

**BELVEDERE SOFTWARE TERMS AND CONDITIONS**

Version 2026.04

These Belvedere Software Terms and Conditions (these "Software Terms") govern access to and use of the Software provided by Licensor to Licensee, each of which may be referred to individually as a "Party" and collectively as the "Parties."

These Software Terms, together with each applicable Ordering Document and any exhibits, schedules, statements of work, marketplace transactions, private offers, attachments, addenda, amendments, or other documents incorporated into or made part of the foregoing, form the agreement between Licensor and Licensee governing the applicable Software license, access, use, services, and transactions (the "Agreement").

WHEREAS, Licensor desires to make the Software available to Licensee under the Agreement; and

WHEREAS, Licensee desires to access and use the Software for its internal business purposes, subject to the terms and conditions of the Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**1. Definitions.**

"Acceptance Criteria" means, unless otherwise specified in the applicable Ordering Document, the specifications, Documentation, and other written acceptance requirements provided or made available by Licensor for the applicable Software.

"Action" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

"Affiliate" means, with respect to a Person, any other Person that directly or indirectly controls, is controlled by, or is under common control with, such Person. The term "control," including "controlled by" and "under common control with," means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise.

"Agreement" has the meaning set forth in the preamble.

"Authorized User" means each individual authorized by Licensee to access or use the Software under the applicable Ordering Document, subject to any user limits, role restrictions, approval requirements, or other conditions stated in the Agreement.

"Business Day" means a day other than a Saturday, Sunday, or other day on which the Federal Reserve Banks are closed for business.

"Confidential Information" has the meaning set forth in Section 11.1 of these Software Terms.

"Designated Site(s)" means the specific facility or facilities, office(s), program location(s), mission location(s), deployment location(s), cloud account(s), tenant(s), enclave location(s), or network segment(s) set forth in the applicable Ordering Document at or within which Licensee may access or use the Software. Identification of a broader network, enclave, cloud environment, or computing environment does not authorize use outside the specific Designated Site(s) or scope expressly stated in the applicable Ordering Document.

"Disclosing Party" has the meaning set forth in Section 11.1 of these Software Terms.

"Documentation" means the user manuals, handbooks, installation guides, technical materials, and other end-user documentation relating to the Software that Licensor provides or makes available to Licensee and that describe the functionality, components, features, requirements, installation, configuration, integration, operation, or use of the Software.

"Effective Date" means, with respect to a particular Agreement, the earliest of: (a) the effective date stated in the applicable Ordering Document; (b) the date Licensee accepts an Ordering Document incorporating these Software

Terms; (c) the date Licensee accepts these Software Terms; or (d) the date Licensee first accesses or uses the Software. If Licensee is an agency, instrumentality, or other entity of the United States Government, "Effective Date" means the date these Software Terms are incorporated into, attached to, or otherwise made part of a contract, order, task order, delivery order, marketplace transaction, private offer, or other ordering instrument issued or accepted by an authorized Government contracting or ordering official.

"Fees" means the fees, charges, expenses, and other amounts payable by Licensee to Licensor under the Agreement.

"Force Majeure Event" has the meaning set forth in Section 18.2(a) of these Software Terms.

"Indemnitee" has the meaning set forth in Section 14.3 of these Software Terms.

"Indemnitor" has the meaning set forth in Section 14.3 of these Software Terms.

"Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights Laws, and all similar or equivalent rights or forms of protection, in any part of the world.

"Law" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

"Licensed Materials" means the applicable Software, Licensor Data, Documentation, and any other items, materials, or deliverables that Licensor provides or makes available, or is obligated to provide or make available, under the Agreement.

"Licensee Computing Environment" means Licensee's systems, networks, devices, accounts, cloud environments, tenants, infrastructure, and other computing environments used by or on behalf of Licensee in connection with the Software, as authorized under the Agreement.

"Licensee Data" means data, content, files, records, materials, or other information that Licensee or its Authorized Users submit to, upload to, process through, or make available to the Software under the Agreement.

"Licensee Indemnitee" has the meaning set forth in Section 14.1 of these Software Terms.

"Licensor Data" means any data, datasets, models, metadata, schemas, taxonomies, rules, configurations, reference materials, proprietary compilations, or other materials owned or provided by Licensor and used by or with the Software, excluding Licensee Data.

"Licensor Indemnitee" has the meaning set forth in Section 14.2 of these Software Terms.

"Losses" means all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

"Maintenance Release" means any update, upgrade, release, or other adaptation or modification of the Software, including any updated Documentation, that Licensor may provide or make available to Licensee from time to time during the Term, which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Software, but does not include any New Version.

"New Version" means any new version of the Software that Licensor may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Licensor's designation of a new version number), and which Licensor may make available to Licensee at an additional cost under a separate written agreement.

"Open-Source Components" means any software component that is subject to any open source license agreement, including any software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open-Source Initiative.

"Open-Source License" has the meaning set forth in Section 2.4 of these Software Terms.

"Ordering Document" means any written or electronic order, ordering document, order form, quote, schedule, statement of work, marketplace transaction, private offer, purchase document, deployment document, or other ordering instrument issued or approved by Licensor and accepted by Licensee that identifies applicable transaction-specific terms, including, as applicable, license count, Authorized Users, Fees, scope of work, Permitted Use, Designated Environment(s), Licensee Computing Environment, support terms, expiration, notice addresses, or other applicable commercial or operational terms. Each Ordering Document incorporates these Software Terms by reference unless expressly stated otherwise.

"Payment Failure" has the meaning set forth in Section 16.3(a) of these Software Terms.

"Permitted Use" means use of the Software, Licensor Data, and Documentation by Authorized Users solely for Licensee's internal business purposes, and subject to any additional purpose, scope, environment, user, deployment, trial, evaluation, or other restrictions stated in the applicable Ordering Document.

"Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

"Receiving Party" has the meaning set forth in Section 11.1 of these Software Terms.

"Representatives" means, with respect to a Party, that Party's employees, officers, directors, consultants, agents, independent contractors, service providers, subcontractors, and legal advisors.

"Software Terms" has the meaning set forth in the preamble.

"Software" means the executable, object code version of the Belvedere™ software and any Maintenance Releases provided or made available to Licensee under the Agreement.

"Term" has the meaning set forth in Section 16.1 of these Software Terms.

"Territory" means the United States of America, its territories and possessions, and any other jurisdiction expressly authorized in the applicable Ordering Document, provided that use in such jurisdiction is permitted under applicable U.S. export control, sanctions, and trade laws.

"Third-Party Materials" means materials and information, in any form or medium, that are not proprietary to Licensor, including any third-party: (a) documents, data, content or specifications; (b) Open Source Components or other software, hardware or other products, facilities, equipment or devices; and (c) accessories, components, parts or features of any of the foregoing.

"Warranty Period" has the meaning set forth in Section 13.2 of these Software Terms.

2. License. Subject to the terms and conditions of the Agreement, including any applicable payment obligations, Licensor grants Licensee the licenses set forth in this Section **Error! Reference source not found.** during the Term.

2.1. License Grant. Subject to and conditioned on Licensee's payment of applicable Fees and compliance with the Agreement, Licensor grants Licensee a non-exclusive, non-sublicensable, and non-transferable license, except as permitted under Section 18 of these Software Terms, to use, execute, and copy the Software, use and copy the Licensor Data, and use and copy the Documentation solely for the Permitted Use in the Territory during the Term. No license is granted under the Agreement to access, copy, use, disclose, distribute, or otherwise exploit the source code to the Software. The Licensor Data shall be used strictly: (a) in connection with the Software; and (b) for downloading from the Software, as to both (a) and (b), only during the Term. Licensor retains all rights not expressly granted to Licensee under the Agreement.

2.2. Scope of Licensed Access and Use. Licensee may install, access, use, and run the Software only in accordance with the applicable Ordering Document. The total number of Authorized Users, Designated Site(s), operating environment(s), projects, use cases, deployments, and other scope limitations shall not exceed the scope stated in the applicable Ordering Document, except as expressly agreed to in writing by the Parties and subject to any applicable adjustment of Fees. Licensee may make one copy of the Software solely for testing, disaster recovery, or archival purposes, unless the applicable Ordering Document states otherwise. Any copy of the Software made by Licensee: (a) will remain the exclusive property of Licensor; (b) will be subject to the Agreement; and (c) must include all copyright, proprietary rights, and other Intellectual Property Rights notices contained in the original.

2.3. Open Source Licenses. The Software includes Open Source Components. All applicable open source license (each, an "Open Source License") terms are listed in the licenses.txt file distributed with the Software or in other notices

made available by Licensor. Those terms are incorporated into these Software Terms by reference. Any use of the Open Source Components by Licensee is governed by, and subject to, the terms and conditions of the Open Source License(s).

**2.4. Security Measures.** The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Licensee acknowledges and agrees that: (a) Licensor may use these and other lawful measures to verify Licensee's compliance with the terms of the Agreement and enforce Licensor's rights, including all Intellectual Property Rights, in and to the Software; (b) Licensor may deny any individual access to and/or use of the Software if Licensor, in its sole discretion, believes that person's use of the Software would violate any provision of the Agreement, regardless of whether Licensee designated that person as an Authorized User; and (c) Licensor and its Representatives may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Licensee's computers, systems and software, that Licensor may gather periodically to improve the performance of the Software or develop Maintenance Releases. This information will be treated in accordance with Licensor's privacy policy, as amended from time to time, which can be viewed at: <https://clearfracture.ai/privacy-policy> or a successor website address.

**3. License Restrictions.** Except as the Agreement expressly permits, and subject to Section 2.3 of these Software Terms with respect to Open Source Components, Licensee shall not, and shall not permit any other Person to:

- (a) copy the Licensed Materials, in whole or in part;
- (b) modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any Licensed Materials;
- (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Licensed Materials to any third party;
- (d) use the Licensed Materials to provide outsourcing, service bureau, managed service, time-sharing, hosting, data processing, or similar services for or on behalf of any third party;
- (e) reverse engineer, disassemble, decompile, decode, or adapt the Licensed Materials, or otherwise attempt to derive or gain access to the source code of the Licensed Materials, in whole or in part;
- (f) bypass or breach any security device or protection used for or contained in the Software or Documentation;
- (g) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Software or Documentation;
- (h) use of the Licensed Materials 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;
- (i) use the Licensed Materials for purposes of: (i) benchmarking or competitive analysis of the Licensed Materials; (ii) developing, using, or providing a competing software product or service; or (iii) any other purpose that is to Licensor's detriment or commercial disadvantage;
- (j) use the Licensed Materials in or in connection with the design, construction, maintenance, operation, or use of any hazardous environments, systems, or applications, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Licensed Materials could lead to personal injury or severe physical or property damage; or
- (k) use (i) the Licensed Materials other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by the Agreement or (ii) any Open-Source Components in any manner or for any purpose or application not expressly permitted by the controlling Open Source License.

**4. Delivery.** Licensor may deliver or make the Software available to Licensee electronically, through access credentials, through a hosted environment, through a marketplace deployment, on tangible media, through deployment into a Licensee-controlled environment, or by other means determined by Licensor or stated in the applicable Ordering Document. Unless otherwise stated in the applicable Ordering Document, Licensor will use commercially reasonable efforts to make the Software available within ten (10) Business Days after the Effective Date.

