HAMMER
an Infovista Business

MASTER AGREEMENT

THIS Master Agreement (this "**Agreement**") is made this _____ day of _____, 2022 (the "**Effective Date**") by and between Empirix Inc. d/b/a Empirix, an Infovista company, a Delaware corporation, having its principal place of business at 600 Technology Park Drive, Suite 100, Billerica, MA 01821 ("**Empirix**"), and {INSERT FULL LEGAL NAME OF CUSTOMER}, a {INSERT STATE OF INCORPORATION OF CUSTOMER} corporation, having its principal offices at {INSERT FULL CUSTOMER ADDRESS}(the "**Customer**").

1   ORDERING PROCEDURES

1.1   This Agreement is applicable to all purchases by Customer and Customer's Affiliates of software licenses (including all updates, upgrades and enhancements delivered by Empirix to Customer pursuant to technical support services) ("**Software**"), hardware ("**Hardware**"), software as a service ("**SAAS**") and consulting services ("**Services**") from Empirix. Software, SAAS and Hardware may collectively or individually be referred to as "**Product**". As used in this Agreement, the term "Affiliate" shall mean any person or entity controlling, controlled by or under common control of a Party, where "control" means that one entity has greater than fifty percent (50%) of votes in the other entity or is legally able, by contract or otherwise, to direct the affairs and/or to control the composition of the other entity's board of directors or equivalent body.

1.2   For each purchase of Product under this Agreement, Empirix shall provide Customer with a price quotation, listing the type and quantity Customer intends to purchase, along with the applicable fees payable to Empirix and the expected delivery timetable or commencement date ("**Quote**"). For each purchase of Services (other than standardized or packaged services), Empirix will prepare a statement of work or similar document (each an "**SOW**"), which shall describe the Services to be performed. Customer shall then issue a corresponding purchase order or similar document to Empirix referencing the Quote or SOW and this Agreement ("**Order**"). Empirix shall notify Customer within five (5) business days of receipt of the Order that it accepts the Order, or identify with particularity what aspects of the Order are unacceptable. Once agreed, the Order shall be non-cancellable and binding on the Parties in accordance with the terms of this Agreement. All references to an Order in this Agreement shall be deemed to mean an Order agreed by the Parties.

2   DELIVERY

Empirix shall use commercially reasonable efforts to deliver the Software, Hardware, SAAS and/or Services to the address(es) (if applicable) and pursuant to the timetables specified in the applicable Order or SOW, FOB Empirix Billerica MA (if applicable), and no liability shall ensue for any delays in delivery. All Hardware ordered by Customer shall be packed for shipment and storage in accordance with Empirix's standard commercial practices, unless otherwise set forth in the Order. It is Customer's obligation to notify Empirix in writing of any special packaging requirements (which shall be at Customer's expense). All Software shall be delivered electronically.

3   PAYMENTS

3.1   All invoices for Hardware shall be issued by Empirix upon shipment and all invoices for Software shall be issued by Empirix when Empirix makes the Software available to Customer. Invoices for Technical Support and other standardized or packaged Services and SAAS shall be issued upon receipt of Order. Invoices for professional, training, consulting, managed and any other Services shall be invoiced upon completion of delivery unless otherwise specified in the

applicable SOW. All fees due hereunder shall be payable within thirty (30) days of the date of invoice. Payments shall be made to the address listed on the invoice, or electronically or by wire transfer, if so directed by Empirix. Any undisputed amount not so paid shall be deemed overdue and shall, without prejudice to Empirix's rights in respect of the Customer's failure to pay when due, be subject to a late payment charge, accruing on a monthly basis from the date payment should have been made of 1.5% per month during the period of delay, or the maximum allowed by applicable law, whichever is less. Customer shall be responsible for all reasonable fees incurred by Empirix (including attorney's fees) to collect any delinquent balances.

