

# OmniSci Enterprise Edition End User License Agreement

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This End User License Agreement (“**Agreement**”) is a legal agreement between you or the company or legal entity you represent (“**you**”, “**your**” and “**yours**”) limiting to three users, and OmniSci, Inc. (“**OmniSci**”) for the use of the Enterprise Edition of the OmniSci Core Database and OmniSci Immerse Visual Analytics Client (collectively, the “**Software**”). By Using (as defined below) the Software, you (a) acknowledge that you have read, understand and agree to the terms and conditions of this Agreement, and (b) represent that you have the legal authority to enter into this Agreement on your own behalf or, if applicable, on behalf of the legal entity you represent. If do not agree with all of the terms and conditions of this Agreement or do not have such authority, you may not Use the Software.

## 1. DEFINITIONS

**1.1. “Cloud Provider”** means a provider of cloud computing services, including, without limitation, Amazon Web Services, Google Cloud Platform, and Microsoft Azure, that is approved in advance by OmniSci in writing.

**1.2. “Cloud Provider Terms”** means the agreements, terms, conditions and policies of your Cloud Provider governing your use of Cloud Services.

**1.3. “Cloud Services”** means the cloud computing services provided to you by a Cloud Provider pursuant to an agreement between you and the Cloud Provider.

**1.4. “Documentation”** means any user manuals or any other documentation relating to the Software that OmniSci provides or makes available to you.

**1.5. “Order”** means an ordering document of either OmniSci or a Cloud Provider pursuant to which you obtain limited access to the Software.

**1.6. “Use” or “Using”** means to install, load, run, execute, access, activate the processing capabilities of the Software and display the results thereof.

## **2. LICENSE**

**2.1. License Grant.** Subject to your compliance with the terms and conditions of this Agreement and any applicable Cloud Provider Terms, OmniSci hereby grants you a limited, non-exclusive, non-transferable, non-sublicenseable license during the subscription term set forth on your Order, solely for your internal business purposes, to (a) Use the Software, in object code form only, on computing resources owned and/or operated by you or your Cloud Provider, and (b) use the Documentation as reasonably necessary to Use the Software and/or allow your Cloud

Provider to provide you with Cloud Services. You may make a reasonable number of copies of the Software and Documentation for archival and back-up purposes only, provided that you include on each such copy all copyright or other proprietary notices contained on the Software and Documentation. All Software will be delivered by electronic means unless otherwise specified on the applicable Order. Software will be deemed delivered when it is first made available for your download or Use.

**2.2. Restrictions.** Except as expressly permitted hereunder, you will not (a) decompile, disassemble or reverse engineer the Software, except to the extent expressly permitted by applicable law notwithstanding a contractual prohibition to the contrary, (b) modify, publish, transmit, license, sublicense, assign, transfer, sell, grant a security interest in,

distribute, reproduce, create derivative or collective works from the Software or the Documentation, (c) disclose, divulge, communicate, or allow access to the Software or Documentation to any person except your authorized agents, employees, or other parties expressly authorized hereunder (such as your Cloud Provider), (d) allow the Software to be used on an external commercial rental, time-sharing, or subscription basis or service bureau arrangement, (e) remove or modify any proprietary markings or any notice of OmniSci's or its licensors' proprietary rights included in the Software or Documentation, (f) publish a review of the Software, information regarding any bugs or defects in the Software, or the results of any benchmark tests run on the Software, in each case, without the prior written consent of OmniSci, or (g) permit or assist any third-party in doing any of the foregoing. If you Use the Software via Cloud Services, you are responsible for ensuring that your Cloud Provider does not violate any of the foregoing restrictions.

**2.3. Ownership** The Software and Documentation are licensed, not sold. You acknowledge that (a) all right, title and interest in all copies of the Software and Documentation, and all intellectual and proprietary rights therein, are and will remain with OmniSci or its third-party licensors, (b) no right or interest in the Software or Documentation is conveyed other than the limited license granted by this Agreement, (c) the Software and Documentation are protected by the copyright laws of the United States and by international treaties, and (d) the Software and Documentation embody valuable proprietary information of OmniSci.

