Exhibit A
Coder Enterprise Edition Software License
Agreement

Last Updated: 02/03/2023

This Enterprise Software License Agreement (the "**Agreement**"), effective as of Customer's signature date on each Order Form (the "**Effective Date**"), is by and between Coder Technologies, Inc., a Delaware Corporation with offices located at 9901 Brodie Lane Suite 160 #1212 Austin, TX 78748-5892 ("**Coder**") and the Customer identified on each Order Form ("**Customer**"). Coder and Customer may be referred to in this Agreement collectively as the "**Parties**" or individually as a "**Party**."

BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT AND ANY ATTACHMENTS INCORPORATED BY REFERENCE. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND IS NOT AUTHORIZED TO USE THE SERVICES OR SOFTWARE.

BACKGROUND

A. Coder provides the Software (as defined below);

B. Customer desires to obtain access to the Software, and Coder desires to provide the Software and

C. The Parties agree that the following terms and conditions apply to the Software provided under this Agreement and govern each Order Form that references this Agreement

AGREEMENT

1. <u>Definitions</u>. The below capitalized terms are defined as follows:

(a) "**Authorized User**" means individuals authorized to use the Software as set forth in an Order Form.

(b) "**Documentation**" means Coder's user manuals, handbooks, and installation guides relating to the Software that Coder provides or makes available to Customer which describe the functionality, components, features, or requirements of the Software.

(c) "**Intellectual Property Rights**" means patent rights (including patent applications and disclosures), copyrights (including rights in audiovisual works and moral rights), trademark rights, trade secret rights, and any other intellectual property or proprietary rights in technology recognized by the law of each applicable jurisdiction.

(d) "**Maintenance Release**" means any update, upgrade, release, or other adaptation or modification of the Software, including any updated Documentation, that Coder may provide to Customer 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. Such release is separate and distinct from any New Version that Coder may choose to release during the Term.

(e) "**New Version**" means any new variant of the Software that Coder may introduce and market from time to time as a distinct licensed product. A New Version may be indicated by Coder's designation of a new version or release number. Coder may make a New Version available to Customer at an additional cost under a separate agreement or by written amendment.

(f) "**Order Form**" means an ordering document or online order specifying the Software to be provided hereunder that is entered into between Customer and Coder from time to time, including any addenda and supplements thereto, which is incorporated into this Agreement upon execution.

(g) "**Permitted Use**" means use of the Software by an Authorized User for the benefit of Customer in the lawful ordinary course of its internal business operations. Permitted Use includes creating a duplicate a copy of the Licensed Software exclusively for testing, disaster recovery, or archival purposes.

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

(i) "**Representatives**" means, with respect to a Party, that Party's employees, officers, directors, consultants, agents, independent contractors, and legal advisors.

(j) "**Software**" means the executable, object code version of Coder Enterprise Edition, a remote developer workspace platform, Coder Enterprise Edition set forth in an Order Form and any Maintenance Releases provided to Customer pursuant to this Agreement.

(k) "**Third Party Technology**" means any software, code, algorithms, processes, methods, inventions, or other technology which is not owned by Coder.

2.   License.

2.1   License Grant. In accordance with this Agreement and the applicable Order Form, Coder will make available to Customer a non-exclusive, non-sublicensable, and non-transferable (except in compliance with Section 16.5) license to use the Software and Documentation solely for the Permitted Use during the Term.

(a)   Should the Software include any Open-Source Components, Customer's use of the Open-Source Components will be governed by, and subject to, the terms and conditions of the related open-source and public licenses. Licensor will provide Licensee with the license name, author information, license source, access information, and other relevant information for Open-Source Components.

2.2   Scope of Licensed Access and Use. Customer may install, use, and run one copy of the Software on Customer's chosen network for use by the individual Authorized User(s) permitted in an Order Form. The total number of Authorized Users will not exceed the number set forth in an Order Form, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the license fees payable under this Agreement. Coder reserves the right to allow Customer expanded scope (networks and Authorized User(s)), which will be reflected in the Order Form.