**5. Acceptance.** Unless otherwise stated in the applicable Ordering Document, Licensee will have thirty (30) days after Licensor first delivers or makes the Software available to Licensee to test whether the Software substantially conforms to the Acceptance Criteria. If Licensee believes the Software fails to substantially conform to the Acceptance Criteria,

Licensee must provide written notice to Licensor before the end of the acceptance period describing the alleged non-conformity in reasonable detail. Licensor may, in its discretion, correct the non-conformity, provide a commercially reasonable workaround, or otherwise address the issue in accordance with the Agreement. If Licensee does not provide written notice of non-conformity before the end of the acceptance period, or if Licensee uses the Software in production, the Software will be deemed accepted. Notwithstanding the foregoing, no formal acceptance process applies to any trial, evaluation, test instance, proof of concept, demonstration, beta access, or other no-Fee access to the Software, unless the applicable Ordering Document expressly states otherwise.

6. Maintenance Releases. During the Term, Licensor may provide or make available Maintenance Releases in its discretion or as stated in the applicable Ordering Document. Any Maintenance Release provided or made available by Licensor to Licensee will be deemed Software and subject to the Agreement. Licensee will install or implement Maintenance Releases as soon as practicable after receipt or availability, unless Licensor provides different instructions or the applicable Ordering Document states otherwise. Licensee does not have any right under the Agreement to receive any New Version unless expressly agreed in writing by Licensor. Any New Version may be made available at Licensor's then-current rates and subject to a separate agreement, Ordering Document, or amendment. Licensee is responsible for timely installation or implementation of Maintenance Releases in any Licensee-controlled environment.

7. High-Risk Activities. The Licensed Materials are not designed or developed for use in high-risk, hazardous environments requiring fail-safe performance, including, without limitation, the operation of nuclear facilities, aircraft navigation or control systems, air traffic control, weapons systems, or any other application in which the failure of the Licensed Materials could lead to death, personal injury, or severe physical, property, or environmental damage ("High-Risk Activities"). Licensee shall not use the Licensed Materials for any High-Risk Activities.

8. Licensee Cooperation and Assistance. Licensee shall provide Licensor with access to technical personnel and information reasonably necessary in connection with the operation, support, evaluation, troubleshooting, and performance of the Licensed Materials under the Agreement. Licensee shall furnish information and assistance reasonably requested by Licensor regarding the operation and use of the Licensed Materials. Licensee shall promptly notify Licensor in reasonable detail of any defect, deficiency, error, or non-conformity known to or discovered by Licensee in the Licensed Materials, including sufficient detail to enable Licensor to evaluate or reproduce the condition.

#### 9. Fees and Payment.

9.1. Fees. Licensee shall pay Licensor the Fees set forth in the applicable Ordering Document in accordance with the Agreement. Unless otherwise stated in the applicable Ordering Document, no Fees are due for any trial, evaluation, test instance, proof of concept, demonstration, beta access, or other no-fee access to the Software. If an Ordering Document renews under Section 16.2 of these Software Terms, Licensee shall pay the Fees stated in the applicable Ordering Document for the renewal term or, if no renewal Fees are stated, Licensor's then-current standard fees for the applicable Software, support, services, or access.

9.2. Taxes. All Fees and other amounts payable by Licensee under the Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Licensee 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 Licensee hereunder, other than any taxes imposed on Licensor's income.

9.3. Payment. Licensee shall pay all amounts due and owing under the Agreement within thirty (30) days after the date of Licensor's invoice therefor. Licensee shall make all payments hereunder in U.S. Dollars by check, ACH or wire transfer to the address or account specified in the applicable Ordering Document or such other address or account as Licensor may specify in writing from time to time.

9.4. Late Payment. If Licensee fails to make any payment when due, then, in addition to all other remedies that may be available to Licensor:

(a) Licensor may charge interest on the past due amount at the rate of 1.5% per month and compounded monthly or, if lower, the highest rate permitted under applicable Law;

(b) Licensee shall reimburse Licensor for all reasonable costs incurred by Licensor in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs, and collection agency fees; and

(c) if such failure continues for ninety (90) days following written notice thereof, Licensor may: (i) disable Licensee's use of the Software (including by means of a disabling code, technology or device); (ii) withhold, suspend or revoke its grant of a license hereunder; and/or (iii) terminate the Agreement under Section 16.3(a) or Section 16.3(b) of these Software Terms, as applicable.

9.5. No Deductions or Setoffs. All amounts payable to Licensor under the Agreement shall be paid by Licensee in full without setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason, other than any deduction or withholding of tax required by applicable Law.

## 10. Audits.

10.1. Audit Procedure. Licensor or its nominee, including its accountants and auditors, may, on reasonable request, inspect and audit Licensee's use of the Software under the Agreement at any time during the Term and for one (1) year following the termination or expiration of the Agreement. All audits will be conducted during regular business hours, no more frequently than once in any twelve (12) month period, and in a manner that does not unreasonably interfere with Licensee's business operations. Licensee shall make available such books, records, equipment, information, and personnel, and provide such cooperation and assistance, as may reasonably be requested by or on behalf of Licensor with respect to such audit. Licensor shall examine only information directly related to Licensee's use of the Software.

10.2. Cost and Results of Audit. If the audit determines that Licensee's use of the Software exceeded the usage permitted under the Agreement by more than ten percent (10%), Licensee shall pay Licensor all amounts due for such excess use of the Software, plus interest on such amounts, as calculated pursuant to Section 9.4(a) of these Software Terms. If the audit determines that such excess use equals or exceeds twenty-five percent (25%) of Licensee's permitted level of use, Licensee shall also pay Licensor all reasonable costs incurred by Licensor in conducting the audit. Licensee shall make all payments required under this Section 10.2 within thirty (30) days after the date of written notification of the audit results. If no excess usage is found, Licensor shall credit Licensee for any reasonable costs incurred by Licensee in cooperating with the audit following written notification of the audit results. If no excess usage is found, each Party will bear its own costs associated with the audit.

