VIRTUALITICS, INC.
VIRTUALITICS PRODUCT AGREEMENT

This Virtualitics Product Agreement ("**Agreement**") is entered into as of the date set forth in the Purchase Order(the "Effective Date") by and between Virtualitics, Inc., a Delaware corporation with offices at 225 South Lake Ave, Suite 120, Pasadena, California 91101 ("**Virtualitics**"), the Ordering Activity under GSA Schedule contracts identified in the Purchase Order . ***This Agreement contains proprietary and confidential information of Virtualitics, Inc. and is exempt from disclosure under the Freedom of Information Act.***

1.   Definitions

   1.1   "CoE IP Contributions" means any materials created or developed by the Virtualitics Center of Excellence, including any materials developed for Customer and/or jointly with Customer, including algorithms, models, data, metadata, workflow applications and outputs.

   1.2   "Customer Data" means any information or data collected and/or stored by Virtualitics consisting of content, data, and other information supplied or input by Customer.

   1.3   "Customer IP Materials" means (i) Customer's pre-existing workflow applications, algorithms, models, metadata and outputs; and (ii) Customer Data.

   1.4   "Documentation" means the documentation for the Virtualitics Products that is provided by Virtualitics to Customer.

   1.5   "Fees" means the fees payable by Customer for use of the Virtualitics Products as described in the applicable Order Form.

   1.6   "Intellectual Property Rights" means all worldwide trade secret rights, patents and patent applications, trademark rights (registered or unregistered, including any goodwill acquired in such trademarks), service mark rights, rights in trade names, copyrights (whether registered or unregistered), moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (patentable or not) and all other intellectual property and proprietary rights (registered or unregistered, and any application or rights to enforce the foregoing), and all other similar rights as they may exist anywhere in the world.

   1.7   "Virtualitics AI Platform" means the executable object code form of the Virtualitics software products described in the applicable Order Form, including any Updates thereto which are provided by Virtualitics to Customer, and any Workflow Applications selected on the applicable Order Form.

   1.8   "Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

1.9 "Registered Users" means individuals authorized by Customer and with log-in rights to access and use the Virtualitics Products in accordance with the terms of this Agreement.

1.10 "Virtualitics Center of Excellence" means the Center of Excellence, if any specified in an Order Form, that Virtualitics and Customer establish to support Customer's design, development

and testing of Virtualitics AI Platform and Workflow Applications, as further specified in such Order Form. If not specified in an Order Form, none of the terms related to the Virtualitics Center of Excellence set forth in this Agreement shall apply.

1.11 "Virtualitics IP Materials" means: (i) the Virtualitics AI Platform and any Virtualitics' workflow application; (ii) CoE IP Contributions; and (iii) any and all derivative works, modifications, enhancements and adaptations to the Virtualitics AI Platform and Virtualitics' workflow applications utilizing or integrating the CoE IP Contributions, including any developed algorithms, models, data, metadata and outputs.

1.12 "Virtualitics Products" means individually and collectively, Virtualitics AI Platform, Workflow Applications, or Virtualitics Center of Excellence that Customer orders pursuant to an Order Form, but excludes any Customer Data or Customer IP Materials (if any).

1.13 Virtualitics Runtime" means vCPU and vGPU usage in development, quality assurance, and production (dev, QA, and prod) environments by Virtualitics AI Platform, Virtualitics Workflow Application(s), and/or Customer Application(s) and does not include Hosting Services.

1.14 "Workflow Application" means the executable object code form of the Virtualitics application products which may be provided as part of the Virtualitics AI Platform, if selected on the applicable Order Form.

2. Virtualitics AI Platform. If Customer orders access to the Virtualitics AI Platform pursuant to an Order Form or Customer Agreement, Customer's use of the Virtualitics AI Platform will be subject to the terms and conditions in Appendix A (Virtualitics Software Enterprise License Agreement).

