## **Bright**Sign®

## SOFTWARE LICENSE AGREEMENT

By downloading or using BrightSign software or any documentation that accompanies it (collectively, the "Software"), you and the company or entity that you represent (collectively, "you" or "your") are consenting to be bound by and are becoming a party to this Software License Agreement ("Agreement"). You hereby represent and warrant that you are authorized and lawfully able to bind such company or entity that you represent to this Agreement. If you do not have such authority or do not agree to all of the terms of this Agreement, you may not download or use the Software.

- 1. LICENSE GRANT. The Software is licensed and not sold. Subject to your compliance with this Agreement, BrightSign LLC, a Delaware limited liability company with offices at 983-A University Ave., Los Gatos, CA 95032 ("Company") hereby grants you a limited, personal, non-exclusive, non-sublicensable, non-transferable, royalty-free license to (a) use, install, and run the Software solely in connection with your evaluation or development of applications, products, or services ("Your Products") that are interoperable or integrated with Company's products and services (collectively, "Company Products") and (b) modify and prepare derivative works of the Software solely to develop Your Products that are interoperable with Company Products. You acknowledge that your use of any components provided with the Software that are licensed under an open source software license ("Open Source Components") are not part of the Software licensed hereunder and are subject to and governed solely by the terms of the applicable license(s) for that software, and not by this Agreement. Open Source Components provided with the Software are listed at here.
- 2. RESTRICTIONS. Except as otherwise expressly authorized by Company, you may not directly or indirectly: (i) sublicense, sell, assign, distribute, make any commercial use of, use on a timeshare or service bureau basis or otherwise commercialize the Software (or any modifications or derivative works thereof); (ii) use the Software (or any modifications or derivative works thereof) to create or facilitate the creation of, or otherwise incorporate any portion of the Software in, any product or service that is competitive with Company's Service; (iii) use the Software to perform comparisons or other "benchmarking" activities; (iv) remove any proprietary notices or branding from the Software; (iv) decompile, reverse engineer, or otherwise access or attempt to access the source code for the Software not made available to you in source code form, or make or attempt to make any unauthorized modification to the Software; and/or (v) use the Software in violation of any applicable laws or regulations or outside of the scope of the license granted in Section 1.
- 3. PROPRIETARY RIGHTS. As between you and Company, all right, title and interest in and to the Software (for clarity, excluding Open Source Components), and any copies or portions thereof, shall remain with Company and its suppliers or licensors. All right, title and interest in and to any modifications or derivative works properly made by you using the Software (but excluding the Software itself and any components thereof) shall remain yours, subject to Section 2. You understand that Company may modify or discontinue offering the Software at any time without notice. The Software is protected by the copyright laws of the United States, international copyright treaties and applicable laws of the country in which it is being used. Nothing in this Agreement gives you a right to use any of Company's trade names, trademarks, service marks, logos, domain names, or other distinctive brand features. Company does not grant any and reserves all rights not expressly and unambiguously granted herein.
- 4. SUPPORT AND UPGRADES. If Company provides you with any upgrades, patches, enhancements or fixes for the Software that it makes generally available free of charge in connection with the Software, then the items that are provided will become part of the Software and subject to this Agreement. Company shall have no obligation, however, under this Agreement or otherwise to provide any upgrades, patches, enhancements, fixes, or any other support to you for the Software.
- 5. INDEMNITY. You agree that Company shall have no liability whatsoever for any use you make of the Software. You hereby agree to indemnify and hold harmless Company and its affiliates, and each of their directors,

officers, employees and agents, from any and all damages, liabilities, losses, costs, and expenses (including, without limitation, attorneys' fees) arising from Your Products or your use of the Software (or any modifications or derivative works thereof) or any Open Source Components.

- 6. CONFIDENTIALITY. The Software (including as embodied in or utilized by Your Products) is the confidential and proprietary information of Company, and you may not, during the term or thereafter, disclose it to any third party, or use it for any purpose other than as expressly provided herein, without a separate written agreement with Company authorizing you to do so. You will take all reasonable measures to protect the confidentiality of the Software, including that you will take at least those measures that you take to protect your own highly confidential information.
- 7. WARRANTY AND DISCLAIMER. COMPANY PROVIDES THE SOFTWARE "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTY OF ANY KIND AND HEREBY DISCLAIMS, FOR ITSELF AND ITS LICENSORS AND SUPPLIERS, ALL EXPRESS AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, RELIABILITY, NON-INFRINGEMENT, AND WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE IN TRADE. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THE AGREEMENT.

Company or its suppliers are under no obligation to provide any support under this Agreement, including upgrades or future versions of the Software or any portions thereof, to you or any other party.