## 11. Confidentiality.

11.1. Confidential Information. In connection with the Agreement, each Party (the "Disclosing Party") may disclose or make available Confidential Information to the other Party (the "Receiving Party"). Subject to Section 11.2 of these Software Terms, "Confidential Information" means information in any form or medium, whether oral, written, electronic, or otherwise, that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, source code, pricing, non-public product information, security information, technical information, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as confidential. Without limiting the foregoing, the Software, Documentation, Licensed Materials, and non-public information concerning the Software are Confidential Information of Licensor.

11.2. Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with the Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

11.3. Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall through the term of the last expiring Ordering Document, including all renewals, and for three (3) years thereafter:

(a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with these Software Terms;

(b) except as may be permitted under the terms and conditions of Section 11.4 of these Software Terms, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with these Software Terms; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 11; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 11;

- (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its most sensitive information and in no event less than a reasonable degree of care;
- (d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and reasonably cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and
- (e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 11 of these Software Terms.
- (f) Notwithstanding any other provision of the Agreement, the Receiving Party's obligations under this Section 11 with respect to any Confidential Information that constitutes a trade secret under applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection other than as a result of any act or omission of the Receiving Party or its Representatives.

11.4. Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party will: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 11.3 of these Software Terms; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 11.4 of these Software Terms, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party will disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's legal counsel, the Receiving Party is legally required to disclose and, on the Disclosing Party's request, will use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

11.5. Relationship to Separate Confidentiality Terms. If the Parties have entered into a separate nondisclosure agreement, confidentiality agreement, or other written confidentiality terms applicable to the Agreement, such separate confidentiality terms control to the extent they conflict with this Section 11. This Section 11 applies to Confidential Information to the extent no separate confidentiality terms apply. Nothing in any separate confidentiality terms limits Licensor's ownership rights, license restrictions, source code protections, trade secret rights, or other protections under the Agreement unless expressly stated in a written amendment signed by Licensor.

11.6. Government Licensees. If Licensee is an agency, instrumentality, or other entity of the United States Government, this Section 11 applies only to the extent permitted by applicable federal law and the applicable Government ordering instrument. Nothing in this Section 11 restricts disclosures required under the Freedom of Information Act (FOIA), federal records laws, procurement laws, audit requirements, lawful Congressional or Inspector General requests, or other legally required Government disclosures. Licensee shall use reasonable efforts, to the extent permitted by applicable federal law, to protect Licensor Confidential Information from unauthorized disclosure and to provide Licensor with notice of any legally required disclosure that may include Licensor Confidential Information.

## 12. Intellectual Property Rights.

12.1. Intellectual Property Ownership. Licensee acknowledges and agrees that:

- (a) the Licensed Materials are licensed, not sold, to Licensee by Licensor, and Licensee does not have under or in connection with the Agreement any ownership interest in the Licensed Materials or in any related Intellectual Property Rights;
- (b) Licensor is the sole and exclusive owner of all right, title, and interest in and to the Licensed Materials, including all Intellectual Property Rights relating thereto, subject only to the rights of third parties in Open Source Components and the limited license granted to Licensee under the Agreement; and
- (c) Licensee hereby unconditionally and irrevocably assigns to Licensor all right, title, and interest, if any, that Licensee may now or hereafter have in or to any modification, derivative work, improvement, enhancement, adaptation, translation, or other work based upon or derived from the Licensed Materials, including any Intellectual Property Rights therein, whether held or acquired by operation of law, contract, assignment, or otherwise.

For clarity, as between the Parties, Licensee retains all right, title, and interest in and to Licensee Data, subject to Licensor's rights in the Licensed Materials and any data, materials, outputs, configurations, or other items owned by

Licensor or derived from the Licensed Materials. Nothing in the Agreement transfers ownership of Licensee Data to Licensor.

**12.2. Outputs and Licensee Materials.** Subject to the Agreement, Licensee may retain and use pipeline code, configuration files, workflows, schemas, reports, or other output generated by the Software for Licensee through Licensee's authorized use of the Software, solely to the extent such output does not contain or disclose Licensor source code, Licensor Confidential Information, non-public Licensed Materials, or other Licensor proprietary materials. No such output transfers any ownership interest in the Software, Licensed Materials, Licensor Data, Documentation, source code, algorithms, methods, system architecture, or other Licensor technology.

**12.3. Licensee Cooperation and Notice of Infringement.** Licensee shall, during the Term:

(a) take all commercially reasonable measures to safeguard the Software and Documentation, including all copies thereof, from infringement, misappropriation, theft, misuse, or unauthorized access;

(b) take all such steps as Licensor may reasonably require to assist Licensor in maintaining the validity, enforceability and Licensor's ownership of the Intellectual Property Rights in the Software and Documentation;

(c) promptly notify Licensor in writing if Licensee becomes aware of: (i) any actual or suspected infringement, misappropriation or other violation of Licensor's Intellectual Property Rights in or relating to the Software or Documentation; or (ii) any claim that the Software or Documentation, including any production, use, marketing, sale or other disposition of the Software or Documentation, in whole or in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and

(d) reasonably cooperate with and assist Licensor in the conduct of any Action by Licensor to prevent or abate any actual or threatened infringement, misappropriation, or violation of Licensor's rights, and to attempt to resolve any Actions relating to the Software or Documentation, including making relevant records, information, and personnel reasonably available as requested by Licensor.

**12.4. No Implied Rights.** Except for the limited rights and licenses expressly granted under the Agreement, nothing in the Agreement grants, by implication, waiver, estoppel, or otherwise, to Licensee or any third party any Intellectual Property Rights or other right, title, or interest in or to the Software, Documentation, Licensed Materials, or any other Licensor technology, materials, or property.