3. Customer's Obligations.

3.1 Personnel and Equipment. Customer is responsible for providing qualified personnel to assist in the installation and operation of the Virtualitics Products, and to assure that such personnel are familiar with the use, operation, maintenance and support of the Virtualitics Products. The Parties agree that it is Customer's responsibility to ensure that there is a proper network and environment for the Virtualitics Products. Virtualitics has no responsibility or liability for any failure, nonconformity or defect which is caused by or related to any failure to maintain an appropriate network or software or hardware not approved by
Virtualitics.

3.2 General. Customer will (i) be responsible for Registered Users' compliance with this Agreement, and Order Forms, (ii) be responsible for the accuracy, quality and legality of

Customer Data and the means by which Customer acquired Customer Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Virtualitics Products, and notify Virtualitics promptly of any such unauthorized access or use, (iv) use the Virtualitics Products only in accordance with this Agreement and applicable laws and government regulations, (v) comply with terms of service of any third party offering with which Customer uses the Virtualitics Products, and (vi) ensure that any third party Registered Users of the Virtualitics Products are bound by an approved software license agreement. Customer will not, nor permit third parties to: (a) make the Virtualitics Products available to, or use for the benefit of, anyone other than Customer, unless expressly stated otherwise in this Agreement, (b) sell, resell, license, sublicense, distribute, make available, rent or lease

the Virtualitics Products in a service bureau or outsourcing offering, (c) use the Virtualitics Products to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Virtualitics Products to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Virtualitics Products or any third-party data contained therein, (f) attempt to gain unauthorized access to Virtualitics or its related systems or networks, (g) permit direct or indirect access to or use of any the Virtualitics Products in a way that circumvents Customer obligations in this Agreement, or use any of the Virtualitics Products to access or use any Virtualitics's Intellectual Property Rights except as permitted under this Agreement, (h) copy the Virtualitics Products or any part, feature, function or user interface thereof, (i) frame or mirror any part of the Virtualitics Products, other than framing on Customer's own intranets or otherwise for Customer's own internal business purposes or as permitted in this Agreement, (j) access, use or copy the Virtualitics Products in order to build a competitive product or service or to benchmark with any third party product or service, (k) reverse engineer the Virtualitics Products (to the extent such restriction is permitted by law), or (1) alter, modify or create derivative works of any Virtualitics Products to develop or provision their own software or applications.

3.3   License to Use Feedback. Customer grants to Virtualitics a non-exclusive, worldwide, perpetual, irrevocable, sub-licensable, royalty-free license, without restriction, to use in any manner and incorporate into Virtualitics's products or services, any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Registered Users concerning Virtualitics current or future products or services ("Feedback").

3.4   Compliance With Laws. Customer represents and warrants that on behalf of itself and its Registered Users that neither will engage, and all such parties will use commercially reasonable efforts to avoid engaging, in any activity which violates any applicable law or regulation in connection with their use of the Virtualitics Products. Customer acknowledges that it is solely responsible for ensuring that the manner in which Customer transmits and receives information complies with all applicable laws and regulations.

3.5   Results of Use. CUSTOMER ACKNOWLEDGES THAT VIRTUALITICS MAKES NO REPRESENTATION OR WARRANTY REGARDING THE ACCURACY OR FITNESS FOR ANY PARTICULAR PURPOSE OF PROJECTIONS OR OTHER INFORMATION CONTAINED IN, OR

GENERATED USING, THE VIRTUALITICS PRODUCTS. VIRTUALITICS WILL HAVE NO LIABILITY OR RESPONSIBILITY IN CONNECTION WITH ANY BUSINESS DECISION OR OTHER ACTION UNDERTAKEN BY CUSTOMER IN CONNECTION WITH THEIR USE THE VIRTUALITICS PRODUCTS, AND CUSTOMER WILL UNDERTAKE ANY SUCH BUSINESS DECISIONS OR ACTIONS AT THEIR SOLE RISK.

