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DEMO LICENSE AGREEMENT**

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## **1 DEFINITIONS**

"Documentation" means the user, system and installation documentation, manual for the Software, as updated by PERSISTENT from time to time.

"Software" means PERSISTENT's proprietary computer program described in Exhibit(s) A in machine-readable, Object Code form only. Software also includes, without limitation, the Documentation.

"Illegal Use" of the software shall mean any use of the Software which is not in conformity with, or directly against, the terms of this agreement, and shall include but not limited to any use or installation (ii) beyond specified time period or (iii) without payments of amounts due to the PERSISTENT by the Licensee.

"Object Code" shall mean the computer executable embodiment of software computer code, which is derived from the Source Code by a process generally known as "compilation" or any other process that translates the Source Code or some intermediate code derived from the Source Code into a form that can be executed by a computer.

## **2 LICENSE**

- a. Grant of License: Without incurring any kind of liability and/or claim and subject to the terms and conditions of this Agreement, PERSISTENT grants to You free of charge, a revocable, perpetual, non-sub licensable, non-exclusive, non-transferable (except as expressly provided below) limited license to: install or have installed, the Software in accordance with the Documentation and for the sole use of carrying out installation and testing of the Software. All titles, trademarks, copyright, proprietary and restricted rights notices shall be reproduced if necessary.. The demonstration versions of the Software are restricted versions of the full programs and can be used for a limited period of time. If you wish to continue using the software after the evaluation period you must purchase a full version from PERSISTENT. Otherwise, you must uninstall the software
- b. License Restrictions: You shall not: (a) modify, disassemble, de-compile or reverse engineer the Software or permit or encourage any third party to do so, (b) use the Software in any manner to provide time-sharing or other computer services to third parties, except as expressly provided herein, or (c) use the Software, or allow the transfer, transmission, export, or re-export of the Software or portion thereof in violation of any export control laws or regulations administered by the U.S. Commerce Department, OFAC, or any other government agency or (d) use the Software for any purpose other than that specified under this Agreement. For the purpose of this Agreement 'third parties' shall not include employees, workers and other persons associated with and working for You.
- c. Limited Rights: Your rights in the Software will be limited to those expressly granted in this Section 2. PERSISTENT reserves all rights and licenses in and to the Software not expressly granted under this Agreement. This license does not entitle You to receive upgrades, updates or technical support. Such services may be purchased separately at additional cost.



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### 4 WARRANTY

Disclaimer of Warranties: THE SOFTWARE AND THE DOCUMENTATION IS PROVIDED ON AS IS BASIS. PERSISTENT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOFTWARE, OR ANY OTHER MATERIALS (TANGIBLE OR INTANGIBLE) OR SERVICES SUPPLIED BY PERSISTENT, ITS LICENSORS, OR ITS AGENTS, AND PERSISTENT HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF PERSISTENT HAD BEEN INFORMED OF SUCH PURPOSE), ACCURACY OF DATA. SPECIFICALLY, PERSISTENT DOES NOT WARRANT THAT THE SOFTWARE WILL BE ERROR FREE OR WILL PERFORM IN AN UNINTERRUPTED MANNER. PERSISTENT DOES NOT PROVIDE ANY KIND OF SUPPORT, UNLESS SPECIFICALLY AGREED OTHERWISE.

### 5 CONFIDENTIALITY

Definition: "Confidential Information" means: (a) the Software; (b) the terms of this Agreement, and (c) any business or technical information of PERSISTENT, including but not limited to any information relating to PERSISTENT's product plans, designs, costs, product prices and names, finances, marketing plans, business opportunities, personnel, research, customer data, development or know-how, in either written or oral form. Information communicated orally shall be considered Confidential Information. Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault or breach of this Agreement by the receiving party; (b) is known to the receiving party at the time of disclosure without an obligation of confidentiality as evidenced by the receiving party's records; (c) is independently developed by the receiving party without use of the disclosing party's Confidential Information as evidenced by the receiving party's records; (d) is rightfully obtained by the receiving party from a third party without restriction on use or disclosure; or (e) is disclosed with the prior written approval of the disclosing party.

Use and Disclosure Restrictions: During the term of this Agreement and after any termination of this Agreement with respect to any Confidential Information other than the Software, each party will not use the other party's Confidential Information except as permitted herein, and will not disclose such Confidential Information to any third party except to employees and consultants as reasonably required in connection with the exercise of its rights and obligations under this Agreement (provided that such third party is subject to written, binding use and disclosure restrictions at least as protective as those set forth herein). However, each party may disclose Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the disclosing party gives reasonable notice to the other party to contest such order or requirement; and (b) on a confidential basis to legal advisors.

### 6 LIMITATION OF LIABILITY

Exclusion of Damages: IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS, BUSINESS INTERRUPTION) ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE SOFTWARE OR SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

IN ANY EVENT, EITHER PARTY'S MAXIMUM AGGREGATE LIABILITY (WHETHER IN CONTRACT OR UNDER ANY OTHER FORM OR LIABILITY) FOR DAMAGES OR LOSS, HOWSOEVER ARISING OR CAUSED, WHETHER OR NOT ARISING FROM THE PARTY'S NEGLIGENCE, SHALL IN NO EVENT BE GREATER THAN USD 100.



## 7 TERMINATION

PERSISTENT reserves the right to terminate this Agreement by written or e-mail notice and take action to recover any damages suffered by PERSISTENT if You breach any provision of this Agreement.

## 8 GENERAL

Assignment: Licensee will have no right to assign this Agreement, without PERSISTENT's prior written consent. Any attempt to assign this Agreement, without such consent, will be null and void.

Governing Law and Jurisdiction: This Agreement will be governed by and construed in accordance with the laws of India. LICENSEE shall not assign their rights and obligation under the Agreement without written consent of PERSISTENT. There are no third party beneficiaries.

Severability: If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect.

Headings: All descriptive headings used in this Agreement are for convenience of reference only and are not to be used in interpreting the obligations of the parties under this Agreement.

Waiver: The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

Notices: All notices required or permitted under this Agreement will be in writing and delivered via certified mail with return receipt requested. All communications will be sent to the addresses set forth above or to such other address as may be specified by either party to the other in accordance with this Section. Either party may change its address for notices under this Agreement by giving written notice to the other party by the means specified in this Section.

Force Majeure: Neither party will be responsible for any failure or delay in its performance under this Agreement, except for the payment of monies, due to force majeure situation which includes war, riot, act of God, act of terrorism or governmental action. If such Force Majeure situation continues for a period beyond thirty (30) days, any party may terminate this Agreement by a written notice to the other.

Relationship of Parties: The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

Announcements: Licensee may, on a written request from PERSISTENT, allow the latter to announce and list Licensee as a client/customer of PERSISTENT or put Licensee's name and logo on PERSISTENT's web-site or other electronic communication, provided that nothing in this clause or this Agreement be construed to establish any license being given by the Licensee to use its name and logo by PERSISTENT unless so specifically permitted in writing.

Entire Agreement: This Agreement, including all schedules, exhibits and attachments attached hereto, contains the complete understanding and agreement of the parties and supersedes all prior or contemporaneous agreements or understandings, oral or written, relating to the subject matter herein. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of the parties.