# **Integral End User License Agreement**

IMPORTANT - READ CAREFULLY: This End-User License Agreement (EULA) is a legal agreement between you (either an individual or a single legal entity) (Licensee) and Integral to use the Software. This EULA applies after the Licensee has received the Software from a Reseller or Integral. An amendment or addendum to this EULA may accompany the Software. The Licensee agrees to be bound by the terms of this EULA by installing, copying, downloading or otherwise using the Software or clicking the "I Accept/ Agree" button if acquiring the Software on-line. If the Licensee does not agree to the terms of this EULA, you may not install, copy, download or otherwise use the Software or if acquiring the Software on-line click the "I Do Not Accept/ Agree" button.

## 1 Definitions

Accessible Code means source code that is unprotected and accessible.

*Integral* means Integral Technology Solutions Pty Ltd (ABN 38 097 602 901) of Suite 13, 83 Leichhardt St, Spring Hill, Brisbane, Queensland 4000 Australia.

Authorised User means a person who accesses and uses the Software under a User Licence.

Embedded Software means any third party software which may contain Accessible Code or Protected Code licensed by Integral Technology Solutions from a third party and embedded in the Software.

Fees mean all fees and expenses payable by the Licensee to Integral in acquiring the Software and as applicable any Maintenance or User Licenses.

Maintenance means the provision by Integral to Licensee under separate agreement, of Software updates and/or enhancements made generally available to customers from time to time, and online technical support (and where applicable, phone support) for the sole purpose of addressing technical issues relating to the use of the Software.

*OEM Distribution* means distribution of the Software as either a bundled add-on to, or embedded component of, another application with such application being made available to its users as, but not limited to, an on-premises application, a hosted application, a Software-as-a-Service offering or a subscription.

*Protected Code* means any source code that is protected against access by Integral Technology Solutions or a third party and is not accessible under this EULA.

Reseller means an entity selling and distributing Integral products which is authorised by Integral to do so.

Software means the Integral software that accompanies this EULA, which includes computer software, Accessible Code and Protected Code and may include associated media, printed materials, "online" or electronic documentation, Internet-based services and Embedded Software.

*User License* means a license granted under this EULA to the Licensee to permit an Authorised User to use the Software. The number of User Licenses granted to the Licensee is dependent on the Fees paid by the Licensee.

Server License means a license granted under this EULA to the Licensee to permit a server to use the Software. The number of server Licenses granted to the Licensee is dependent on the Fees paid by the Licensee.

## 2 Grant of License

Upon Licensee's acceptance of the EULA, Integral grants the Licensee the non-exclusive right to use the Software subject to the following:

#### 2.1 Server Licences

The licenses granted are subject to the condition that the Licensee must ensure the maximum number of servers accessing and using the Software concurrently is equal to or less than the number of Server Licences for which the necessary Fees have been paid to the Reseller or Integral. The Licensee may purchase additional Server Licenses at any time on payment of the appropriate Fees to the Reseller or Integral.

#### 2.2 Named Users

The licenses granted are subject to the condition that the Licensee must ensure the maximum number of Authorised Users accessing and using the Software concurrently is equal to the number of User Licenses for which the necessary Fees have been paid to the Reseller or Integral. The Licensee may purchase additional User Licenses at any time on payment of the appropriate Fees to the Reseller or Integral.

## 2.3 Backup

The Licensee is permitted to copy the Software for data protection, archiving and backup purposes. However, only the strictly necessary number of backup copies may be made.

### **Evaluation License**

### 2.4 Installation and Use

Integral may provide evaluation copies of the Software for customers to assess the Software, which may not have full functionality. If the Software is only provided for evaluation purposes the rights of the Licensee are limited to this evaluation license which permit the Licensee to EULA 1.0 Integral Technology Solutions End User License Agreement download, install, use and operate the Software for a limited period and accessible by a limited number of temporary users as determined by Integral (Evaluation Period). On the expiry of the Evaluation Period the Software the Licensee must remove and delete all copies of the Software in its possession.

### **General License Terms**

## 2.5 Scope

Each license granted by Integral under this EULA is unless otherwise specified in this EULA or agreed by Integral in writing; worldwide, non-exclusive, non- transferable and non-sub licensable.

#### 2.6 Duration

Subject to the terms of this EULA and unless terminated earlier in accordance with this EULA, a full license is monthly or annual according to the subscription purchased and the evaluation license runs for the Evaluation Period.