**2.4. Trial Software.** OmniSci may, in its discretion, provide access to “pre-release” or “trial” software (collectively, “**Trial Software**”). Unless otherwise specified in the applicable Order (a) all Software is Trial Software, (b) You may only use Trial Software on a non-production basis for no more than 30 days, and (c) OmniSci may terminate your license to use such Trial Software at any time upon written notice. In addition, the following Sections of this Agreement do not apply to Trial Software: 3.1 (Support Services), 7.1 (Limited Warranty), and 8.1 (Indemnity by OmniSci).

**2.5. Feedback.** To the extent you provide OmniSci with any suggestions, comments, ideas, corrections, improvements, feedback or other information about the Software in either verbal or written form (collectively, “**Feedback**”), you hereby grant OmniSci a non-exclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty

free, fully paid-up right and license to access, use, reproduce, transmit, display, publish, distribute, modify and adapt and create derivative works from such Feedback in connection with any product or service or for any other purpose, without any obligations to you or restrictions of any kind.

**2.6. Third-Party Software.** The Software may contain or be provided with certain third-party software licensed by its owners under its own license (collectively, the “**Third-Party Software**”). Third-Party Software is subject to the terms of the third-party software license accompanying or otherwise applicable to that Third-Party Software (“**Third-Party License**”). The Third-Party Licenses are set forth in the Documentation. The terms of the applicable Third- Party License will apply to the Third-Party Software independent of the terms of this Agreement. You may not use any component contained in or provided with the Software on a standalone basis or to interoperate with any program(s) other than the Software.

**2.7. High Risk Activities.** The Software is not designed or intended for use in medical, nuclear, aviation, navigation, military or other high risk activities where failure of the Software could result in death, personal injury and/or substantial property damage. You may not use the Software any such purposes, and OmniSci and its licensors expressly disclaim and are released from any responsibility or liability for any and all damages that may be incurred due to the use of the Software in such applications.

### **3. SUPPORT**

**3.1 Support Services.** Provided you have no outstanding payments due and are otherwise in compliance with the terms and conditions of this Agreement, OmniSci will provide you with support for the Software during your subscription term via email as set forth on your Order. Such support will include answering technical questions and assisting with the basic operation of the Software. You will also have access to OmniSci’s Community Forum where other users of the Software may offer tips, best practices, troubleshooting and informal training with respect to the Software.

**3.2 Professional Services.** OmniSci may agree to provide certain professional services with respect to the Software (“**Services**”) in addition to the standard support services described above. Any such Services and the applicable fees therefor will be the subject of a separate written agreement between you and OmniSci. In the absence of a separate written agreement governing the Services, the following terms shall apply. The fees for the Services will be as set forth on the applicable Order. In addition, you are responsible for all travel and living expenses (“**Expenses**”) incurred by OmniSci’s employees, agents and contractors (collectively, “**Personnel**”) while traveling to and from your facilities to perform Services. Unless otherwise agreed in the applicable Order, fees for Services and reasonable Expenses will be billed monthly, or after the conclusion of the Services. You must use reasonable efforts to: (a) provide OmniSci’s Personnel with such information, co-operation and support as may reasonably be required for OmniSci to provide the Services, (b) permit OmniSci’s Personnel to access such of your systems, networks, premises and property as is necessary to perform the Services and ensure that OmniSci is granted sufficient authorization to use any third party systems, programs, or networks necessary to perform the Services, (c) ensure that all necessary consents, authorizations and licenses have been obtained so that OmniSci’s provision of the Services does not breach any statutory or regulatory provisions (of whatever jurisdiction) relating to the use of and access to personal data, and (d) ensure the health and safety of OmniSci’s Personnel engaged in providing the Services at your premises.