2.3   Security Measures. The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Customer acknowledges and agrees that: (a) Coder may use these and other lawful measures to verify Customer's compliance with the terms of this Agreement and enforce Coder's rights, including all Intellectual Property Rights, in and to the Software; and (b) Coder may deny any individual access to and/or use of the Software on written notice to Customer if Coder, in its sole discretion, believes that person's use of the Software would violate any provision of this Agreement, regardless of whether Customer designated that person as an Authorized User.

2.4   License Restrictions. Except as this Agreement expressly permits, Customer will not, and will not permit any other Person to:

(a)　　copy the Software, in whole or in part;

(b)　　modify, adapt, translate, enhance, or otherwise prepare derivative works or improvements of any Software;

(c)　　rent, lease, lend, sell, sublicense, assign, distribute, publish, or otherwise make available the Software to any third party;

(d)　　reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part;

(e)　　bypass or breach any security device or protection used for or contained in the Software or Documentation;

(f)　　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;

(g)　　use the Software for purposes of: (i) benchmarking or competitive analysis of the Software; or (ii) developing, using, or providing a competing software product or service

(h)　　use the Software 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 Software could lead to personal injury or severe physical or property damage; or

(i)　　use the Software or Documentation other than for the Permitted Use or in any manner or for any purpose or application not expressly permitted by this Agreement.

2.5　　Compliance with Laws. Customer will use the Software and Documentation in compliance with all applicable laws, statutes, and regulations.

3.　　Delivery. Coder will deliver license keys electronically, on tangible media, or by other means, in Coder's sole discretion, to Customer within 14 days of the Order Start Date. By downloading or activating your Coder license, Customer agrees to be bound by the terms and conditions of the Software.

4.　　Amendments to the Agreement and Terms of Service. Coder reserves all rights to update or amend this Agreement from time to time at its discretion and Customer agrees to be bound by such amendments.

5.　　Maintenance Releases. During the term of each subscription , Coder will provide Customer with all Maintenance Releases (including updated Documentation) that Coder may, in its sole discretion, make generally available to its Customers at no additional charge. All Maintenance Releases provided by Coder to Customer are deemed Software. Customer will install all Maintenance Releases as soon as practicable after receipt.

6.　　Term and Termination.

6.1   Term of Agreement. This Agreement commences on the Effective Date and continues until all subscriptions hereunder have expired or have been terminated.

6.2   Term of Software. The term of the Software subscription will commence as of the Order Start Date and continue for the period set forth in the Order Form (the "**Initial Term**") at which point, unless earlier terminated in accordance with this Section 6, access to the Software will automatically renew for successive 1 year periods (each a "**Renewal Term**", and together with the Initial Term, the "**Term**").

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

(a)   Customer fails to pay any amount due Coder within 30 days after Coder gives Customer written notice of such nonpayment;

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

(c)   by Coder, effective immediately, if the Customer: (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.

6.4   Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement:

(a)   all rights, licenses and authorizations granted to Customer in this Agreement will immediately terminate and Customer will (i) immediately cease all use of and other activities with respect to the Software and Documentation; (ii) within 30 days deliver to Coder, or at Coder's written request destroy, and permanently erase from all devices and systems Customer directly or indirectly controls, the Software, the Documentation and the Coder's Confidential Information, including all documents, files, and tangible materials (and any partial and complete copies) containing, reflecting, incorporating, or based on any of the foregoing, whether or not modified or merged into other materials.

(b)   all amounts payable by Customer to Coder of any kind under this Agreement are immediately payable on the expiration or termination of this Agreement.

6.5   Surviving Terms. The provisions set forth in sections 2, 4, 6, 7, 9, 10, 11, 12, 13, 14, 15 and 16, and any other right, obligation or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.

7.   Fees and Payment.

7.1   License Fees. Customer will pay Coder the license fees set forth in the Order Form in accordance with that document and the terms of this Section 7. Fees are determined based on the number of Authorized Users purchased and not actual usage and quantities cannot be decreased during the Term. Except as otherwise specified herein or in an Order Form, each Order Form is non-cancellable and non-refundable, and the term as set forth in the Order Form is a continuous and non-divisible commitment for the full duration of the Term regardless of any invoice schedule.