4.   Fees, Taxes

   4.1   Fees. Customer will pay Virtualitics the Fees described in the Order Form or Customer Agreement in the manner and time as set forth on the Order Form or Customer Agreement. All applicable Fees are expressed in U.S. dollars.

   4.2   Late Payment. Any Fee amounts not paid when due will accrue interest at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid. In the event of any good faith dispute with regard to a portion of a payment, the undisputed portion will be paid as provided herein.

5.   Publicity.

Virtualitics and Customer agree and acknowledge that neither Party may use any of the other Party's names, trademarks or logos except as expressly set forth in this Agreement or as permitted in writing by the other Party; except that Virtualitics may list Customer as a customer on Virtualitics' website and marketing material to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71.

6.   Virtualitics Center of Excellence.

   6.1   Scope of Virtualitics Center of Excellence. As requested by Customer from time to time, Virtualitics will provide the following capabilities through its Virtualitics Center of Excellence: (a) customization, (b) training, (c) deployment; and (d) other capabilities as reasonably requested by Customer and which Virtualitics can provide using its existing resources.

   6.2   Hours. Customer may use up to the number of hours outlined on the Order Form in requesting certain capabilities be provided by the Virtualitics Center of Excellence ("Maximum Hours"). Virtualitics will not be obligated to provide the capabilities of the Virtualitics Center of Excellence beyond the Maximum Hours. If Customer does not use all of the Maximum Hours, Customer will not be entitled to receive a refund on any unused hours. Virtualitics will notify Customer when it is within 100 hours of utilizing all of its Maximum Hours.

   6.3   Subscription to the Virtualitics Center of Excellence and CoE IP Contributions. Subject to all the terms and conditions of this Agreement and the relevant Order Form and payment of the Fees set forth in the applicable Order Form, Virtualitics grants to Customer a limited, nontransferable, non-sublicensable, non-exclusive, worldwide right to: (i) access the

Virtualitics Center of Excellence and (ii) use the CoE IP Contributions for the duration of the Term. Such subscription right shall automatically terminate at the termination or expiration of the Agreement.

6.4   Personnel. Virtualitics may use a mix of personnel in providing the Virtualitics Center of Excellence. Virtualitics will determine, in its sole discretion, what experience level and job title the personnel will have when providing the specific capabilities to Customer. Virtualitics' personnel may from time to time provide the capabilities through remote work within the United States or at Virtualitics' main office located in Pasadena, CA. Virtualitics will be responsible for the performance of its personnel (including Virtualitics' employees and contractors) and their compliance with Virtualitics obligations under this Agreement.

7.   **Virtualitics Runtime Fees.**

7.1   Monthly fees for Virtualitics Runtime are calculated by multiplying Customer's Virtualitics Runtime during the month by the applicable Virtualitics Runtime rates.

7.2   Customer will incur and be invoiced as incurred monthly in arrears for Virtualitics Runtime at the standard Virtualitics Runtime rates: Standard Virtualitics Runtime rates: $0.20 per vCPU or vGPU per hour, in accordance with the rate listed in the GSA Schedule Pricelist, whichever rate is lower .

8.   Intellectual Property and Proprietary Rights

8.1   Notices. Customer will not remove, alter or otherwise obscure any proprietary rights notices appearing in or on the Virtualitics Products or Documentation, including any proprietary rights notices relating either to Virtualitics or any third party.

8.2   Virtualitics IP Materials. Subject only to Customer's rights pursuant to the license granted in Section 6.3 and in Appendix A and as between the Parties, Virtualitics will have sole ownership of all right, title and interest in and to the Virtualitics IP Materials, all modifications, enhancements, new releases and derivative works thereto, whether created, conceived, developed or reduced to practice by Virtualitics, Customer or any other party, and all copies thereof (including ownership of all Intellectual Property Rights embodied in or related to the foregoing), and Customer hereby assigns to Virtualitics all of its rights, title and interest in and to the foregoing. This Agreement does not provide Customer with title or ownership of the Virtualitics IP Materials or exclusive rights of any kind, but only a right of limited use. Customer must keep the Virtualitics IP Materials free and clear of all claims, liens and encumbrances. Customer will not claim or assert title to any portion of the Virtualitics IP Materials or attempt to transfer any title to the Virtualitics IP Materials to any third parties.

