documentation during the License Term solely for Customer’s internal business purposes in connection with its use of the Software.

2.3 Electronic Delivery. All Software and Documentation shall be delivered by electronic means, unless otherwise agreed to by the Parties in writing. Software shall be deemed delivered when it is made available for download by Customer.

2.4 License Restrictions. Customer shall not use the Software for any purposes beyond the scope of

the license granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of any Generative Technologies IP, whether in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Software or Documentation to any third party; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Software, in whole or in part; (iv) remove any proprietary notices from any Generative Technologies IP; (v) use any Generative Technologies IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; (vi) use any Generative Technologies IP for purposes of competitive analysis of Generative Technologies or the Software, the development, provision, or use of a competing software service or product, or any other purpose that is to Generative Technologies's detriment or commercial disadvantage; (vii) bypass or breach any security device or protection used by the Software or use the Software other than by an Authorized User through the use of valid access credentials; (viii) input, upload, transmit, or otherwise provide to or through the Software any information or materials, that are unlawful or injurious or that infringe or otherwise violate any third party's intellectual property or other rights, or that contain, transmit, or activate any Harmful Code; or (ix) use any Generative Technologies IP for any activity where use or failure of the Generative Technologies IP could lead to death, personal injury, or environmental damage.

2.5 Reservation of Rights. Generative Technologies reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Generative Technologies IP.

2.6 License Revocation. Notwithstanding anything to the contrary in this Agreement, Generative Technologies may temporarily or permanently revoke Customer's license the Software if: (i) Generative Technologies reasonably determines that (a) there is a threat or attack on any of the Generative Technologies IP; (b) Customer's or any Authorized User's use of the Generative Technologies IP disrupts or poses a security risk to the Generative Technologies IP or to any other customer or vendor of Generative Technologies; (c) Customer, or any Authorized User, is using the Generative Technologies IP for fraudulent or illegal activities; (d) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; (e) Generative Technologies's provision of the Software to Customer or any Authorized User is prohibited by applicable law; or (f) any content, data, or information submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Software may infringe or otherwise violate any third party's intellectual property or other rights; or (ii) in accordance with Section 6.1 (any such suspension described in subclauses (i), (ii), or (iii), a "**License Revocation**"). Generative Technologies shall use commercially reasonable efforts to provide written notice of any License Revocation to Customer and to provide updates regarding reinstatement of Customer's license to the Software following any License Revocation. Generative Technologies shall use commercially reasonable efforts to resume providing Customer with license rights to the Software as soon as reasonably possible after the event giving rise to the License Revocation is cured. Generative Technologies will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a License Revocation.

2.7 Open Source Components. Certain aspects of the Software may contain or be distributed with open source software code or libraries ("**Open Source Components**"). Generative Technologies will provide a list of Open Source Components for a particular version of any distributed portion of the Software, on Customer's request. To the extent required by the license applicable to such Open Source Components: (i) Generative Technologies will use reasonable efforts to deliver to Customer any notices or other materials (such as source code); and (ii) the terms of such licenses will apply to such Open Source Components in lieu of the terms of this Agreement. To the extent the terms of such licenses prohibit any of the restrictions in this Agreement with respect to any particular Open Source Component, such restrictions will not apply to such Open Source Component. To the extent the terms of such licenses require Generative Technologies to make an offer to provide source code or related information in connection with the Open Source Component, such offer is hereby made. For purposes of clarity, Open Source Components are Third-Party Products.

3. Customer Responsibilities.

3.1 General. Customer is responsible and liable for all uses of the Software and Documentation resulting from access provided by Customer, directly or indirectly, whether such use is permitted by or in violation of this Agreement. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Software and shall cause Authorized Users to comply with such provisions.