7.2   Fee Increases. If the Term is renewed for any Renewal Term(s) pursuant to Section 6.1, Customer will pay the then-current standard license fees for the Software during the applicable Renewal Term. Coder will provide at least 60 days' written notice of any Fee increases prior to the commencement of the next Renewal Term.

7.3   Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, Customer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Customer under this Agreement, other than any taxes imposed on Coder's income.

7.4   Payment. Unless otherwise specified in the Order Form, Customer will pay all amounts due under this Agreement within 30 days after receipt of Coder's invoice for those amounts. Customer will make all payments under this Agreement in US dollars in accordance with the instructions in the invoice.

7.5   No Deductions or Setoffs. All amounts payable to Coder under this Agreement will be paid by Customer to Coder in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason.

8.   Audits.

8.1   Audit Procedure. Coder or its nominee (including its accountants and auditors) may, on 48 hours' notice, inspect and audit Customer's use of the Software under this Agreement at any time during the Term. All audits will be conducted during regular business hours, no more frequently than once in any 12 month period, and in a manner that does not unreasonably interfere with Customer's business operations. Customer will make available all such books, records, equipment, information, and personnel, and provide all such cooperation and assistance, as may reasonably be requested by or on behalf of Coder with respect to such audit. Coder will only examine information directly related to Customer's use of the Software.

8.2   Reserved.

9.   Confidentiality.

9.1   Confidential Information. In connection with this Agreement, each Party (the "**Disclosing Party**") may disclose or make available Confidential Information to the other Party (the "**Receiving Party**"). Subject to Section 9.2, "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) 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, and pricing, 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."

9.2   Exclusions. Confidential Information does not include information that: (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 this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was independently developed by the Receiving Party without reference to or use of any Confidential Information. All information related to the Coder Enterprise Solution disclosed business Coder is deemed Confidential information.

9.3   Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party will:

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

(b)   except as may be permitted under the terms and conditions of Section 9.4, 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 this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 9; 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 9;

(c)   safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and

(d)   ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 9.

9.4   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; and (b) provide reasonable assistance to the Disclosing Party 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 9.4, 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 the Receiving Party is legally required to disclose.

10.   Ownership.

10.1 Software and Documentation. The Software and Documentation are licensed, not sold, to Customer by Coder and Customer does not have under or in connection with this Agreement any

ownership interest in the Software or Documentation, or in any related Intellectual Property Rights. Coder is and will remain the sole and exclusive owner of all right, title, and interest, including all Intellectual Property Rights, in and to the Software and Documentation, subject only to the limited license granted to Customer under this Agreement.

10.2 Feedback. Any ideas, suggestions, guidance or other information disclosed by Customer related to Coder's Confidential Information, the Documentation, and the Software and any Intellectual Property Rights relating to the foregoing will be collectively deemed "**Feedback**." Customer hereby grants to Coder a nonexclusive, perpetual, irrevocable, royalty free, worldwide license (with the right to grant and authorize sublicenses) to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform and otherwise exploit the Feedback without restriction.

11.   Maintenance and Support. Subject to Customer's timely payment of Fees, Coder will provide reasonably necessary Maintenance Releases, training, implementation, and support services to the extent specifically set forth in an Order Form ("**Maintenance and Support**"). All Maintenance and Support will be performed by Coder in a professional and workmanlike manner using personnel of sufficient skill and expertise.

12.   Representations and Warranties.

12.1   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 under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

12.2   Performance Warranty. Subject to the limitations and conditions set forth in Section

12.3 and 12.4, Coder warrants to Customer that, during the Term, the Software will substantially conform in all respects to the Documentation, when installed, operated, and used as recommended in the Documentation and in accordance with this Agreement.

12.3   Customer Requirements. The limited warranties set forth in Section 12.2 apply only if Customer: (a) notifies Coder in writing of the warranty breach promptly after discovery of the issue; and (b) has promptly installed all Maintenance Releases to the Software that Coder previously made available to Customer.

12.4   Exceptions. Notwithstanding any provisions to the contrary in this Agreement, the limited warranty in Section 12.2 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 Customer 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 Customer's use in the Documentation; (c) Customer's failure to promptly install

all Maintenance Releases that Coder has previously made available to Customer; (d) the operation of, or access to, Customer's or a third party's system or network; or (e) any, beta software, software that Coder makes available for testing or demonstration purposes, temporary software modules or software for which Coder does not receive a license fee.