**3.3. Diagnostic Data.** The Software may transmit diagnostic data relating to the Software, including, without limitation, system specifications and performance, capacity usage, system faults, and other information of a similar nature (collectively, “**Diagnostic Data**”) to OmniSci. Diagnostic Data may be sent on a periodic basis and upon a failure or fault in the Software. You may turn off the feature that sends Diagnostic Data automatically to OmniSci. In addition to the automatic transmission of Diagnostic Data, you may choose to provide additional data files (“**Core Dumps**”) to OmniSci for technical analysis in the context of receiving support. You hereby grant OmniSci a non-exclusive, worldwide, perpetual, irrevocable, transferable, sublicenseable, royalty free, fully paid-up license to access, use, reproduce, transmit, display, publish, distribute, modify, adapt and create derivative works from the Diagnostic Data and Core Dumps in connection with providing support, troubleshooting the Software and enhancing, improving, and developing the Software and related products and services. OmniSci will take commercially reasonable steps to protect your Diagnostic Data and Core Dumps from unauthorized access or disclosure. OmniSci reserves the right to

disclose Diagnostic Data and Core Dumps (a) to OmniSci partners subject to confidentiality obligations to assist with specific support issues, or (b) in an anonymous and aggregated form that does not link such information to you or to any identifiable person.

## **4. FEES AND PAYMENT**

**4.1. Fees.** You will pay to OmniSci or your Cloud Provider all fees for the Software as set forth on the applicable Order (“**Fees**”) and in accordance with the payment terms set forth therein and any applicable Cloud Provider Terms. If your Order is with OmniSci (a) all amounts not paid when due will accrue interest until paid at the lesser of 1.5% per month or the maximum rate allowed by applicable law, and (b) you will reimburse OmniSci for all costs incurred by OmniSci (included reasonable attorneys’ fees) in collecting past due amounts. OmniSci or your Cloud Provider may increase the Fees for any applicable subsequent subscription terms upon written notice to you. Except as expressly set forth in this Agreement or any applicable Cloud Provider Terms, all Fees are non-cancelable and non-refundable. OmniSci will invoice you in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information and notifying OmniSci of any changes to such information.

**4.2. Taxes.** The Fees and any other charges described in this Agreement do not include federal, state or local sales, VAT, GST, foreign withholding, use, property, excise, service or similar taxes (“**Taxes**”). You will (a) pay all such Taxes as required by applicable law, (b) cooperate with OmniSci or your Cloud Provider by providing all information required to the calculation and invoicing of all applicable Taxes, and (c) provide a valid tax-exemption certificate for any Tax from which you claim exemption.

**4.3. Audit.** OmniSci and its licensors will have the right to gain access to, examine and audit, during normal business hours upon reasonable prior written notice to you, all of your locations, computing resources, records, accounts and other information for purposes of determining your compliance with this Agreement. You agree to provide

reasonable assistance and access to information in the course of any such audit. Any such audit will be at OmniSci's expense

provided that, if an audit reveals that you have exceeded the scope and number of licenses or have otherwise breached this Agreement, in addition to acquiring additional licenses or otherwise curing such breach, you will reimburse OmniSci for the reasonable cost of the audit. OmniSci will also have the right to share the results of any such audit with our licensors.

## **5. CONFIDENTIAL INFORMATION**

As used herein, "**Confidential Information**" means all nonpublic information disclosed by OmniSci, its affiliates and licensors that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, should reasonably be understood to be confidential. Confidential Information includes (a) nonpublic information relating to ideas, features, functions, organization, structure, graphics, or user interfaces of the Software, and (b) performance benchmarks and other test results of the Software. Confidential Information does not include any information that you can document (i) is or becomes publicly available without breach of this Agreement, (ii) was known to you at the time of your receipt from OmniSci, (iii) is received from a third-party that is not subject to an obligation of confidentiality or whose disclosure of such information is not in violation of applicable law, or (iv) is independently developed by you without reference to Confidential Information. You may use Confidential Information only in connection with your use of the Software and Documentation as permitted under this Agreement. You will take all reasonable measures to protect Confidential Information from unauthorized disclosure, dissemination or use using the same degree of care you use to protect your own confidential information of a similar nature, but in no event less than a reasonable degree of care.

## **6. TERM AND TERMINATION**

**6.1. Term.** This Agreement will commence as of the effective date of the applicable Order, and subject to earlier termination under this Section 6, will continue in effect for the subscription term set forth in the Order. If no subscription term is specified in the Order, the subscription term will be for one (1) year only.