3.2 Third-Party Products. Generative Technologies may from time to time allow for certain Third-Party Products to be integrated with or compatible with the Software to allow for the transmission of certain content, data, or information from such Third-Party Products into the Software. For purposes of this Agreement, such Third-Party Products are subject to their own terms and conditions. Generative Technologies is not responsible for the operation of any Third-Party Products and makes no representations or warranties of any kind with respect to Third-Party Products or their respective providers. If Customer does not agree to abide by the applicable terms for any such Third-Party Products, then Customer should not install or use such Third-Party Products.

3.3 Customer Control and Responsibility. Customer has and will retain sole responsibility for: (i) all information, instructions, and materials provided by or on behalf of Customer or any Authorized User in connection with the Software; (ii) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems), and networks, whether operated directly by Customer or through the use of third-party Softwares or service providers ("**Customer Systems**"); (iii) the security and use of Customer's and its Authorized Users' access credentials; and (iv) all access to and use of the Software directly or indirectly by or through the Customer Systems or its or its Authorized Users' access credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions, and actions based on, such access or use.

4. Support. During the License Term, Generative Technologies will use commercially reasonable efforts to provide Customer with applicable support during normal business hours.

5. Fees and Taxes.

5.1 Fees. The Software may be provided for a fee or other charge. Customer shall pay Generative Technologies the fees ("**Fees**") identified in the Order without offset or deduction at the cadence identified in the Order (e.g., monthly or annually). Fees paid by Customer are non-refundable. Customer shall make all payments hereunder in US dollars by ACH or other agreed upon payment method that the Parties may specify in writing from time to time. If Customer fails to make any payment when due, and Customer has not notified Generative Technologies in writing within ten (10) days of the payment becoming due and payable that the payment is subject to a good faith dispute, without limiting Generative Technologies's other rights and remedies: (i) Generative Technologies may charge interest on the undisputed past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) Customer shall reimburse Generative Technologies for all reasonable costs incurred by Generative Technologies in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees; and (iii) if such failure continues for ten (10) days or more, Generative Technologies may revoke Customer's and its Authorized Users' license to all or any part of the Software until such amounts are paid in full.

5.2 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Generative Technologies's income.

6. Confidential Information.

6.1 Definition. From time to time during the License Term, either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media that: (i) is marked, designated or otherwise identified as "confidential"

or something similar at the time of disclosure or within a reasonable period of time thereafter; or (ii) would be considered confidential by a reasonable person given the nature of the information or the circumstances of its disclosure (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party without use of, reference to, or reliance upon the disclosing Party's Confidential Information.

6.2 **Duty.** The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees, contractors, and agents who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder ("**Representatives**"). The receiving Party will be responsible for all the acts and omissions of its Representatives as they relate to Confidential Information hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. Further, notwithstanding the foregoing, each Party may disclose the terms and existence of this Agreement to its actual or potential investors, debtholders, acquirers, or merger partners under customary confidentiality terms.

6.3 **Return of Materials; Effects of Termination/Expiration.** On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-use and non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire three (3) years from the date of termination or expiration of this Agreement; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. **Ownership; Feedback.**

7.1 **Ownership.** Customer acknowledges that, as between Customer and Generative Technologies, Generative Technologies owns all right, title, and interest, including all intellectual property rights, in and to the Generative Technologies IP and, with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products.

7.2 **Feedback.** If Customer or any of its employees or contractors sends or transmits any communications or materials to Generative Technologies by mail, email, telephone, or otherwise, suggesting or recommending changes to the Generative Technologies IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), Generative Technologies is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback.