## 2.7 Permitted Computers

Except as otherwise agreed in writing by Integral, the Licensee must only install the Software and make the Software available for use on hardware systems owned, leased or controlled by the Licensee.

### 2.8 Responsibility for Non-controlled systems

If Integral permits the Licensee to install the Software or make the Software available for use on hardware systems not owned, leased or controlled by the Licensee (Uncontrolled Systems), the Licensee will ensure the terms of this EULA are complied with by users of such Uncontrolled Systems and the Licensee indemnifies Integral for all costs, damages and loss Integral suffers arising from such installation or use of the Software on Uncontrolled Systems.

### 3 Fees

The Licensee must pay all Fees by their due date. Failure to pay Fees by the due date will result in the immediate termination of the licenses granted under this EULA.

## 4 Embedded Software

## 4.1 Rights

The Licensee acknowledges the Software contains Embedded Software and that in addition to the obligations of this EULA, additional obligations may apply in relation to any use of Embedded Software by the Licensee which is not in accordance with the use of the Software as permitted under the terms of this EULA. In such circumstances the Licensee must consult the relevant third party to acquire any necessary licenses and consents in relation to its use of any Embedded Software.

## 4.2 Benchmarking

While the Licensee is permitted to conduct "benchmarking" in relation to the Software as a whole, the Licensee must not conduct any "benchmarking" in relation to individual Embedded Software elements.

# 5 Reservation of Rights and Ownership

Integral reserves all rights not expressly granted to the Licensee in this EULA. The Software and all copies thereof are protected by copyright and other intellectual property laws and treaties. Integral or relevant third parties own the title, copyright, and other intellectual property rights in the Software and all subsequent copies of the Software. The Software is licensed, not sold and the Licensee does not acquire any rights of ownership in the Software.

# 6 Support and Maintenance

## 6.1 Additional Software / Services

This EULA applies to updates, supplements, add-on components, or Internet-based services components, of the Software (Supplementary Software) that Integral may provide to the Licensee or make available to the Licensee after the date the Licensee obtains its initial copy of the Software, unless Integral provides other terms along with any Supplementary Software. Integral reserves the right to discontinue any Internet-based services provided to the Licensee or made available to the Licensee through the use of the Software.

## 6.2 Support and Upgrades

Any support services provided by Integral will be substantially as described in separate written materials provided by Integral to the Licensee and may be the subject to the payment of additional Fees.

# 7 Licensee Obligations

## 7.1 Positive Obligations

Licensee must at all times: Ensure that only an Authorised User or machine licensed with an Integral Processor Unit uses the Software and only in accordance with the terms and conditions of this EULA.

## 7.2 Negative Obligations

Licensee must not, whether through negligent act or omission, or without the prior written consent of Integral, which may be withheld at Integral's discretion and include certain conditions: (a) decompile, reverse engineer, disassemble, modify, adapt, create derivative works from, or otherwise attempt to derive, any portion of the Software; (b) directly or

indirectly access or use any Embedded Software independently of the rest of the Software; (c) sell, sublicense, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine readable form the Software or any data/information not owned by the Licensee which is provided to Licensee through the Software to a person who is not an Authorised User; (d) vary or amend the Software (including any Embedded Software, Protected Code or Accessible Code); (e) except as otherwise permitted in this EULA, publish, promote, broadcast, circulate or refer publicly to the Integral Technology Solutions name, trade name, trademark, service mark or logo (f) commit any act or omission the likely result of which is that Integral's or any of its third party suppliers' reputation will be brought into disrepute or which act or omission could reasonably be expected to have or does have a material and adverse effect on Integral's interests; (g) distribute the Software via OEM Distribution without entering into a separate OEM Distribution Agreement with Integral or (h) copy or embed elements of the Accessible Code contained in the Software into other applications.

### 7.3 Protection Mechanisms

The Software includes mechanisms that are designed to manage and protect the intellectual property rights of Integral Technology Solutions and its third party suppliers. Licensee must not modify or alter those features to try to defeat the Software use rules that the license protection mechanisms are designed to enforce. Any such attempt by the Licensee will result in the immediate termination of any license granted under this EULA.