8.3   Customer IP Materials. Customer retains all right, title and interest in and to the Customer IP Materials, other than the limited rights expressly granted herein. Customer hereby grants to Virtualitics a non-exclusive right and license to the Customer IP Materials for purposes of performance of this Agreement.

9. Representations and Warranties

9.1 Authority. Each Party represents and warrants to the other Party that it has all necessary rights, power and authority to enter into this Agreement, and to grant the rights granted and to undertake the obligations accepted by such Party under this Agreement.

9.2 Virtualitics Warranty. Virtualitics warrants that the capabilities of the Virtualitics Center of Excellence will be performed in a professional and workmanlike manner in conformance with generally accepted industry standards. Virtualitics does not warrant that Virtualitics Center of Excellence, or any use of the CoE IP Contributions, will meet the requirements of Customer, or that the operation of the CoE IP Contributions will be uninterrupted or error free.

9.3 DISCLAIMER. THE WARRANTIES SET FORTH IN SECTIONS 9.1 AND 9.2 AND IN APPENDIX A ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, AND EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTIONS 9.1 AND 9.2 AND APPENDIX A, VIRTUALITICS MAKES NO ADDITIONAL REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 9, THE VIRTUALITICS AI PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". VIRTUALITICS HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

10. Indemnification

10.1 By Virtualitics. Virtualitics shall, at its own expense, indemnify and hold Customer, and its officers, directors, employees ("Customer Affiliates") harmless and defend any suit or proceeding that is instituted against Customer Affiliates, to the extent such suit or proceeding alleges that the Virtualitics Products or Documentation licensed pursuant to this Agreement infringes any Intellectual Property Rights of a third party; provided that Customer and Customer Affiliates (i) give Virtualitics reasonably timely notice in writing of any such suit, proceeding or threat thereof, (ii) permit Virtualitics control, through counsel of Virtualitics' choice, to defend and/or settle such suit, and (iii) give Virtualitics all the needed information, assistance and authority (to the extent that Customer and Customer Affiliates are reasonably capable of doing so), at Virtualitics' expense, to enable Virtualitics to defend or settle such suit. The above provisions shall not apply to, and Virtualitics shall have no liability or obligation for, any claim of infringement arising from (a) any modification, servicing or addition made to the Virtualitics Products or Documentation by anyone other than Virtualitics, (b) the use of such Virtualitics Products and Documentation as a part of or in combination with any devices, parts or software not provided or approved by Virtualitics, (c) Virtualitics' compliance with Customer's design requirements or specifications, if any, (d) the use of other than the then-current, unaltered release of the Virtualitics AI Platform and Documentation available from Virtualitics or, (e) the use of the Virtualitics Products or Documentation to practice any method or process that does not occur wholly within the Virtualitics Products, to the extent that such claim of infringement would not have arisen but for the use or action set forth herein where such use or action was undertaken by Customer, Customer Affiliates. Virtualitics' obligations hereunder shall survive any termination or expiration of this Agreement. Nothing contained herein shall be

construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

10.2   Remedies. Should the use of any Virtualitics Product or Documentation be enjoined, or in the event Virtualitics wishes to minimize its potential liability under this Agreement (including without limitation to any of its third party licensors), Virtualitics may, at its sole discretion, either: (i) substitute functionally equivalent, non-infringing Virtualitics Product or Documentation, as the case may be; (ii) modify the infringing item so that it no longer infringes but remains functionally equivalent; (iii) obtain for Customer, at Virtualitics' expense, the right to continue use of such item; or (iv) if none of the foregoing is feasible, refund to Customer the Fee paid therefor, depreciated over a three year period using the straight line method.