12.5 <u>Remedial Efforts</u>. If Coder breaches, or is alleged to have breached, any of the warranties set forth in Sections 12.2, 12.3, 12.4, Coder may, at its sole option and expense, take any of the following steps to remedy such breach: (a) repair the Software; and/or (b) replace the Software with functionally equivalent software (which software will, on its replacement of the Software, constitute Software under this Agreement). The remedies set forth in this Section 12.5 are Customer's sole remedies and Coder's sole liability under the limited warranty set forth in Sections 12.2, 12.3, 12.4.

12.6 <u>DISCLAIMER OF WARRANTIES</u>. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTION 12.2, ALL LICENSED SOFTWARE, DOCUMENTATION AND OTHER PRODUCTS, INFORMATION, MATERIALS, AND SERVICES PROVIDED BY CODER ARE PROVIDED "AS IS." CODER 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, CODER MAKES NO WARRANTY OF ANY KIND THAT THE LICENSED SOFTWARE OR DOCUMENTATION, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'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.

13. <u>Intellectual Property Infringement Indemnity</u>.

13.1 <u>Infringement Defense</u>. Coder will defend Customer and its employees, directors, agents, and representatives ("**Customer Indemnified Parties**") from any actual or threatened third party claim that the Software infringes or misappropriates any copyright or trade secret of any third party during the term of this Agreement if: (a) the applicable Customer Indemnified Party gives Coder prompt written notice of the claim; (b) Coder has full and complete control over the defense and settlement of the claim; (c) the applicable Customer Indemnified Party provides assistance in connection with the defense and settlement of the claim as Coder may reasonably request; and (d) the applicable Customer Indemnified Party complies with any settlement or court order made in connection with the claim (e.g., relating to the future use of any infringing materials).

13.2 <u>Infringement Indemnification</u>. Coder will indemnify each of the Customer Indemnified Parties against: (a) all damages, costs, and attorneys' fees finally awarded against any of them in any proceeding under Section 13.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by any of them in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Coder's consent after Coder has accepted defense of such claim); and (c) if any proceeding arising under Section 13.1 is settled, all amounts paid to any third party agreed to by Coder in settlement of any such claims.

13.3 <u>Exclusions</u>. Coder will have no obligation under this Section 13 for any infringement to the extent that it arises out of or is based upon: (a) the combination, operation, or use of the Software with Third Party Technology not specified in the Documentation or otherwise reasonably contemplated for use with the Software, if such infringement would have been avoided but for such combination,

operation, or use; (b) designs, requirements, or specifications for the Software required by or provided by Customer, if the alleged infringement would not have occurred but for such designs, requirements, or specifications; (c) use of the Software outside of the scope of the license granted to the Customer; (d) Customer's failure to use the latest Maintenance Release of the Software or to comply with instructions provided by Coder, if the alleged infringement would not have occurred but for such failure; or (e) any modification of the Software not made by Coder where such infringement would not have occurred absent such modification.

13.4   Exclusive Remedy. This Section 13 states Coder's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement of any third party Intellectual Property Right by the Software.

14.   Customer Indemnification.

14.1   Defense. Customer will defend Coder from any actual or threatened third party claim arising out of or based upon the Customer's use of the Software, a third party's use of the Software, or Customer's breach of any of the provisions of this Agreement. Coder will: (a) give Customer prompt written notice of the claim; (b) grant Customer full and complete control over the defense and settlement of the claim; (c) assist Customer with the defense and settlement of the claim as Customer may reasonably request and at Customer's expense; and (d) comply with any settlement or court order made in connection with the claim.

14.2   Indemnification. Customer will indemnify Coder against: (a) all damages, costs, and attorneys' fees finally awarded against Coder in any proceeding under Section 14.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Coder in connection with the defense of such proceeding (other than attorneys' fees and costs incurred without Customer's consent after Customer has accepted defense of such claim); and (c) if any proceeding arising under Section 14.1 is settled, Customer will pay any amounts to any third party agreed to by Customer in settlement of any such claims. Notwithstanding anything to the contrary in this Agreement, Customer will not enter into any settlement or acquiesce to any judgement admitting any fault on the part of Coder or imposing any non-monetary liability on Coder without Coder's prior written consent.