### **13. Representations and Warranties.**

**13.1. Mutual Representations and Warranties.** Each Party represents, warrants, and covenants to the other Party that:

(a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

(b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, and authorizations it grants and is required to grant under the Agreement;

(c) the individual accepting the Agreement or accepting an Ordering Document on behalf of such Party has the authority to bind that Party; and

(d) when accepted by both Parties, the Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

**13.2. Limited Warranty.** Subject to the limitations and conditions set forth in Section 13.3 and Section 13.4 of these Software Terms, Licensor warrants to Licensee that for a period of thirty (30) days from the date of first installation of the Software (the "Warranty Period"):

(a) the Software will substantially conform in all material respects to Documentation, when installed, operated, and used as recommended in the Documentation and in accordance with the Agreement; and

(b) no Maintenance Release, when correctly installed by Licensee in accordance with the Documentation and the Agreement, will have a material adverse effect on the functionality of the Software.

**13.3. Licensee Requirements.** The limited warranties set forth in Section 13.2 of these Software Terms apply only if Licensee: (a) notifies Licensor in writing of the warranty breach before the expiration of the Warranty Period; (b) has promptly installed all Maintenance Releases to the Software that Licensor previously made available to Licensee; and

(c) as of the date of notification, is in compliance with all terms and conditions of these Software Terms (including the payment of all license fees then due and owing).

13.4. **Exceptions.** Notwithstanding any provisions to the contrary in these Software Terms, the limited warranty set forth in Section 13.2 of these Software Terms does not apply to problems arising out of or relating to:

- (a) Software, or the media on which it is provided, that is modified or damaged by Licensee or its Representatives;
- (b) any operation or use of, or other activity relating to, the Software other than as specified in the Documentation, including any incorporation in the Software of, or combination, operation or use of the Software in or with, any technology (including any software, hardware, firmware, system, or network) or service not specified for Licensee's use in the Documentation, unless otherwise expressly permitted by Licensor in writing;
- (c) Licensee's or any third party's negligence, abuse, misapplication, or misuse of the Software, including any use of the Software other than as specified in the Documentation or expressly authorized by Licensor in writing;
- (d) Licensee's failure to promptly install all Maintenance Releases that Licensor has previously made available to Licensee;
- (e) the operation of, or access to, Licensee's or a third party's system or network;
- (f) any Open Source Components, beta software, software that Licensor makes available for testing or demonstration purposes, temporary software modules or software for which Licensor does not receive a license fee;
- (g) Licensee's breach of any material provision of the Agreement; or
- (h) any other circumstances or causes outside of the reasonable control of Licensor, including abnormal physical or electrical stress.

13.5. **Remedial Efforts.** If Licensor breaches, or is alleged to have breached, any of the warranties set forth in Section 13.2 of these Software Terms, Licensor may, at its sole option and expense, take any of the following steps to remedy such breach:

- (a) replace any damaged or defective media on which Licensor supplied the Software;
- (b) amend, supplement, or replace any incomplete or inaccurate Documentation;
- (c) repair the Software; and/or
- (d) replace the Software with functionally equivalent software which will, on its replacement of the Software, constitute Software hereunder.

The remedies set forth in this Section 13.5 are Licensee's sole remedies and Licensor's sole liability under the limited warranty set forth in Section 13.2 of these Software Terms.

13.6. **DISCLAIMER OF WARRANTIES.** EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 13.2 OF THESE SOFTWARE TERMS, ALL LICENSED MATERIALS AND OTHER PRODUCTS, INFORMATION, MATERIALS, AND SERVICES PROVIDED BY LICENSOR ARE PROVIDED "AS IS." LICENSOR 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. WITHOUT LIMITING THE FOREGOING, LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR OTHER PERSONS' REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL OPEN SOURCE COMPONENTS AND OTHER THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN LICENSEE AND THE THIRD-PARTY OWNER OR DISTRIBUTOR OF SUCH OPEN SOURCE COMPONENTS AND THIRD-PARTY MATERIALS.

WITHOUT LIMITING THE FOREGOING, ANY TRIAL, EVALUATION, TEST INSTANCE, PROOF OF CONCEPT, DEMONSTRATION, BETA ACCESS, OR OTHER NO-FEE ACCESS IS PROVIDED "AS IS," "AS AVAILABLE," AND WITHOUT ANY WARRANTY OF ANY KIND.

#### 14. **Indemnification.**

14.1. Licensee Indemnification. Licensor shall indemnify, defend, and hold harmless Licensee and Licensee's officers, directors, employees, and agents from and against any and all Losses incurred by Licensee resulting from any Action by a third party that the Software or Documentation, or any use of the Software or Documentation in accordance with the Agreement, infringes or misappropriates such third party's U.S. patents, copyrights, or trade secrets. This Section 14.1 does not apply to the extent that the alleged infringement arises from:

- (a) Open Source Components or other Third-Party Materials;
- (b) the combination, operation, or use of the Software in or with, any technology (including any software, hardware, firmware, system, or network) or service not provided by Licensor or specified for Licensee's use in the Documentation;
- (c) modification of the Software other than: (i) by Licensor in connection with the Agreement; or (ii) with Licensor's express written authorization and in strict accordance with Licensor's written directions;
- (d) use of any version of the Software other than the most current version or failure to timely implement any Maintenance Release, modification, update, or replacement of the Software made available to Licensee by Licensor;
- (e) use of the Software after Licensor's notice to Licensee of such activity's alleged or actual infringement, misappropriation, or other violation of a third party's rights;
- (f) negligence, abuse, misapplication, or misuse of the Software or Documentation by or on behalf of Licensee, Licensee's Representatives, or a third party;
- (g) use of the Software or Documentation by or on behalf of Licensee that is outside the purpose, scope, or manner of use authorized by the Agreement or in any manner contrary to Licensor's instructions;
- (h) Licensee Data or any information, materials, technology, software, systems, services, or instructions provided by or on behalf of Licensee;
- (i) events or circumstances outside of Licensor's commercially reasonable control (including any third-party hardware, software, or system bugs, defects, or malfunctions); or
- (j) Third-Party Claims or Losses for which Licensee is obligated to indemnify Licensor pursuant to Section 14.2 of these Software Terms.