4 SOFTWARE LICENSE GRANT

4.1 Empirix hereby grants to the Customer a non-exclusive, non-sub licensable, non-transferable license to use the Software ordered by Customer pursuant to one or more Orders in accordance with the end user documentation accompanying the Software ("**Software Documentation**"), subject to the terms and conditions of this Agreement. The Customer shall be entitled to make a single copy of the Software exclusively for back-up or disaster-recovery purposes, provided that all copies bear Empirix's proprietary notices. The Customer shall have the right to make copies of the Software Documentation, in form and quantity as is reasonably required for Customer's internal use of the Software, consistent with the terms and restrictions contained in this Agreement.

4.2 Licensed Software may utilize Open Source Software that may be included as a part of the Software, included in the same medium on which the Software is delivered or as a part of the download of Software received by Customer, or pre-loaded on Hardware. For the purpose of this Agreement, "**Open Source Software**" means any software for which the source code and certain other rights normally reserved for copyright holders are provided under an Open Source Software License or that is in the public domain, and an "**Open Source Software License**" is any license to software that meets the Open Source Definition of the Open Source Initiative at http://www.opensource.org/docs/definition.php. Because Empirix distributes its Software in object code form, Empirix will provide Customer, on request, with the complete corresponding machine readable source code of Open Source software that is subject to any Open Source License that requires that Empirix provide, without charge (other than a charge for the cost of distribution), source code to the Software, whether in original form or as modified by Empirix, for a period of up to three (3) years after delivery of the Software within which the Open Source software is included. Any such Open Source Software requested and so received by Customer shall be subject to the applicable Open Source License and this Agreement does not modify or abridge any rights or obligations Customer may have under such Open Source License. Any permitted use or distribution of Open Source Software separate and apart from use of the Software shall be governed by the relevant Open Source License and, with respect to which, Empirix disclaims all warranties and indemnification obligations.

5 SAAS

5.1 Empirix will (a) make the SAAS available to Customer pursuant to this Agreement and the applicable Order, (b) provide Technical Support for the SAAS to Customer at no additional charge, and (c) provide the SAAS in accordance with applicable laws and government regulations when used according to this Agreement and the documentation accompanying such SAAS (the "SAAS Documentation").

5.2 Unless otherwise provided in the applicable Order, (a) SAAS is purchased as a subscription, (b) subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

5.3 SAAS is subject to usage limits, including, for example, the quantities specified in Orders. Unless otherwise specified, (a) a quantity in an Order refers to users, and the SAAS may not be accessed by more than that number of users, (b) a user's password may not be shared with any other individual, and (c) a user identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the SAAS. If Customer exceeds a contractual usage

limit, Empirix may work with Customer to seek to reduce Customer's usage so that it conforms to that limit. If, notwithstanding Empirix's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Customer will execute an Order for additional quantities of the applicable SAASs promptly upon Empirix's request, and/or pay any invoice for excess usage in accordance with Section 3 hereof.

5.4   Customer will (a) be responsible for users' compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Customer data and the means by which Customer acquired Customer data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of SAAS, and notify Empirix promptly of any such unauthorized access or use, and (d) use the SAAS only in accordance with the SAAS Documentation and applicable laws and government regulations.

5.5   In addition to the restrictions set forth in Section 6 hereof, Customer will not (a) interfere with or disrupt the integrity or performance of any SAAS or third-party data contained therein, (b) attempt to gain unauthorized access to the SAAS or its related systems or networks, (c) permit direct or indirect access to or use of any SAAS in a way that circumvents a contractual usage, (d) copy the SAAS or any part, feature, function or user interface thereof, (e) frame or mirror any part of the SAAS, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, and (f) access the SAAS in order to build a competitive product or SAAS.

5.6   Customer grants Empirix and its hosting providers a worldwide, limited-term license to host, copy, transmit and display Customer data as necessary for Empirix to provide the SAAS in accordance with this Agreement. Subject to the limited licenses granted herein, Empirix acquires no right, title or interest from Customer or its licensors under this Agreement in or to any Customer data.