THE FOREGOING STATES CUSTOMER'S AND CUSTOMER AFFILIATES' SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO CLAIMS OF INFRINGEMENT OF PROPRIETARY RIGHTS OF ANY KIND, AND ALL WARRANTIES OF NON-INFRINGEMENT, EXPRESS OR IMPLIED, ARE SPECIFICALLY DISCLAIMED AND EXCLUDED.

11.   Confidentiality

Customer hereby acknowledges that the structure, sequence and organization of the Virtualitics Products, in whatever form, are the valuable intellectual property of Virtualitics and include trade secrets and other confidential and proprietary information of Virtualitics. In addition, Customer agrees and acknowledges that the terms and conditions of this Agreement including those set forth in the Order Form, and any other nonpublic, confidential or proprietary information or data which Virtualitics may provide hereunder, are proprietary to Virtualitics. This Agreement and all information provided under this Agreement are exempt from disclosure under the Freedom of Information Act. Customer's obligations hereunder will survive any termination or expiration of this Agreement.

12.   Limitation of Liability

12.1   Consequential Damages Waiver. WITHOUT LIMITING THE RIGHTS OR REMEDIES OF THE PARTIES PURSUANT TO SECTION 10 OR THE OBLIGATIONS OF CUSTOMER PURSUANT TO SECTION 11, NEITHER PARTY WILL HAVE ANY LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OR LIABILITIES OF ANY KIND OR FOR LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF A PARTY HERETO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

12.2   Liability Cap. WITHOUT LIMITING THE RIGHTS OR REMEDIES OF THE PARTIES PURSUANT TO SECTION 10 OR THE OBLIGATIONS OF CUSTOMER PURSUANT TO SECTION 11, IN NO EVENT WILL EITHER PARTY'S LIABILITY UNDER THIS AGREEMENT EXCEED THE LICENSE FEES PAID BY CUSTOMER TO VIRTUALITICS UNDER THIS AGREEMENT.

12.3   Failure of Essential Purpose. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THIS SECTION 12 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

13.   Export Regulations

Customer agrees that it will not export or re-export the Virtualitics Products, Documentation or other technical data received hereunder (or any copies thereof) (collectively "Technical Data") or any products utilizing the Technical Data in violation of any applicable laws or regulations of the United States or the country in which Customer obtained them or where Customer resides. Customer is responsible for obtaining any licenses to export, re-export or import the Technical Data. In addition to the above, Technical Data may not be used, exported or re-exported (i) into or to a national or resident of any country to which the U.S. has embargoed goods, or (ii) to any one on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders.

14.   Term and Termination

14.1   Term. This Agreement will become effective on the Effective Date and will remain in effect for an initial term of 1 year from the Effective Date, unless a different Initial Term is specified in

the Order Form (the "Initial Term"). This Agreement may be terminated prior to the expiration of the Initial Term or Renewal Term pursuant to this Section 14.

14.2   Survival. Neither the termination or expiration of this Agreement will relieve either Party from its obligations to pay the other any sums accrued hereunder. The Parties agree that their respective rights, obligations and duties under Sections 8.2, 9.3, 10, 11, 12, and 15 will survive any termination or expiration and remain in effect thereafter.

15.   Miscellaneous

15.1   Notices. Any notice provided for or permitted under this Agreement will be treated as having been given (a) when delivered personally or sent by fax, on the next business day after the day on which it is sent, (b) when sent by commercial overnight courier with written verification of receipt, on the next business day after its delivery to the courier during normal business hours, or (c) when mailed postage prepaid by certified or registered mail, return receipt requested, on the fifth business day after its date of posting. Notices will be sent to the addresses set forth in the Order Form, or at such other place of which the other Party has been notified in accordance with the provisions of this Section 15.1.