Notwithstanding the foregoing, Licensor has no indemnification obligation under this Section 14.1 for any trial, evaluation, test instance, proof of concept, demonstration, beta access, or other no-fee access to the Software unless the applicable Ordering Document expressly states otherwise.

14.2. Licensee Indemnification. Licensee shall indemnify, defend, and hold harmless Licensor and its officers, directors, employees, agents, subcontractors, successors, and permitted assigns from and against any and all Losses incurred by Licensor resulting from any Action by a third party arising out of or relating to:

- (a) Licensee Data or any information, materials, technology, software, systems, services, or instructions provided by or on behalf of Licensee;
- (b) any allegation that any Intellectual Property Rights or other right of any Person, or any Law, is or will be infringed, misappropriated, or otherwise violated by: (i) use or combination of the Software by or on behalf of Licensee or any of its Representatives with any hardware, software, system, network, service, data, or other matter not provided by Licensor or authorized under the Agreement; or (ii) information, materials, or technology directly or indirectly provided by Licensee or directed by Licensee to be installed, combined, integrated, or used with, as part of, or in connection with the Software or Documentation;
- (c) facts that, if true, would constitute a breach by Licensee of any representation, warranty, covenant, or obligation under the Agreement;
- (d) negligence, abuse, misapplication, misuse, recklessness, willful misconduct, or other culpable act or omission by or on behalf of Licensee or any of its Representatives with respect to the Software, Documentation, Licensed Materials, or otherwise in connection with the Agreement; or
- (e) use of the Software, Documentation, or Licensed Materials by or on behalf of Licensee or any of its Representatives outside the purpose, scope, or manner of use authorized by the Agreement or in any manner contrary to Licensor's instructions.

14.3. Indemnification Procedure. Each Party shall promptly notify the other Party in writing of any Action for which such Party believes it is entitled to indemnification under Section 14.1 or Section 14.2 of these Software Terms. The Party seeking indemnification (the "Indemnitee") shall reasonably cooperate with the other Party (the "Indemnitor") at the Indemnitor's sole cost and expense. The Indemnitor shall promptly assume control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the Indemnitor's sole cost and expense. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

The Indemnitor shall not settle any Action on any terms or in any manner that imposes liability, admission of fault, or non-monetary obligations on any Indemnitee, or otherwise adversely affects the rights of any Indemnitee, without the Indemnitee's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed.

If the Indemnitor fails or refuses to assume control of the defense of such Action, the Indemnitee may defend against such Action, including settling such Action after giving notice to the Indemnitor, in each case in such manner and on such terms as the Indemnitee reasonably deems appropriate.

The Indemnitee's failure to perform any obligations under this Section 14.3 of these Software Terms will not relieve the Indemnitor of its obligations under this Section 14, except to the extent the Indemnitor demonstrates that it was materially prejudiced by such failure.

14.4. Mitigation. If the Software, or any part of the Software, is, or in Licensor's opinion is likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if Licensee's use of the Software is enjoined or threatened to be enjoined, Licensor may, at its option and sole cost and expense:

- (a) obtain the right for Licensee to continue to use the Software as contemplated by the Agreement;
- (b) modify or replace the Software, in whole or in part, to seek to make the Software non-infringing while providing materially similar features and functionality, and such modified or replacement software will constitute Software under the Agreement; or
- (c) if neither of the remedies in Section 14.4(a) or Section 14.4(b) of these Software Terms is reasonably available to Licensor, terminate the Agreement, in whole or with respect to the affected part or feature of the Software, effective immediately upon written notice to Licensee, in which event: (i) Licensee shall cease all use of the affected Software and Documentation immediately upon receipt of Licensor's notice; and (ii) provided that Licensee fully complies with its post-termination obligations under the Agreement, Licensor shall promptly refund to Licensee, on a pro rata basis, the share of any prepaid Fees for the affected Software allocable to the future portion of the Term that would have remained but for such termination.

14.5. Sole Remedy. THIS SECTION 14 SETS FORTH LICENSEE'S SOLE REMEDIES AND LICENSOR'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION OR ANY SUBJECT MATTER OF THESE SOFTWARE TERMS INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

## 15. Limitations of Liability.

15.1. EXCLUSION OF DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN SECTION 15.3 OF THESE SOFTWARE TERMS, IN NO EVENT WILL LICENSOR, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY (a) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (b) LOSS OF GOODWILL OR REPUTATION, (c) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE OR OPEN SOURCE COMPONENTS OR OTHER THIRD-PARTY MATERIALS, (d) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (e) COST OF REPLACEMENT GOODS OR SERVICES, OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

15.2. CAP ON MONETARY LIABILITY. IN NO EVENT WILL THE AGGREGATE LIABILITY OF LICENSOR ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT, INCLUDING NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID AND AMOUNTS ACCRUED BUT NOT YET PAID TO LICENSOR UNDER THE AGREEMENT IN THE

TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. FOR ANY TRIAL, EVALUATION, TEST INSTANCE, PROOF OF CONCEPT, DEMONSTRATION, BETA ACCESS, OR OTHER NO-FEE ACCESS TO THE SOFTWARE, LICENSOR'S AGGREGATE LIABILITY WILL NOT EXCEED ONE-HUNDRED DOLLARS (\$100). THE LIMITATIONS IN THIS SECTION 15.2 APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

15.3. Exceptions. The exclusions and limitations in Section 15.1 of these Software Terms do not apply to Licensor's obligations under Section 14 of these Software Terms or liability for Licensor's gross negligence or willful misconduct.