6   RESTRICTIONS ON USE

6.1   Except as expressly set forth in an Order, the Product is solely for use by Customer to test and/or monitor its own voice and/or web applications and infrastructure. Customer may not use a Product for the primary benefit of any third party, including without limitation, using the Product to provide voice and/or web application or infrastructure testing or monitoring services for others, whether or not the application or infrastructure being tested or monitored is installed or operated by the Customer. Customer may not use the Product in a service bureau or time-sharing arrangement. Customer may not sublicense, distribute, rent, lease or transfer the Product to any third party. Customer may permit third party integrators and consultants to support Customer's installation or implementation of the Product, provided that Customer shall be responsible for ensuring compliance with these terms by all such third parties. The Product is not for resale or redistribution, except pursuant to an Empirix resale agreement.

6.2   Customer agrees that it will not alter, modify, vary, or create derivative works based on the whole or any part of the Software or SAAS in any way whatsoever, nor permit any third party to alter, modify, vary, or create derivative works based on the whole or any part of the Software or SAAS; and Customer shall not make or permit to be made any translation, alteration, adaptation, enhancement, modification, update or addition to, nor decompile, reverse engineer or disassemble the Software or SAAS without the prior written consent of Empirix.

6.3   When Software is licensed as a part of, in conjunction with, or intended to be used with Hardware, Customer may only use the Software with the Hardware. The Software may include license management components designed to administer usage rights and restrictions. Customer agrees not to circumvent or attempt to circumvent such technical means for the purpose of enabling usage rights above those purchased by Customer. The nature of the license rights (enterprise-wide, node-locked to a single computer, floating, etc.) procured is noted in the applicable Quote. Unless otherwise stated in a Quote, Customer may only deploy a single instance of the Software at a single location. Any increase in use of the Software in excess of applicable restrictions may subject Customer to payment of additional fees.

6.4   Empirix and its licensors shall have the right, on reasonable notice, during normal business hours, to audit Customer's use of the Software and SAAS to confirm Customer's compliance with the terms of this Agreement and any applicable license restrictions. To the extent such audit indicates that Customer's use of the Software and SAAS exceeds the rights granted to Customer, then Customer shall pay Empirix the applicable additional fees within thirty (30) days of the date of invoice. The cost of the audit shall be borne by Empirix unless the audit reveals underpayment by Customer of more than ten percent (10%), in which case the cost shall be borne by Customer.

7   TECHNICAL SUPPORT

Empirix's policy and terms governing the provision of Technical Support is described at www.empirix.com/support/maintenance/, under the heading "Package Details" ("**Technical Support**"). Empirix will, subject to the payment of the corresponding Technical Support fee, provide Technical Support for all Software and Hardware for a period of twelve (12) months beginning on the date of delivery of a Product (the "**Initial Support Period**"). Unless canceled in writing by either party at least thirty (30) days prior to expiration of the Initial Support Period, Technical Support shall automatically and continue to renew for additional twelve (12) month terms (each, a "**Renewal Service Term**") until canceled in writing by either party at least thirty (30) days prior to expiration of the applicable Renewal Service Term. Technical Support fees shall not increase during the Initial Support Period or any Renewal Service Term. Notwithstanding the forgoing, Technical Support fees may be increased for any subsequent Renewal Service Term provided Empirix discloses such increase prior to renewal. All Technical Support fees are invoiced annually in advance. The Initial Support Period and each Renewal Service Term, once commenced, are non-cancelable, and Technical Support fees are non-refundable. Technical Support for SAAS is provided at no additional charge.

8   WARRANTIES

8.1   Customer acknowledges that Software is not error-free. Empirix warrants however that, for a period of ninety (90) days following delivery (the "**Software Warranty Period**"), the Software, when installed and used in accordance with the Software Documentation, will operate and perform in all material respects in accordance with the Software Documentation ("**Conform**"). A minor discrepancy between the actual operation or performance of the Software and as described in the Software Documentation shall not be considered a failure to Conform. Customer's exclusive remedy and Empirix's sole liability under this warranty shall be for (a) Empirix to attempt, through reasonable efforts, to correct any failure of the Software to Conform, if such failure is reported to Empirix within the Software Warranty Period and Customer, at Empirix's request, provides Empirix with sufficient information (which may include access to Customer's computer system for use of Customer's copy of the Software by Empirix or its designated personnel) to reproduce the defect in question, and (b) if Empirix is unable to remedy the failure within a reasonable number of attempts, to refund the license fees paid by Customer for the Software, and the fees paid for the associated Hardware, if applicable, after Customer has returned the Software, and Hardware, if applicable.