- 8. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING ELSE, UNDER NO CIRCUMSTANCES SHALL COMPANY OR ITS LICENSORS OR SUPPLIERS, BE LIABLE TO YOU OR ANY OTHER PERSON WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS, LOSS OF GOODWILL, LOSS OF DATA, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, TECHNOLOGY OR RIGHTS, INTERRUPTION OF BUSINESS, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR OTHER DAMAGES IN EXCESS OF ONE HUNDRED DOLLARS (US\$100), EVEN IF AWARE OF THE POSSIBILITY OF SUCH DAMAGES.
- 9. BASIS OF BARGAIN. YOU AND COMPANY EACH RECOGNIZE AND AGREE THAT THE WARRANTY DISCLAIMERS AND LIABILITY AND REMEDY LIMITATIONS IN THIS AGREEMENT ARE MATERIAL, BARGAINED FOR BASES FOR THIS AGREEMENT AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT AND REFLECTED IN DETERMINING THE CONSIDERATION TO BE GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT.
- TERM AND TERMINATION. This Agreement will remain in effect until terminated by either party. You may terminate this Agreement and the license granted herein at any time by uninstalling and ceasing all use of the Software. Company may terminate this Agreement and the licenses granted in this Agreement immediately if you breach any provision of this Agreement, in addition to all other available remedies. Upon termination, all of your rights and licenses under this Agreement cease; you must cease exercise of the licensed rights herein; you must destroy or remove from all hard drives, networks, and storage media, all copies and extracts of the Software; and this sentence, all remedies for breach, and Sections 2 through 3, 5-13, and 15 shall survive any termination of this Agreement. YOU ACKNOWLEDGE THAT TERMINATION OF YOUR RIGHTS TO THE SOFTWARE MAY CAUSE YOUR PRODUCT(S) TO NOT OPERATE PROPERLY, AND COMPANY WILL HAVE NO LIABILITY OR RESPONSIBILITY WHATSOEVER AS A RESULT THEREOF.
- 11. FEEDBACK. You agree that Company may collect or you may provide to Company or publicly comments, feedback, suggestions or other information related to the Software, or modifications, corrections, improvements, derivatives and extensions to the Software (collectively, "Feedback"), and you hereby grant Company the perpetual and irrevocable right (and the perpetual and irrevocable right to permit others) to use and fully exercise and exploit the Feedback in any manner to improve, develop and otherwise exploit applications, services or technology, and otherwise in connection with its business during and after the term of this Agreement.
- 12. NON-BLOCKING OF COMPANY DEVELOPMENT. You acknowledge that Company is currently developing or may in the future develop technologies and products that have or may have design and/or functionality similar to products that you may develop based on the license granted to you herein. Nothing in this Agreement shall impair,

limit, or curtail Company's right to continue with its development, maintenance and/or distribution of Company's technology or products. You agree that you shall not assert in any way any patent owned by you arising out of or in connection with any derivative works or modifications to the Software against the Company, its suppliers, subsidiaries or affiliates, or their customers, direct or indirect, agents or contractors for the manufacture, use, import, licensing, offer for sale or sale of any Company products.

- EXPORT. You shall comply with all laws, rules and regulations of the Department of Commerce, the United States Department of the Treasury Office of Foreign Assets Control ("OFAC"), and other United States or foreign agency or authority, and not export, or allow the export or re-export of the Software in violation of any such restrictions, laws or regulations. By downloading or using the Software or exercising any of the rights granted in this Agreement, you are agreeing to the foregoing and representing and warranting that you are not located in, under the control of, or a national or resident of any country to which the United States has embargoed good or services or similar restrictions, and you are not identified as a "Specially Designated National" by OFAC, you are not placed on the U.S. Commerce Department's Denied Persons List or any similar lists, and you will not access or use the Software if any applicable laws in your country prohibit you from doing so in accordance with this Agreement or limit the terms of this Agreement.
- 14. GOVERNMENT RESTRICTED RIGHTS. All software, technology, and accompanying documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display, transfer or disclosure of the Software and accompanying documentation by any agency, department or other entity of any government, shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms herein or in a writing signed by an authorized signatory on behalf of Company. No other rights are granted.
- 15. OPEN SOURCE SOFTWARE. Notwithstanding anything to the contrary, you are not licensed to (and you agree that you will not) integrate or use this Software with any Viral Open Source Software or otherwise take any action that could require disclosure, distribution, or licensing of all or any part of the Software in source code form, for the purpose of making derivative works, or at no charge. For the purposes of this Section 14, "Viral Open Source Software" shall mean software licensed under the GNU General Public License, the GNU Lesser General Public License, or any other license terms that could require, or condition Your use, modification, or distribution of such software on the disclosure, distribution, or licensing of any other software in source code form, for the purpose of making derivative works, or at no charge. Any violation of the foregoing provision shall immediately terminate all of Your licenses and other rights to the Software granted under this Agreement.
- 16. MISCELLANEOUS. This Agreement contains the complete agreement between you and Company regarding the Software and supersedes all prior agreements and representations between you and Company regarding the Software. In the event of a conflict between this Agreement and any other terms incorporated herein, the terms of this Agreement shall take precedence. This Agreement may only be amended, and any provision may only be waived, by a writing executed by both parties. You agree to promptly provide Company with all information and documentation that Company requests to verify your compliance with this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, it shall be reformed to the limited extent necessary to make it enforceable. This Agreement shall be governed by and construed in accordance with the laws of California, without regard to its conflicts of laws provisions. Federal or state courts located in the County of Santa Clara, California, will have exclusive jurisdiction and venue in any action arising under or related to this Agreement. You may not assign or transfer any part of this Agreement to any third party. Company may assign and transfer this Agreement without consent to a successor to all or substantially all of its business or assets to which this Agreement relates.

## **End of Terms and Conditions**