## 8 Notification

### 8.1 General

If the Licensee discovers it has breached any of its obligations under this EULA and in particular the obligations in clause 7, the Licensee must immediately report such breach to Integral, in writing.

### 8.2 Penalties

Where a breach involves the distribution or use of Software outside of the User License or any Additional User License or the use and distribution of Embedded Software Integral and/or any third party owner of Embedded Software will be entitled, in addition to any other right or claim that Integral or any third party owner of Embedded Software may have against Licensee, to retroactively charge Licensee, in addition to any other Fees payable by Licensee under this EULA, a fee calculated based on the number of prohibited distributions or uses times the respective list prices that Integral and/or any third party owner of Embedded Software charges for the Software or Embedded Software respectively.

# 9 Investigation of Unauthorised Use and Distribution

If Integral reasonably suspects the Software has been distributed to or obtained by any person or party without Integral's prior written consent, that Embedded Software is being varied or accessed or used independently of the Software or that Licensee is otherwise breaching a term of this EULA and in particular its obligations under clause 7, Integral reserves the right to require the Licensee to provide an unqualified certificate executed by the Licensee's auditor verifying compliance with the terms of this EULA. Such requests shall be made no more frequently than once per calendar year. If such an unqualified certificate is not received by Integral within ninety (90) calendar days of being required, it will be considered that a breach of this EULA has occurred allowing Integral to terminate the licenses granted under this EULA.

## **10 Permitted Fixes**

Notwithstanding anything else in this EULA but subject to the terms and conditions contained herein, the Licensee is permitted to modify the Accessible Code in the Software to develop bug fixes, customizations or additional features solely for their internal purposes of using the Software.

## 11 Termination

#### 11.1

Without prejudice to any other rights and in addition to any other termination rights in this EULA, Integral may terminate this EULA if the Licensee fails to comply with the terms and conditions of this EULA. Immediately upon termination of a license granted under this EULA, the Licensee must at its own cost: (a) cease permitting access to and procure that all Authorised Users immediately cease all use of the Software; and (b) remove all copies of the Software from its computer systems or any Uncontrolled Systems; (c) provide Integral with written certification that it has destroyed all copies of the Software including all Accessible Code in its possession, custody or control.

## 11.2

The decommissioning of the Software by the Licensee will have, as a consequence, the termination of this EULA between Integral and the Licensee.

# 12 Infringement Indemnification

## 12.1 Infringement by Software

If the Software becomes, or in the opinion of Integral may become, the subject of a claim of infringement of any third party's intellectual property rights, Integral may, at its option and in its discretion: (i) procure for Licensee the right to use the Software free of any liability; (ii) replace or modify the Software to make it non-infringing; or (iii) refund any License Fees related to this Software paid by Licensee. The foregoing states the sole liability of Integral

and the exclusive remedy of Licensee for any infringement of intellectual property rights by the Software or any other items provided by Integral under this EULA.

#### 12.2 Licensee's Use

Licensee will indemnify and hold harmless Integral against all costs, expenses, losses and claims made against Integral as a result of any infringement of a third party's intellectual property rights arising from the Licensee's or its Authorised User's modification to the Software or combination of the Software with other products by Licensee or any of its Authorised Users

### 12.3 Third Party Products

Licensee acknowledges and agrees that if Licensee breaches this EULA and Integral or any third party owner of Embedded Software suffers any loss, damage cost or expense directly or indirectly in connection with the breach, Integral or the relevant third party owner of the Embedded Software may bring an action directly against Licensee.

## 13 Exclusion of Warranties

To the maximum extent permitted by applicable law in the jurisdiction in which the Software or any Supplementary Software is supplied or Maintenance provided, Integral and its third party suppliers provide the Software and any Maintenance AS IS AND WITH ALL FAULTS, and except otherwise expressly contained in the EULA, hereby disclaim all other warranties and conditions, whether express, implied or statutory.

# 14 Limitation of Liability

### 14.1 Non-excludable Warranties

The Licensee may have remedies against Integral imposed by law or statute which cannot be excluded by Integral and its third party suppliers. To the extent the Licensee has such legal remedies Integral or its third party suppliers then to the fullest extent permitted by law Integral and its third party suppliers' liability is limited (a) at Integral's option, to: (i) in the case of the Software: 1) repairing or replacing the Software; or 2) the cost of such repair or replacement; and (ii) in the case of Maintenance services: 1) re-supply of the services; or 2) the cost of having the Maintenance services supplied again or if the above limitation is not applicable then (b) to the greater of the actual damages Licensee incurs in reasonable reliance on the Software up to the amount actually paid by the Licensee for the Software.