8.2   Customer acknowledges that SAAS is not error-free. Empirix warrants however that the SAAS, when used in accordance with the SAAS Documentation, will operate and perform in all material respects in accordance with the SAAS Documentation. A minor discrepancy between the actual operation or performance of the SAAS and as described in the SAAS Documentation shall not be considered a breach of the foregoing warranty. Customer's exclusive remedy and Empirix's sole liability under this warranty shall be for (a) Empirix to attempt, through reasonable efforts, to correct any warranty breach, if Customer, at Empirix's request, provides Empirix with sufficient information (which may include access to Customer's computer system for use of the SAAS by Empirix or its designated personnel) to reproduce the defect in question, and (b) if Empirix is unable to remedy the failure within a reasonable number of attempts, to refund the portion of the pre-paid fees paid by Customer for the unused subscription period for the SAAS.

8.3   Empirix warrants that, for a period of one (1) year following delivery (the "**Hardware Warranty Period**"), the Hardware shall be in good working order and will operate and perform in all material respects to the relevant Hardware specifications. Customer's exclusive remedy and Empirix's sole liability under this warranty shall be for Empirix to provide during the Hardware Warranty Period, at no additional charge to Customer, the parts and labor necessary to restore the Hardware to good working order. Customer shall notify Empirix of the failure of any of the Hardware to perform in accordance with the applicable specifications, and thereafter, pursuant to Empirix's direction, arrange for the delivery of the damaged Hardware to Empirix or its designee for repair or replacement.

8.4   Customer acknowledges and agrees that the Hardware is intended for use solely with the Software and with other programs that are approved for installation by Empirix, and therefore the warranties in Sections 8.1 and 8.3 above shall become void and of no further force and effect if: (a) any software or program other than the Software is installed on the Hardware unless such program is approved for such installation by Empirix or reasonably contemplated by the Software Documentation or Hardware specifications, or (b) Customer integrates the Hardware or Software with any third party products other than those certified as compatible by Empirix or reasonably contemplated by the Software Documentation or Hardware specifications.

8.5   Customer acknowledges that certain third-party software (including but not limited to the operating system and anti-virus software that ships with certain Hardware) and third-party hardware products (together, "**Third-Party Products**") are provided by Empirix as a "pass through" to Customer, and such Third Party Products are covered by a warranty offered by the third party hardware or software vendor, not Empirix. Customer acknowledges and agrees that Empirix makes no warranty of any kind with respect to such Third-Party Products, and agrees to look solely to the applicable vendor for warranty support for such Third-Party Products.

8.6   The Products are not fault-tolerant and are not designed, manufactured or intended for use for testing of on-line control equipment in hazardous environments requiring fail-safe performance, such as the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Products could lead directly to death, personnel injury or severe physical or environmental damage ("**High Risk Activities**"). Accordingly, Empirix and its suppliers specifically disclaim any express or implied warranty of fitness for High Risk Activities and no license or right is granted to use the Products for such activities.

9   PERFORMANCE OF SERVICES

Empirix warrants that all Services shall be performed in a competent and professional manner. The parties agree that, unless otherwise stated in an SOW or an Order, all Services shall be completed by Empirix within six (6) months of the date of the Order. Any Services not so completed or delivered by such date (other than due to Empirix delay) shall be considered rendered and payment therefore due when invoiced. Any prepayments for such Services shall be nonrefundable. For Services offered pursuant to a monthly or annual subscription, the parties agree that any such subscription must commence within six (6) months of the date of the applicable Order, and that such Services shall be deemed commenced by such date in the absence of agreement between the parties to the contrary. Customer is responsible for all reasonable travel and expenses incurred while delivering services. Empirix may, in its discretion, utilize subcontractors for any service offering provided that Empirix shall be responsible for the conduct and actions of its subcontractors.