## 16. Term and Termination.

16.1. Term. This Agreement takes effect on the Effective Date and will remain in effect for so long as at least one Ordering Document is in effect, unless terminated earlier in accordance with the Agreement. The Term will end upon the expiration or termination of the last remaining Ordering Document (the "Term").

16.2. Automatic Renewal of Ordering Documents. Each Ordering Document will automatically renew for successive renewal terms equal in length to its initial term unless: (a) terminated earlier in accordance with the Agreement; (b) either Party provides the other Party with written notice of non-renewal at least sixty (60) days before the end of the then-current term; or (c) the applicable Ordering Document states otherwise. Notwithstanding the foregoing, any Ordering Document for a trial, evaluation, test instance, proof of concept, demonstration, beta access, or other no-fee access to the Software will not renew automatically unless the applicable Ordering Document expressly states otherwise.

16.3. Termination. This Agreement may be terminated at any time:

(a) by Licensor, effective on written notice to Licensee, if Licensee fails to pay any amount when due under the Agreement, where such failure continues more than sixty (60) days after Licensor's delivery of written notice thereof ("Payment Failure");

(b) by Licensor, immediately on written notice to Licensee if any three (3) or more Payment Failures occur in any six (6) month period;

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

(d) by Licensor, effective immediately, if the Licensee: (i) is dissolved or liquidated or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property;

(e) by Licensor, effective upon written notice to Licensee, with respect to any trial, evaluation, test instance, proof of concept, demonstration, beta access, or other no-fee access to the Software, unless the applicable Ordering Document expressly states otherwise.

16.4. Effect of Termination or Expiration. On the expiration or earlier termination of the Agreement or any applicable Ordering Document:

(a) all rights, licenses, and authorizations granted to Licensee under the terminated or expired Agreement or Ordering Document will immediately terminate, and Licensee shall: (i) immediately cease all access to and use of the applicable Software, Documentation, and Licensed Materials; (ii) within five (5) days, deliver to Licensor, or at Licensor's written request destroy and permanently erase from all devices and systems Licensee directly or indirectly controls, the applicable Software, Documentation, Licensor Confidential Information, and all documents, files, and tangible materials, including partial and complete copies, containing, reflecting, incorporating, or based on any of the foregoing; and (iii) certify to Licensor in a signed written instrument that Licensee has complied with this Section 16.4; and

(b) all amounts payable by Licensee to Licensor under the terminated or expired Agreement or Ordering Document will become immediately due and payable no later than five (5) days after the effective date of expiration or termination.

16.5. Surviving Terms. The provisions set forth in the following sections of these Software Terms, and any other right, obligation, or provision under the Agreement that, by its nature, should survive termination or expiration of the

Agreement or any Ordering Document, will survive any expiration or termination: Section 1, Section 3, Section 9, Section 10, Section 11, Section 12, Section 13.6, Section 14, Section 15, this Section 16.5, and Section 17 of these Software Terms.

## 17. Miscellaneous.

17.1. Further Assurances. On a Party's reasonable request, the other Party shall, at the requesting Party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, as may be necessary to give full effect to the Agreement.

17.2. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

17.3. Public Announcements. Neither Party shall issue or release any announcement, statement, press release, or other publicity or marketing materials relating to the Agreement or, unless expressly permitted under these Software Terms, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which shall not be unreasonably delayed or withheld, provided, however, that Licensor may, without Licensee's consent, include Licensee's name and other indicia in its lists of Licensor's current or former customers of Licensor in promotional and marketing materials.

17.4. Notices. Except as otherwise expressly set forth in the Agreement, any notice, request, consent, claim, demand, waiver, or other communication under the Agreement has legal effect only if in writing and addressed to a Party as provided in the applicable Ordering Document or, for Licensor, to: Clear Fracture LLC, 1934 Old Gallows Road, Suite 350, Vienna, Virginia 22182, Attn: Contracts, with a copy by email to Contracts@clearfracture.ai. Either Party may update its notice address by notice given in accordance with this Section 17.4.

Notices sent in accordance with this Section 17.4 will be deemed effectively given: (a) when received, if delivered by hand with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier with signature required; (c) when sent by email with confirmation of transmission, if sent during the recipient's normal business hours, and on the next Business Day if sent after the recipient's normal business hours; and (d) on the third (3rd) day after mailing, if sent by certified or registered mail, return receipt requested, postage prepaid.

17.5. Interpretation. For purposes of these Software Terms: (a) the words "include," "includes," and "including" are deemed to be followed by "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to these Software Terms as a whole; (d) words denoting the singular include the plural and vice versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in these Software Terms: (x) to sections mean sections of these Software Terms; (y) to exhibits, schedules, attachments, appendices, addenda, Ordering Documents, or other incorporated documents mean such documents as incorporated into or made part of the Agreement; (z) to an agreement, instrument, or other document mean such agreement, instrument, or other document as amended, supplemented, or modified from time to time to the extent permitted by its terms; and (aa) to a statute mean such statute as amended from time to time and include any successor legislation and regulations promulgated thereunder. The Parties intend the Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing an instrument to be drafted.

17.6. Headings. The headings in these Software Terms are for reference only and do not affect the interpretation of the Agreement.

17.7. Entire Agreement. The Agreement constitutes the sole and entire agreement of the Parties with respect to its subject matter and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, whether written or oral, with respect to such subject matter.

In the event of a conflict among the documents forming the Agreement, the following order of precedence governs, unless the applicable document expressly states that it amends or supersedes a higher-priority document: (a) any amendment executed by the Parties; (b) the applicable Ordering Document, solely with respect to transaction-specific terms, including Fees, license count, Authorized Users, Permitted Use, Designated Site(s), Licensee Computing Environment, support terms, expiration, notice addresses, no-fee access, trial terms, and non-renewal; (c) any statement of work, marketplace transaction, private offer, deployment-specific exhibit, security-specific exhibit, government-specific exhibit, data-handling exhibit, schedule, attachment, addendum, or other document incorporated into or made part of the applicable Ordering Document, solely with respect to its subject matter; and (d) these Software Terms.