8. **WARRANTY DISCLAIMER.** THE GENERATIVE TECHNOLOGIES IP IS PROVIDED "AS IS" AND GENERATIVE TECHNOLOGIES HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. GENERATIVE TECHNOLOGIES SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. GENERATIVE TECHNOLOGIES MAKES NO WARRANTY OF ANY KIND THAT THE GENERATIVE TECHNOLOGIES IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, INTEGRATE WITH ANY SPECIFIC THIRD PARTY PRODUCTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT (INCLUDING WITH RESPECT TO GRANTS OF ANY PRIOR AUTHORIZATION REQUESTS), BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SOFTWARE, PROVIDE SPECIFIC OUTCOMES, OR BE ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE. THE SOFTWARE MAY INCORPORATE GENERATIVE ARTIFICIAL INTELLIGENCE TECHNOLOGY TO ASSIST IN DRAFTING PRIOR AUTHORIZATION REQUESTS; HOWEVER, THE ACCURACY, COMPLETENESS, AND SUITABILITY OF

OUTPUTS GENERATED BY SUCH TECHNOLOGY ARE NOT GUARANTEED, AND CUSTOMER ASSUMES SOLE RESPONSIBILITY FOR REVIEWING AND VERIFYING ALL OUTPUTS BEFORE RELIANCE OR SUBMISSION. GENERATIVE TECHNOLOGIES DISCLAIMS ANY LIABILITY ARISING FROM INACCURACIES OR ERRORS IN OUTPUTS GENERATED BY THE AI TECHNOLOGY OR FROM THE CUSTOMER'S FAILURE TO REVIEW AND VALIDATE SUCH OUTPUTS.

9. Indemnification.

9.1 Generative Technologies Indemnification.

(a) Generative Technologies shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable attorneys' fees) ("**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") brought against Customer alleging that the Software, or any use of the Software in accordance with this Agreement, infringes or misappropriates such third party's US intellectual property rights; provided that Customer promptly notifies Generative Technologies in writing of the claim, cooperates with Generative Technologies, and allows Generative Technologies sole authority to control the defense and settlement of such claim.

(b) If such a claim is made or appears possible, Customer agrees to permit Generative Technologies, at Generative Technologies's sole discretion: to (i) modify or replace the Software, or component or part thereof, to make it non-infringing; or (ii) obtain the right for Customer to continue use. If Generative Technologies determines that neither alternative is reasonably commercially available, Generative Technologies may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.

(c) This Section 9.1 will not apply to the extent that the alleged infringement arises from: (i) use of the Software in combination with data, software, hardware, equipment, or technology not provided by Generative Technologies or authorized by Generative Technologies in writing; (ii) modifications to the Software not made by Generative Technologies; or (iii) Third-Party Products.

9.2 Customer Indemnification. Customer shall indemnify, hold harmless, and, at Generative Technologies's option, defend Generative Technologies from and against any Losses resulting from any Third-Party Claim based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Software in a manner not authorized by this Agreement; or (iii) use of the Software in combination with data, software, hardware, equipment or technology not provided by Generative Technologies or authorized by Generative Technologies in writing; in each case provided that Customer may not settle any Third-Party Claim against Generative Technologies unless Generative Technologies consents to such settlement, and further provided that Generative Technologies will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

9.3 SOLE REMEDY. THIS SECTION 9.3 SETS FORTH CUSTOMER'S SOLE REMEDIES AND GENERATIVE TECHNOLOGIES'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

10. LIMITATIONS OF LIABILITY. IN NO EVENT WILL GENERATIVE TECHNOLOGIES BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (I) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (II) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (III) LOSS OF GOODWILL OR REPUTATION; (IV) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (V) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER GENERATIVE TECHNOLOGIES WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL GENERATIVE TECHNOLOGIES'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO GENERATIVE TECHNOLOGIES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM.

11. License Term and Termination.

11.1 License Term. The initial term of this Agreement begins on the Effective Date and, unless terminated earlier pursuant to this Agreement's express provisions, will continue in effect for the period identified in the Order (the "**Initial License Term**"). This Agreement will automatically renew for additional successive terms equal to the length of the Initial License Term unless earlier terminated pursuant to this Agreement's express provisions or either Party gives the other Party written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term (each a "**Renewal License Term**" and together with the Initial License Term, the "**License Term**").