## 14.2 Limitation of Liability for other Losses

Subject to section 14.1, notwithstanding any damages Licensee might incur for any reason whatsoever to the maximum extent permitted by applicable law the entire liability of Integral and any of its third party suppliers under any provision of this EULA and Licensee's exclusive remedy hereunder shall be limited to the greater of the actual damages Licensee

incurs in reasonable reliance on the Software up to the amount actually paid by the Licensee for the Software.

### 14.3 Consequential Loss

Notwithstanding anything else in this section 14, to the maximum extent permitted by applicable law, in no event shall Integral or its third party suppliers be liable for any special, incidental, punitive, indirect, or consequential damages whatsoever arising out of or in any way related to the use of or inability to use the Software, the provision of or failure to provide Maintenance or other services, information, software, and related content through the Software or otherwise arising out of the use of the Software, or otherwise under or in connection with any provision of this EULA, even in the event of the fault, tort (including negligence), misrepresentation, strict liability, breach of contract or breach of warranty of Integral or any third party supplier, and even if Integral or any third party supplier has been advised of the possibility of such damages.

# **15 Publicity Rights**

Licensee grants Integral the right to include Licensee as a customer in Software promotional material. Licensee can deny Integral this right at any time by submitting a written request via email to info@integraltech.com.au, requesting to be excluded from Software promotional material. Requests made after purchasing may take thirty (30) calendar days to process.

## 16 Amendment

This EULA may not be amended except with the written agreement of Integral whose consent may be withheld in its complete discretion without any requirement to provide reasons.

# 17 Assignment

Licensee may assign this EULA to: (i) succeeding parties in the case of a merger, acquisition or change of control; or (ii) if Licensee is a supplier to a government agency; provided, however, that in each case, (a) Integral is notified in writing within ninety (90) days of such assignment, (b) the assignee agrees to be bound by the terms and conditions contained in this EULA and (c) upon such assignment the assignee makes no further use of the software licensed under this EULA. Integral may assign its rights and obligation under this EULA without consent of Licensee. Any permitted assignee shall be bound by the terms and conditions of this Agreement.

## 18 Restrictions

### 18.1 Australia

If the Software is acquired in Australia by the Licensee, the Licensee must comply with all applicable Australian export control laws and regulations, including without limitation, the laws and regulations administered by the Australian Department of Foreign Affairs and Trade (or any replacement department or authority).

#### 18.2 United States

If the Software is acquired by the Licensee in the United States, the Licensee acknowledges: (a) the Software is subject to U.S. export jurisdiction and agrees to comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use, and destination restrictions issued by U.S. and other governments and notwithstanding the above; and (b) the provisions of the USA Uniform Computer Information Transaction Act do not apply to this EULA.

#### 18.3 General

The export of the Software from the country of original purchase may be subject to control or restriction by applicable local law. Licensee is solely responsible for determining the existence and application of any such law to any proposed export and for obtaining any needed authorization. Licensee agrees not to export the Software from any country in violation of applicable legal restrictions on such export.

# 19 Governing Law and exclusions

## 19.1 Applicable Law

This EULA is governed by the laws of Queensland (QLD), Australia, and the parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of QLD, Australia.

## 19.2 Arbitration

Except in circumstances where a party seeks urgent injunctive relief, before commencing any court proceedings, if any disputes arises under this EULA the parties will negotiate in good faith to resolve the dispute and if the dispute has not been resolved within sixty (60) calendar days by the relevant parties using their best efforts to resolve the dispute, the dispute will be referred to arbitration and determined under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules with any hearings to be held in Australia.

### 19.3 Exclusion of UN Convention

The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this EULA.

# 20 Entire Agreement and Severability

This EULA (including any addendum or amendment to this EULA which is included with the Software) is the entire agreement between the Licensee and Integral relating to the Software and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software or any other subject matter covered by this EULA. If any provision of this EULA is held to be void, invalid, unenforceable or illegal, the other provisions shall continue in full force and effect.

## **Survival**

Clauses 4, 5, 7, 9, 11.1, 12.2, 12.3, 13, 14, 19 and 20 shall survive any termination of this EULA.