10   OWNERSHIP

10.1   Except for the license rights granted hereunder, all right, title and interest in and to the Software, SAAS, Software Documentation and SAAS Documentation (as well as all test scripts and other similar items delivered by Empirix to Customer) shall be retained by Empirix and its suppliers.

10.2   Subject to Empirix's reserved rights in the Empirix Property (as described below), all deliverables arising out of Services shall belong to Empirix however Customer shall receive a perpetual license to use such deliverables upon full payment. In performing the Services,

including developing the deliverables, Empirix may utilize its own proprietary software programs, program code, information or trade secrets ("**Empirix Property**"). Empirix shall retain all ownership rights in and to the Empirix Property. Empirix shall retain the unlimited right to use and to sublicense to others the ideas, concepts, techniques or other expertise which it developed or employed in providing the Services or creating the deliverables, in any products and for any purposes (including providing services and developing deliverables for other customers) whatsoever, so long as in doing so Empirix does not disclose any Customer Confidential Information.

11 INDEMNITY

11.1   Empirix, at its own expense, shall indemnify the Customer and its officers, agents and employees from and against any action brought against Customer to the extent that such action is solely based on a claim that the unmodified Software or SAAS, when used in accordance with this Agreement, infringes any copyright, trade secret rights or U.S. patent rights of any third party ("Infringement") and Empirix shall pay all costs, settlements and damages finally awarded, provided: (a) Empirix shall have sole control of the defense and/or settlement of such claim or suit; (b) the Customer will notify Empirix promptly in writing of each such claim or suit and shall give Empirix all information known to the Customer relating thereto; and (c) the Customer will cooperate with any reasonable request of Empirix in the settlement or defense of any such claim or suit. The Customer shall be reimbursed for all reasonable expenses incurred in providing any cooperation requested by Empirix.

11.2   If all or any part of the Software or SAAS is, or in the opinion of Empirix may become, the subject of any claim or suit for Infringement, or in the event of any adjudication that the Software or SAAS or any part thereof does infringe, or if the use of the Software or SAAS or any part thereof is enjoined, Empirix may, at its expense and discretion do one or more of the following things: (a) procure for the Customer the right to use the Software or SAAS or the affected part of the Software or SAAS; (b) replace the Software or SAAS or the affected part of the Software or SAAS with other software providing substantially similar functionality; (c) modify the Software or SAAS or the affected part of the Software or SAAS to make it non-infringing; or (d) if none of the foregoing remedies are, in the sole discretion of Empirix, commercially feasible, (i) in the case of the Software, refund the aggregate payments paid by the Customer for the Software or the affected part of the Software less a reasonable amount for the prior use thereof by Customer (based on a five (5) year straight line life) and terminate Customer's license to the Software, or (ii) in the case of the SAAS, refund the portion of the pre-paid fees paid by Customer for the unused subscription period for the SAAS and terminate Customer's right to use the SAAS.

11.3   Empirix shall have no obligations under this Section to the extent that a claim is based upon: (a) the use of any prior version of the Software if such infringement would have been avoided by the use of the then-current version, which version has been provided by Empirix to Customer; (b) the combination, operation or use of the Software or SAAS with software or data that was not provided by Empirix, if such infringement would have been avoided in the absence of such combination, operation or use; or (c) the use of the Software or SAAS on or in connection with a computer system other than as specified in the Software Documentation.

11.4   This Section states the entire liability of Empirix and the exclusive remedy of the Customer with respect to any alleged infringement of any third-party rights.

12 LIMITATIONS OF WARRANTIES AND LIABILITY

12.1   EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NO WARRANTY, WHETHER EXPRESS OR IMPLIED, IS MADE WITH RESPECT TO THE SOFTWARE, SAAS, HARDWARE, SOFTWARE DOCUMENTATION, SAAS DOCUMENTATION OR SERVICES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.