15.2   Amendment; Waiver. This Agreement may be amended or supplemented only by a writing that is signed by duly authorized representatives of both Parties. No term or provision hereof will be considered waived by either Party, and no breach excused by either Party, unless such waiver or consent is in writing signed on behalf of the Party against whom the waiver is asserted. No consent by either Party to, or waiver of, a breach by either Party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either Party.

15.3   Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the remainder of the provision will be amended to achieve as closely as possible the economic effect of the original term and all other provision will continue in full force and effect.

15.4   Governing Law. This Agreement will be governed by and construed under the Federal laws of the United States.

15.5   Force Majeure. In accordance with 552.212-4(f), Except for the payment of money, neither Party will be liable for any failure or delay in performance under this Agreement due to fire, explosion, earthquake, storm, flood or other weather, unavailability of necessary utilities or raw materials, war, insurrection, riot, act of God or the public enemy, law, act, order, proclamation, decree, regulation, ordinance, or instructions of government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such Party of this Agreement) or any other event beyond the reasonable control of the Party whose performance is to be excused.

15.6   Assignment. Neither this Agreement nor any of the rights or obligations hereunder, either in whole or in part, may be assigned or otherwise transferred, whether voluntarily or by operation of law, by Customer without the prior written consent of Virtualitics, which consent may be withheld in Virtualitics' sole discretion, and any attempted transfer or assignment is null and void and will be deemed a material breach of this Agreement.

15.7   Relationship of the Parties. The Parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment, or franchise between the Parties. Neither Party has the authority to bind the other or to incur any obligation on its behalf.

15.8   English Language. Customer agrees that the original of this Agreement will be written in the English language and waives any rights it may have under the laws of its country of residence to have such Agreement written in its local language. If a local language version is provided, it is for convenience only and the English language version will be the binding document.

15.9   Conflict. The terms set forth in this Agreement will prevail notwithstanding any conflict with the terms of any purchase order or other instrument submitted by Customer or Virtualitics.

15.10   Entire Agreement. This Agreement, including all Annexes to this Agreement, constitutes the entire agreement between the Parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral with respect to the subject matter hereof.

VIRTUALITICS, INC.

SOFTWARE LICENSE TERMS AND CONDITIONS

Version 1.1 – October 24, 2022

THESE SOFTWARE LICENSE TERMS AND CONDITIONS ("TERMS") ARE APPLICABLE TO A LICENSE GRANTED TO LICENSEE PURSUANT TO A SEPARATE VIRTUALITICS' ORDER FORM ("ORDER FORM") REFERENCING THESE TERMS. THESE TERMS TOGETHER WITH THE ORDER FORM CONSTITUTE THE COMPLETE "AGREEMENT" WITH THE LICENSEE.

VIRTUALITICS PROVIDES THE LICENSED SOFTWARE SOLELY ON THE TERMS AND CONDITIONS SET FORTH BELOW AND IN THE ORDER FORM AND ON THE CONDITION THAT LICENSEE ACCEPTS AND COMPLIES WITH THEM.

NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT, CONCERNING ANY SOFTWARE THAT LICENSEE DID NOT ACQUIRE LAWFULLY OR THAT IS NOT LEGITIMATE AND AUTHORIZED BY VIRTUALITICS.

1.   Definitions

1.1   "Authorized Hosting Service" means web application hosting services provider(s) identified on the Order Form.

1.2   "CCPA" shall mean the California Consumer Privacy Act of 2018, Cal. Civ. Code § 1798.100 et seq.

1.3   "Data Privacy Legislation" means all laws and regulations, in any country of the world, which protect the privacy rights of individuals, in so far as those laws and regulations apply to the processing of the data covered in this Agreement.

1.4   "Documentation"   means the documentation for the Licensed Software that is provided by Virtualitics to Licensee.