**6.2. Termination.** Either party will have the right to terminate this Agreement upon written notice to the other party, in the event that the other party (a) breaches any material terms or obligations under this Agreement and fails to cure such breach within 30 days after notice thereof, or (b) dissolves, is declared insolvent or bankrupt, makes an assignment for the benefit of creditors, has a receiver appointed, or is the subject of any proceeding under any bankruptcy or insolvency laws, which proceeding, if initiated against such party, is not dismissed within 30 days. If your Order is with OmniSci and you terminate this Agreement for an uncured material breach by OmniSci, OmniSci will provide you a prorated refund of any pre-paid Fees for the remainder of your subscription term, provided that such refund is OmniSci's sole and exclusive obligation and your sole and exclusive remedy for any such material breach by OmniSci. This Agreement will automatically terminate in the event that you violate Sections 2.1, 2.2, 2.6, or 5. You may terminate this Agreement and your Use of the Software at any time for convenience with or without notice to OmniSci, though you will not be entitled to a refund of any pre-paid Fees or relieved of any obligation to pay Fees as set out in an Order.

**6.3. Termination by Your Cloud Provider.** You acknowledge that your Cloud Provider may have the right to suspend or terminate your Cloud Services pursuant to the Cloud Provider Terms, which will also terminate your Use of the Software if hosted via Cloud Services. OmniSci will not be obligated to provide you with or otherwise be liable for any refund in such event, including any Fees you may have pre-paid for the Software.

**6.4. Effect of Termination.** Upon any termination of this Agreement, you will (a) immediately cease all Use of the Software and Documentation, (b) return to OmniSci, destroy or erase all copies (electronic or otherwise) of the Software, Documentation, and any Confidential Information you may have received from OmniSci, and (c) within 10 days of such termination, furnish written notice of such return, destruction or erasure to OmniSci.

**6.5. Survival.** The following sections will survive any termination of this Agreement: 1, 2.3, 4.1 and 4.2 (solely with respect to any Fees and Taxes that remain outstanding as of the effective date of termination) 4.3, 5, 6.4, 6.5, 7.2, 9, and 10.

## **7. WARRANTY AND DISCLAIMER**

**7.1. Limited Warranty.** OmniSci warrants that for a period of 90 days from the start of your subscription term (the “**Warranty Period**”) the Software will function substantially in accordance with the Documentation (the “**Software Warranty**”). In the event that you notify OmniSci of a reproducible breach of the Software Warranty during the Warranty Period, OmniSci will, at its option and expense and as its sole and exclusive obligation and your sole and exclusive remedy for such breach (a) modify the Software so that it conforms to the Software Warranty, (b) replace the Software with other software of substantially similar functionality, or (c) if neither of the foregoing options are commercially practicable as determined in OmniSci’s sole discretion, terminate this Agreement and, if your Order is with OmniSci, provide you a prorated refund of any pre-paid Fees for the remainder of your subscription term. OmniSci will not be responsible for any breaches of the Software Warranty resulting from (i) the Use of the Software not in accordance with the Documentation, including Use in combination with any other products or services not contemplated by the Documentation, (ii) causes external to the Software, such as problems with any other software, hardware, network or other infrastructure with which the Software is used, including Cloud Services, (iii) improper or negligent installation, configuration or Use or unauthorized Use of the Software, or (iv) Software which has been altered or modified by anyone other than OmniSci.

**7.2. Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTY SET FORTH ABOVE, THE SOFTWARE IS PROVIDED “AS IS”, AND OmniSci AND ITS LICENSORS MAKE NO OTHER REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT, ALL OF WHICH ARE HEREBY EXCLUDED AND DISCLAIMED. WITHOUT LIMITING THE FOREGOING, OmniSci DOES NOT WARRANT THAT THE SOFTWARE WILL MEET YOUR REQUIREMENTS, THAT THE OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED, SECURE OR ERROR FREE, OR THAT ALL DEFECTS IN THE SOFTWARE CAN OR WILL BE CORRECTED.