15.   Limitations of Liability.

15.1   DISCLAIMER OF INDIRECT DAMAGES. EXCEPT FOR LIABILITIES ARISING FROM A PARTY'S

(A) INFRINGEMENT OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (B) OBLIGATION TO INDEMNIFY THE OTHER PARTY, OR (C) GROSS NEGLIGENCE, FRAUD, OR WILLFUL MISCONDUCT (COLLECTIVELY, THE "**EXCLUDED LIABILITIES**"), NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCE, BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS OR LOSS OF BUSINESS, EVEN IF THAT PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

15.2   CAP ON LIABILITY. EXCEPT FOR THE EXCLUDED LIABILITIES, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE

TOTAL AMOUNT PAID BY CUSTOMER TO CODER DURING THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION).

15.3   Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY CODER TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 15.3 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

16.   Miscellaneous.

16.1   No Partnership, Joint Venture or Franchise. This Agreement will not be construed as creating a partnership, joint venture, or agency relationship or as granting a franchise.

16.2   Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of Texas without reference to its choice of law rules that would result in the application of the laws of another jurisdiction. The Parties agree that any dispute arising from this Agreement will be heard exclusively in the state or federal courts located in Travis County, Texas and irrevocably submit to that jurisdiction and venue.

16.3   Public Announcements. Neither Party will issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, 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. Notwithstanding the foregoing, Coder may, without Customer's consent, include Customer's name and other indicia in its lists of Coder's current or former customers of Coder in promotional and marketing materials.

16.4   Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate Party at the address set forth in this Section 16.4 and with the appropriate postage affixed. Either Party may change its address for receipt of notice by notice to the other Party in accordance with this Section 16.4. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

If to Coder:	**If to Customer**:
9901 Brodie Lane Ste 160 #1212 Austin Texas 78748 Attention: Legal Department	Contact provided on Order Form
Email: legal@coder.com	

16.5   Assignability. Neither Party may assign its right, duties, and obligations under this Agreement without the other Party's prior written consent, which consent will not be unreasonably withheld or delayed, except that a Party may assign this Agreement without the other Party's consent to a successor (including a successor by way of merger, acquisition, sale of assets, or operation of law) if the successor agrees in writing to assume and fulfill all of the assigning Party's obligations under this Agreement.

16.6   Export Regulation. The Software may be subject to US export control laws, including the US Export Control Reform Act and its associated regulations. Customer will not directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any country, jurisdiction or Person to which export, re-export, or release is prohibited by applicable law. Customer will comply with all applicable laws and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the US.

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

16.8   Force Majeure. Neither Party will be liable for, or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that Party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

16.9   No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing in this 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 whatsoever under or by reason of this Agreement.

16.10   Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing, identified as an amendment to this Agreement and signed by each Party. No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or partial exercise of any right, remedy, power, or privilege under this Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

16.11   Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material

limitation or restriction on the use of the Software under this Agreement is found to be illegal, unenforceable, or invalid, Customer's right to use the Software will immediately terminate.

16.12   Equitable Relief. Each Party acknowledges that any violation or threatened violation of this Agreement may cause irreparable injury to the other Party, entitling the other Party to seek injunctive relief in addition to all legal remedies.

16.13   Entire Agreement and Order of Precedence. This Agreement and Order Form, including all exhibits, attachments and amendments, is the final and complete expression of the agreement between these Parties regarding the licensing of the Software. This Agreement supersedes, and the terms of this Agreement govern, all previous and contemporaneous oral and written communications regarding these matters, all of which are merged into this Agreement, except that this Agreement does not supersede any prior nondisclosure or comparable agreement between the Parties executed prior to this Agreement being executed. Any terms or conditions stated in Customer purchase order or in any other Customer documentation (excluding Order Forms) is void. In the event of conflict or inconsistency, the order of precedence is as follows: (1) the Order Form, (2) this Agreement.

The Parties have executed and delivered this Agreement as of the Effective Date.