12.2 EXCEPT FOR MISAPPOPRIATION BY CUSTOMER OF ANY OF EMPIRIX'S INTELLECTUAL PROPERTY RIGHTS OR 14 *CONFIDENTIALITY* (IN ALL CASES, FOR WHICH NO LIMIT APPLIES),

   (I.) WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, NEITHER EMPIRIX NOR CUSTOMER, NOR ANY OF THEIR RESPECTIVE PARENTS, SUBSIDIARIES OR LICENSORS, SHALL BE LIABLE FOR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE, LOSS OF PROFITS, LOSS OF BUSINESS OR GOODWILL, HOWEVER CAUSED, OR OTHERWISE BE LIABLE IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY AND WHETHER SUCH LOSS ARISES OUT OF OR IN CONNECTION WITH THE USE OF THE SOFTWARE, SAAS, HARDWARE, SERVICES OR OTHERWISE UNDER THIS AGREEMENT; AND

   (II.) THE MAXIMUM LIABILITY OF EMPIRIX AND CUSTOMER FOR CLAIMS ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT SHALL BE THE FEES PAID TO EMPIRIX FOR THE SOFTWARE, SAAS, HARDWARE OR SERVICES GIVING RISE TO THE CLAIM.

13 TERM AND TERMINATION

13.1 Unless earlier terminated as set forth herein, this Agreement shall have an initial term of one (1) year, beginning on the Effective Date and shall thereafter continue indefinitely until terminated by either party upon ninety (90) days prior written notice to the other.

13.2 Either Empirix or Customer may terminate this Agreement and/or any specific Order or SOW upon the other party's material breach of this Agreement, such SOW or Order, provided that (a) the non-breaching party shall first have sent written notice to the breaching party describing the breach in reasonable detail and demanding that it be cured, and (b) the breaching party does not cure the breach within thirty (30) days following its receipt of such notice.

13.3 On termination due to Customer's breach, all rights and licenses granted to the Customer under the specific Order or SOW shall terminate, the Customer shall cease to use such Software (and Hardware, if applicable) and SAAS, shall return the applicable Software Documentation and SAAS Documentation (whether or not modified or merged into other materials) to Empirix and shall certify in writing to Empirix that all copies (in any form or media) of the same have been destroyed or returned to Empirix.

13.4 Termination by Empirix shall not relieve the Customer from making payments for Software, SAAS, Hardware or Services delivered prior to termination and shall not prevent either party from pursuing any other available remedies. The provisions of Sections 4, 6, and 8 (but only for licenses that have not been terminated and further with respect to Section 8, so long as the relevant warranty period has not expired), 10 through 12, 13.4, 14, and 18 shall survive termination or expiration of this Agreement.

14 CONFIDENTIALITY

14.1 Each party may have access to information that is confidential to the other party ("Confidential Information"). Confidential Information shall include all written or oral information that is (i) clearly identified in writing at the time of disclosure as confidential, or (ii) that a reasonable person at the time of disclosure reasonably would assume, under the circumstances, to be Confidential Information. Confidential Information may include, without limitation, software programs, technical data, methodologies, know-how, processes, designs, new products, marketing plans, and customer or prospect names and/or information. Confidential Information also includes all information received from third parties that either party is obligated to treat as confidential. The Software, SAAS, Software Documentation and SAAS Documentation, this

Agreement, and Empirix's price lists, shall at all times be considered Confidential Information of Empirix whether or not identified as such orally or in writing.

14.2   A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, nothing in this Section will be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required by law or valid order of a court or other governmental authority; *provided, however,* that the responding party shall first have given notice to the other party and the responding party shall have made a reasonable effort (at the other party's cost and expense) to restrict the scope of disclosure to the greatest extent reasonably possible and to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purposes for which the order was issued.

14.3   The parties agree, unless required by law, not to make each other's Confidential Information available in any form to any third party or to use each other's Confidential Information for any purpose other than in the performance of this Agreement. Each party agrees to take all reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of this Agreement. The parties agree to hold each other's Confidential Information in confidence during the term of this Agreement and for a period of three (3) years thereafter.

14.4   Each party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this Section and that such breach would cause irreparable harm to the non-breaching party; therefore, the non-breaching party shall be entitled to seek immediate injunctive relief, in addition to whatever remedies it might have at law or under this Agreement.

14.5   Unless otherwise expressly agreed in writing by Empirix, Customer shall not provide Empirix access to any personally identifiable information, whether of Customer or its customers. All data provided to Empirix is presumed to be non-production data.