Notwithstanding the foregoing, nothing in any Ordering Document or incorporated document limits Licensor's ownership rights, confidentiality rights, license restrictions, source code protections, warranty disclaimers, liability limitations, export compliance protections, equitable remedies, or other protections under these Software Terms unless expressly stated in a written amendment signed by Licensor.

18. **Assignment.** Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance under the Agreement, whether voluntarily, involuntarily, by operation of law, or otherwise, without Licensor's prior written consent. No assignment, delegation, or transfer will relieve Licensee of any obligations or performance under the Agreement. Any purported assignment, delegation, or transfer in violation of this Section 17.8 is void. The Agreement is binding upon and inures to the benefit of the Parties and their respective successors and permitted assigns.

18.1. **Export Regulation.** The Software and Licensed Materials may be subject to U.S. export control, sanctions, and trade laws, including the U.S. Export Control Reform Act and its associated regulations. Licensee shall not directly or indirectly export, re-export, release, transfer, or make available the Software or Licensed Materials to any country, jurisdiction, entity, or Person to which such export, re-export, release, transfer, or access is prohibited by applicable Law. Licensee shall comply with all applicable Laws and complete all required undertakings, including obtaining any necessary export license or other governmental approval, before exporting, re-exporting, releasing, transferring, or otherwise making the Software or Licensed Materials available outside the United States or to any non-U.S. Person.

18.2. **Force Majeure.**

(a) **No Breach or Default.** In no event will either Party be liable or responsible to the other Party, or be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement, other than payment obligations, when and to the extent such failure or delay is caused by circumstances beyond the affected Party's reasonable control (a "**Force Majeure Event**"), including: (i) acts of God; (ii) flood, fire, earthquake, explosion, pandemic, epidemic, or public health emergency; (iii) war, invasion, hostilities, terrorist threats or acts, riot, or other civil unrest; (iv) government order, law, action, or restriction; (v) embargoes or blockades; (vi) national or regional emergency; (vii) telecommunications, internet, cloud provider, hosting provider, utility, or power failures not caused by the affected Party; or (viii) other similar events beyond the affected Party's reasonable control. Either Party may terminate the affected Ordering Document if a Force Majeure Event continues substantially uninterrupted for thirty (30) days or more and materially prevents performance under that Ordering Document.

(b) **Affected Party Obligations.** In the event of any failure or delay caused by a Force Majeure Event, the affected Party shall give prompt written notice to the other Party stating the expected period of the delay and shall use commercially reasonable efforts to end the failure or delay and minimize the effects of the Force Majeure Event.

18.3. **No Third-Party Beneficiaries.** The Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns. Nothing in the Agreement, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature.

18.4. **Amendment and Modification; Waiver.** No amendment to or modification of the Agreement is effective unless it is in writing and signed or otherwise accepted by authorized representatives of each Party. No waiver by any Party of any provision of the Agreement is effective unless explicitly set forth in writing and signed by the Party waiving such provision. Except as otherwise set forth in the Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the Agreement will operate or be construed as a waiver thereof, and no single or partial exercise of any right, remedy, power, or privilege will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

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

18.6. **Governing Law; Submission to Jurisdiction.** The Agreement is governed by and construed in accordance with the internal laws of the Commonwealth of Virginia, without giving effect to any choice or conflict of law provision or rule that would require or permit application of the laws of any jurisdiction other than the Commonwealth of Virginia. Any legal suit, action, or proceeding arising out of or related to the Agreement or the licenses granted thereunder will

be instituted exclusively in the United States District Court for the Eastern District of Virginia, Alexandria Division, or the Circuit Court of Fairfax County, Virginia, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding.

18.7. Waiver of Jury Trial. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to the Agreement or the transactions contemplated hereby.

18.8. Equitable Relief. Licensee acknowledges and agrees that a breach or threatened breach of its obligations under Section 2, Section 3, Section 11, Section 12, or Section 18.1 of these Software Terms may cause Licensor irreparable harm for which monetary damages would not be an adequate remedy. In the event of such breach or threatened breach, Licensor will be entitled to seek equitable relief, including a restraining order, injunction, specific performance, and any other relief available from any court of competent jurisdiction, without any requirement to post a bond or other security or to prove actual damages. Such remedies are not exclusive and are in addition to all other remedies available at law, in equity, or otherwise.

18.9. Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of or related to these Software Terms, the prevailing Party is entitled to recover its attorneys' fees and court costs from the non-prevailing Party.

18.10. Counterparts. These Software Terms and any Ordering Document may be executed in counterparts, each of which is deemed an original, but all of which together are deemed one and the same instrument. A signed copy delivered by facsimile, email, or other means of electronic transmission has the same legal effect as delivery of an original signed copy. Notwithstanding the foregoing, separate execution of these Software Terms is not required where Licensee accepts an Ordering Document or other written or electronic ordering instrument that incorporates these Software Terms by reference.

18.11. Government Use. If Licensee is an agency, instrumentality, or other entity of the United States Government, the Agreement applies only to the extent consistent with applicable federal law and the applicable Government ordering instrument. No Government employee or person acting on behalf of the Government accepts personal liability under the Agreement. To the extent any provision of the Agreement would be unenforceable against the United States Government under applicable federal law, including provisions concerning unauthorized obligations, indemnification, automatic renewal, taxes, interest, penalties, legal costs, attorneys' fees, governing law, venue, equitable remedies, or payment obligations not authorized by law, such provision will be deemed modified or inapplicable solely to the extent required by applicable federal law. Use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, Documentation, or Licensed Materials by the United States Government is subject to the restrictions set forth in the Agreement and the applicable Government ordering instrument.