## **8. INDEMNITY**

**8.1. By OmniSci.** Except as set forth in Section 8.2, OmniSci will defend at its expense any action brought against you to the extent that it is based on a claim that the Software, when Used in accordance with the Documentation and the terms and conditions of this Agreement, infringes a United States patent, copyright or trade secret of any third-party, and OmniSci will pay any costs, damages and reasonable attorneys’ fees finally awarded against you in, or payable in settlement of, such action which are directly attributable to such claim, provided that (a) you notify OmniSci promptly in writing promptly of the claim, (b) you permit OmniSci to assume sole control of the defense, compromise or settlement of the claim, and (c) you provide to OmniSci reasonable cooperation, information and assistance in connection therewith. If a final injunction is obtained against your use of the Software by reason of infringement, or if in OmniSci’s opinion the Software is likely to become the subject of a successful claim of such infringement, OmniSci may, at its option and expense, (i) procure for you the right to continue Using the Software, (ii) modify the Software so that is non-infringing, (iii) replace the Software with other software of substantially similar functionality. In the event none of the foregoing options are commercially practicable as determined in OmniSci’s sole discretion, OmniSci will terminate this Agreement and, if your Order is with OmniSci, provide you a prorated refund of any pre-paid Fees for the remainder of your subscription term. This Section 8.1 states OmniSci’s sole and exclusive obligation,

and your sole and exclusive remedy, with respect to any claim that the Software infringes the intellectual property rights of any third-party.

**8.2. By You.** OmniSci will have no liability to you, and you will, on the terms set forth above, defend and indemnify OmniSci and its licensors against claims of infringement based on (a) Use of the Software not in accordance with the Documentation or in violation of the terms and conditions of this Agreement, (b) the Use or combination of the Software with any other software or hardware not provided by OmniSci, if such infringement would not have occurred but for such Use or combination, (c) any modification of the Software by anyone other than OmniSci, (d) the Use of other than the most current version of the Software, if such version was made available by OmniSci for no additional fees with notice that such version was being provided in order to avoid an alleged or potential infringement, or (e) claims of infringement of intellectual property rights of you or your affiliates. You will also defend, indemnify and hold OmniSci and its licensors harmless from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to your breach of this Agreement, violation of any applicable law, your breach of any applicable Cloud Provider Terms, or any misuse of the Software or violation of OmniSci's or its licensors' rights therein by your Cloud Provider.

## **9. LIMITATION OF LIABILITY**

IN NO EVENT WILL OmniSci OR ITS LICENSORS BE LIABLE TO YOU OR ANY THIRD- PARTY FOR LOSS OF PROFITS, GOODWILL, USE OF DATA, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OmniSci'S AND ITS LICENSORS' TOTAL AGGREGATE LIABILITY UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, WILL NOT EXCEED THE SUBSCRIPTION

FEES ACTUALLY PAID BY YOU AND RECEIVED BY OmniSci IN THE 12 MONTHS PRECEDING THE EVENT THAT GAVE RISE TO LIABILITY.

## **10. MISCELLANEOUS**

**10.1. Assignment.** You may not delegate any of your obligations under this Agreement, or assign or transfer this Agreement or any of your rights hereunder, whether by operation of law or otherwise, without the prior written consent of OmniSci. A change of control involving you will constitute an assignment for purposes of the foregoing restriction. Any delegation, assignment or transfer of this Agreement in violation of this Section 10.1 will be void and of no force and effect and a material breach of this Agreement. OmniSci may freely assign or transfer this Agreement. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.

**10.2. Compliance with Laws.** You will comply with all applicable laws and regulations relating to your Use of the Software, including without limitation, those relating to export and import, privacy and personal data protection.

**10.3. Entire Agreement.** This Agreement and any applicable Orders set forth the complete understanding between you and OmniSci with respect to the subject matter hereof and supersedes all prior understandings and communications relating thereto. No term or condition of a purchase order or other document you submit to OmniSci which is different from, inconsistent with, or in addition to the terms and conditions set forth herein will be binding upon OmniSci. To the extent that this document may constitute an acceptance, this acceptance is expressly conditioned on your assent to the terms and conditions set forth herein. Notwithstanding the foregoing, if you have entered into a separate written agreement with OmniSci for Use of the Software or the receipt of Services, the terms and conditions of such other agreement shall prevail over any conflicting terms or conditions in this Agreement.