14.6   Customer grants permission to Empirix, the right to use the Customer's logo(s), trade names and other trademarks for publicity and advertising purposes. Such use may include the incorporation of the foregoing in Empirix's marketing and communication materials, as well as inclusion on Empirix's website. Empirix acknowledges the Customer's right, title and interest in and to Customer's logo(s), trade names and other trademarks, and any copyright registration that has been issued thereon, and will not at any time do or cause to be done any act or thing contesting any such right, title or interest.

15   NOTICES

All notices shall be in writing and given by personal delivery, certified mail, return receipt requested, or by commercial overnight courier for next business day delivery, to the addresses and to the persons listed above on the signature page. Notice shall be deemed given three (3) business day after mailing in country and ten (10) business days after mailing internationally, or the next business day after delivery to such overnight courier (unless the return receipt or the courier's records evidence a later delivery).

16   EXPORT CONTROLS

16.1   No Software, SAAS or underlying information or technology may be downloaded or otherwise exported or re-exported (i) into (or to a national or resident of) Cuba, Sudan, North Korea, Iran, Syria or any other country to which the U.S. has embargoed goods; or (ii) to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce

Department's Table of Denial Orders. Customer represents and warrants that it is not located in, under the control of, or a national or resident of any such country or on any such list.

16.2   In addition, if the licensed Software or SAAS is identified as a not-for-export product, then, unless Customer has an exemption from the United States Department of State, the following applies: EXCEPT FOR EXPORT TO CANADA FOR USE IN CANADA BY CANADIAN CITIZENS, THE SOFTWARE, SAAS AND ANY UNDERLYING TECHNOLOGY MAY NOT BE EXPORTED OUTSIDE THE UNITED STATES OR TO ANY FOREIGN ENTITY OR "FOREIGN PERSON" AS DEFINED BY U.S. GOVERNMENT REGULATIONS, INCLUDING WITHOUT LIMITATION, ANYONE WHO IS NOT A CITIZEN, NATIONAL OR LAWFUL PERMANENT RESIDENT OF THE UNITED STATES. BY DOWNLOADING OR USING THE SOFTWARE OR SAAS, YOU ARE AGREEING TO THE FOREGOING AND YOU ARE WARRANTING THAT YOU ARE NOT A "FOREIGN PERSON" OR UNDER THE CONTROL OF A "FOREIGN PERSON."

17 U.S. GOVERNMENT END USERS

The Software, SAAS and associated documentation are "commercial computer software" and "commercial computer software documentation," and, as such, the rights of U.S. Government End Users with respect to the Software, SAAS and documentation are as set forth in this Agreement, in accordance with FAR 12.212 or DFARS 227.7202-1, as applicable.

18 MISCELLANEOUS

18.1   This Agreement shall be governed by and construed in accordance with law of the Commonwealth of Massachusetts without regard to conflicts of laws' provisions thereof and without regard to the United Nations Convention on Contracts for the International Sale of Goods. The parties' consent to the exclusive jurisdiction and venue for actions related to the subject matter hereof in the state and federal courts located in Boston, Suffolk County, Massachusetts. The parties agree that process may be served in the manner provided herein for giving of notices or otherwise as allowed by Massachusetts law.

18.2   If any provision of this Agreement is held to be invalid or unenforceable, the parties shall substitute for the affected provision a valid or enforceable provision that approximates the intent and economic effect of the affected provision. The failure or delay by any party to enforce any terms of this Agreement shall not be deemed a waiver of such term.

18.3   This Agreement shall not be assigned by either party without the advance written consent of the other, provided that Empirix may assign this Agreement to a successor to all or a substantial portion of its business. This Agreement shall be binding upon and inure to the benefit of the parties, their successors and permitted assigns. In addition to those provisions that specifically provide for survival beyond expiration or termination, all provisions, if any, regarding payment, liability and limits thereon, and confidentiality and/or protection of proprietary rights and trade secrets shall survive indefinitely or until the expiration of any time period specified elsewhere in this Agreement with respect to the provision in question.