11.2 Termination. In addition to any other express termination right set forth in this Agreement:

(a) Generative Technologies may terminate this Agreement, effective on written notice to Customer, if Customer: (i) fails to pay any amount when due hereunder, and such failure continues more than ten (10) calendar days after Generative Technologies's delivery of written notice thereof; or (ii) breaches any of its obligations under Section 2.4 or Section 6;

(b) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) calendar days after the non-breaching Party provides the breaching Party with written notice of such breach;

(c) Customer may terminate this Agreement for any reason or no reason upon thirty (30) days' prior written notice to Generative Technologies; or

(d) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

11.3 Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of the Generative Technologies IP and, without limiting Customer's obligations under Section 6, Customer shall delete, destroy, or return all copies of the Generative Technologies IP and certify in writing to the Generative Technologies that the Generative Technologies IP has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund.

11.4 Survival. This Section 11.4 and Sections 1, 5, 6, 7, 8, 9, 10, 11.3, and 12 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

12. Miscellaneous.

12.1 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, this Agreement; and (ii) second, any other documents incorporated herein by reference.

12.2 Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") must be in writing and addressed to the Parties at the addresses set forth on the first page of this Agreement (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission) or certified or

registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

12.3 Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

12.4 Amendment and Modification. No amendment or modification to this Agreement is effective unless it is in writing and signed by an authorized representative of each Party.

12.5 Waiver. No failure or delay by either Party in exercising any right or remedy available to it in connection with this Agreement will constitute a waiver of such right or remedy. No waiver under this Agreement will be effective unless made in writing and signed by an authorized representative of the Party granting the waiver.

12.6 Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

12.7 Governing Law. This Agreement is governed by and construed in accordance with the internal laws of the State of Delaware without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Delaware.

12.8 Dispute Resolution. Any dispute arising from or relating to the subject matter of this Agreement that cannot be resolved thereby within a period of sixty (60) days after notice of a dispute has been given by one Party hereunder to the other, must be finally settled by arbitration in Los Angeles, California using the English language in accordance with the Comprehensive Arbitration Rules and Procedures of JAMS (formerly operating as, Judicial Arbitration and Mediation Services, Inc.) then in effect, by one or more commercial arbitrator(s) with substantial experience in resolving complex commercial contract disputes, who may or may not be selected from the appropriate list of JAMS arbitrators. If the Parties cannot agree upon the number and identity of the arbitrators within fifteen (15) days following the Arbitration Date, then a single arbitrator will be selected on an expedited basis in accordance with the Arbitration Rules and Procedures of JAMS. The arbitrator(s) will have the authority to grant specific performance and to allocate between the Parties the costs of arbitration (including service fees, arbitrator fees and all other fees related to the arbitration) in such equitable manner as the arbitrator(s) may determine. The prevailing Party in the arbitration will be entitled to receive reimbursement of its reasonable expenses (including reasonable attorneys' fees, expert witness fees and all other expenses) incurred in connection therewith. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be. Notwithstanding the foregoing, each Party will have the right to seek equitable relief from any court of competent jurisdiction.

12.9 Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Generative Technologies. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

12.10 Export Compliance. Customer acknowledges that the Software is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of certain foreign governments. Customer shall not, and shall not allow any third party to, export

from the United States or allow the re-export or re-transfer of any part of the Software: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. Government; (ii) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>); (iii) to any known end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.

12.11 US Government Rights. Each of the Documentation and the software components that constitute the Software is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Customer is an agency of the US Government or any contractor therefor, Customer only receives those rights with respect to the Software and Documentation as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government users and their contractors.

12.12 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 6 or, in the case of Customer, Section 2.4, would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

12.13 Publicity. Generative Technologies may identify Customer as a licensee of the Software and may use Customer's name, logo, and other trademarks in Generative Technologies's customer list, press releases, blog posts, advertisements, and website (and all use thereof and goodwill arising therefrom shall inure to the sole and exclusive benefit of Customer). Otherwise, neither Party may use the name, logo, or other trademarks of the other Party for any purpose without the other Party's prior written approval.