**10.4. Export Control.** You may not Use or otherwise export or reexport the Software except as authorized by United States law and the laws of the jurisdiction in which the Software was obtained. In particular, but without limitation, the Software may not be exported or reexported (a) into any U.S. embargoed countries, or (b) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Department of Commerce Denied Person's List or Entity List. By Using the Software, you represent and warrant that you are not located in any such country or on any such list. You also agree that you will not Use the Software for any purposes prohibited by United States law, including, without limitation, the development, design, manufacture or production of missiles, nuclear, chemical or biological weapons.

**10.5. Force Majeure.** Neither party will be responsible for any failure to perform its obligations under this Agreement (other than obligations to pay money) caused by an event beyond its reasonable control, including but not limited to, wars, riots, labor strikes, natural disasters, the infrastructure of the Internet, or any law, regulation, ordinance or other act or order of any court, government or governmental agency.

**10.6. Governing Law; Disputes.** This Agreement will be governed by and construed in accordance with the laws of the State of California, as applied to agreements entered into and to be performed entirely within California between California residents. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. Any dispute or claim arising out of or relating to this Agreement, except for those relating to a breach of confidentiality by you, the infringement of OmniSci's intellectual property rights or the access or Use of the Software in violation of this Agreement (a "**Claim**"), must be resolved by binding arbitration in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association ("**AAA**"). You and OmniSci will select a single, mutually acceptable arbitrator knowledgeable about issues relating to the subject matter of this Agreement. In the event that you and OmniSci are unable to agree to such a

selection, AAA will appoint a single neutral arbitrator knowledgeable about issues relating to the subject matter of this Agreement to preside over the matter. The seat of arbitration will be San Francisco, California. The arbitration will be conducted in the English language, and at the option of the party seeking relief, by telephone, online, or based solely on written submissions. The arbitrator will not have the authority to modify any provision this Agreement or to award punitive damages. Unless the arbitrator finds the arbitration was frivolous or brought for an improper purpose, the parties will split equally the costs of the arbitration. If

for any reason a Claim proceeds in court rather than in arbitration, such Claim may be brought only in a court of competent jurisdiction in San Francisco, California, both you and OmniSci agree to accept and submit to the personal jurisdiction of such court, and you and OmniSci each waive any right to a jury trial. In no event will any Claim, or any other action or proceeding by you (including arbitration under this Section 10.6) be instituted more than 1 year after the cause of action arose. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. If a court of competent jurisdiction finds the foregoing arbitration provisions invalid or inapplicable, you and OmniSci each agree to the exclusive jurisdiction of the Federal and State courts located in San Francisco, California, and you and OmniSci each agree to submit to the exercise of personal jurisdiction of such courts for the purposes of litigating any applicable Claim.

**10.7. Government End Users.** The Software and Documentation are "Commercial Items", 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 or 48 C.F.R. 227.7202, as applicable. Consistent with 48 C.F.R. 12.212 or 48 C.F.R. 227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users and U.S. Government contractors (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

**10.8. Modification; Waiver.** This Agreement may not be modified or amended except pursuant to a written instrument signed by both parties. The waiver by either party of a breach of any provision hereof will not be construed as a waiver of any succeeding breach of the same or any other provision, nor will any delay or omission on the part of

such party to avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any right, power or privilege.

**10.9. Publicity.** OmniSci may include your name and logo on its customer lists and reference the fact that you are a customer of OmniSci. However, neither party may issue a press release regarding this Agreement without the other party's prior written approval (which will not be unreasonably withheld or delayed).

**10.10. Notices.** Notices in connection with this Agreement must be in writing and either delivered in person or by recognized commercial courier or certified mail, postage and fees prepaid, return receipt requested, and addressed (a) if to OmniSci, to OmniSci, Inc., 1 Front Street, Suite 2650, San Francisco, CA, 94111 USA, Attention: Legal Department, and (b) if to you, to the address set forth on the applicable Order, or to such other address as you have specified by notice hereunder. Notices will be deemed effective when received or, if delivery is refused, when delivery is attempted.

**10.11. Relationship of Parties.** OmniSci and you are independent contractors, and neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other.

**10.12. Severability.** In the event that any provision of this Agreement is for any reason held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, to such extent such provision will be deemed null and void and severed from this Agreement, and the remainder hereof will remain in full force and effect.