18.4   Customer is responsible for payment of all shipping, taxes, tariffs, customs duties, or any other charges resulting from or imposed upon this Agreement, except taxes based on Empirix's net income.

18.5   For Non-US Customers: Customer agrees that each payment under this Agreement shall be free of all withholdings or deductions of taxes imposed by any jurisdiction of any nature whatsoever, and if any such withholding or deduction is required, Customer shall pay an additional amount such that, after the deduction of all amounts required to be withheld or deducted, the net amount of Product and Service fees or such other payment actually received by Empirix will equal (on an after-tax basis) the amount of Product and Service fees or any such other amount that would be due absent of such withholding. Empirix agrees to provide as soon as possible all necessary documentation according to applicable legislation, in order to ensure that any withholding tax will be avoided or sufficiently lowered in accordance with foreign tax treaties.

18.6   To the extent caused by fire, flood, natural disasters, acts of war or terror, electrical power or telecommunications service delay, outages or disruption, governmental action or other force majeure, no delay, failure or default in performance of any obligation by either party, excepting all obligations to make payments under this Agreement, shall constitute a breach of this Agreement.

18.7   Customer agrees Empirix may use Customer's name and logo and identify Customer as a user of Empirix Products and Services in Empirix advertising, promotion and similar public disclosures, including, but not limited to, press releases.

18.8   This Agreement, together with all Schedules, Exhibits, and any Order and/or SOW issued hereunder and documents referred to herein, constitutes the entire agreement between the parties and supersede all previous or simultaneous communications, representations, or agreements regarding the subject matter of the same, including any "click through" license contained in the Software or SAAS. To the extent that any prior agreement(s) exist between Empirix and Customer for Software, SAAS, Hardware or Services, this Agreement shall supersede and replace any such agreements.

18.9   This Agreement may be modified only in a writing signed by both parties.

18.10   This Agreement may be signed in multiple counterparts, together the counterparts shall constitute a single instrument. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., .pdf or similar format) shall be considered true and valid signatures for all purposes hereunder and shall bind the parties to the same extent as that of an original signature.

--SIGNATURE PAGE FOLLOWS--

EMPIRIX, AN INFOVISTA COMPANY   CUSTOMER

Signed   Signed

_____   _____

Name   Name

_____   _____

Title   Title

_____   _____

Date: Date:

_____   _____

Notice Address:
                                                    Notice
                                                    Address: _____
600 Technology Park Drive, Suite 100
                                                    _____
Billerica, MA 01821 USA
                                                    _____
C/O: Legal

                                                    Facsimile:

                                                    _____

<div align="center">

SCHEDULE 1

TECHNICAL SUPPORT SERVICES PRICING

</div>

Base Service Offering ror Empirix Technical Support:

1. Standard telephone, email and web portal support service offering from 8:00 a.m. to 8:00 p.m. EST, and for EMEA 8:00 a.m. to 6:00 p.m. GMT

2. Bug Fixes

3. Software and SAAS Updates – minor releases

4. Software and SAAS Upgrades – major releases

5. Depot basis service for Hardware

   • Return to the factory for repair or replacement

   • Spare kits sold separately

6. Full details at **www.empirix.com/support/maintenance/**

Add-on Service Options for Empirix Technical Support:

24x7 support for Empirix Contact Center

Pricing:

Standard Maintenance	One year of standard level support as defined in the Technical Support and Maintenance terms	20% of product net price
24 x 7 Maintenance	One year of 24x7 level support as defined in the Technical Support and Maintenance terms	25% of product net price
Standard Maintenance and Advanced Replacement	One year of standard level support and advanced replacement program as defined in the Technical Support and Maintenance terms	25% of product net price
24x7 Maintenance and Advanced Replacement	One year of 24x7 level support and advanced replacement program as defined in the Technical Support and Maintenance terms	26% of product net price
Premium Maintenance	One year of premium level support and advanced replacement program as defined in Technical Support and Maintenance terms	30% of product net price

*Base Service Offering and Add-On Premium Service options do not include Third Party Products, which service is provided on a pass-through basis only.