1.5   "Equipment" means the equipment specified in the Documentation or otherwise approved by Virtualitics on which the Licensed Software is installed or used in any manner.

1.6   "Intellectual Property Rights" means all worldwide trade secret rights, patents and patent applications, trademark rights (registered or unregistered, including any goodwill acquired in such trademarks), service mark rights, rights in trade names, copyrights (whether registered or unregistered), moral rights, database rights, design rights, rights in know-how, rights in confidential information, rights in inventions (patentable or not) and all other intellectual property and proprietary rights (registered or unregistered, and any application or rights to enforce the foregoing), and all other similar rights as they may exist anywhere in the world.

1.7   "License Fees" means the license fees payable by Licensee for use of the Licensed Software, as described in the Order Form.

1.8   "Licensed Software" means the executable object code form of the Virtualitics software products described in the Order Form, including any Updates thereto which are provided by Virtualitics to Licensee.

1.9   "Malicious Code" means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

1.10   "Updates" means maintenance releases, improvements and enhancements to the Licensed Software or Documentation that are generally available to licensees of the Licensed Software. "Updates" does not include releases, improvements and enhancements which

materially change or increase the utility, efficiency, functional capability or application of the Licensed Software.

2.   License

2.1   Software License. In consideration for the payment of the License Fee (as defined in Section 5.1), and subject to the terms and conditions of this Agreement, Virtualitics hereby grants to Licensee a personal, non-exclusive, non-assignable, non-transferable, non-sublicensable, limited license during the Term to: (a) install and operate the Software solely in executable object code form on the Authorized Hosting Service, (b) use the Licensed Software for Licensee's internal business purposes; and (c) to use the Documentation solely in connection with Licensee's permitted use of the Licensed Software.

2.2   Delivery. At a mutually agreed time, (a) the Licensed Software and Documentation will be delivered to Licensee via electronic transmission in a containerized format suitable for deployment on the Authorized Hosting Service; and (b) Virtualitics will provide (i) Licensee with a link via email for registering individuals to be authorized with log-in rights to access and use the Licensed Software in accordance with the terms of this Agreement (collectively, the "Registered Users" and each, an "Registered User"), and (ii) each of the End Users with log-in credentials to access and use the Licensed Software.

2.3   Registered User License. Licensee may install the Licensed Software, in executable form only, on a personal computer, server, network device, or virtual machine accessed and used by multiple users locally or over a network, provided that the Licensed Software is used only by as many Registered Users at any given moment in time as Licensee has purchased registered licenses. If Licensee allows use of the Licensed Software by a number of Registered Users exceeding the number of Registered User licenses for which Licensee has paid the License Fee, Licensee will inform Virtualitics within 14 days. Federal Government Licensees will make reasonable efforts to immediately modify this agreement to add additional Registered User licenses.

2.4   Restrictions on Use. The Licensed Software will be installed only on target servers operated by the Authorized Hosting Service.

2.5   Registered Users. Licensee will be liable for all acts and omissions of its Registered Users in connection with the Licensed Software.

2.6   Ownership. Subject only to Licensee's rights pursuant to the license granted in Section

2.1 and as between the parties, Virtualitics will have sole ownership of all right, title and interest in and to the Licensed Software and Documentation, all error corrections, modifications, enhancements, Updates, feedback, new releases and derivative works thereto, whether created, conceived, developed or reduced to practice by Virtualitics, Licensee or any other party, and all copies thereof (including ownership of all Intellectual Property Rights embodied in or related to the foregoing), and Licensee hereby assigns to Virtualitics all of its rights, title and interest in and to the foregoing. This Agreement does not provide Licensee with title or ownership of the Licensed Software or Documentation or exclusive rights of any kind, but only a right of limited use. Licensee must keep the Licensed Software and Documentation free and clear of all claims, liens and encumbrances. Licensee will not claim or assert title to any portion of the Licensed Software or Documentation or attempt to transfer any title to the Licensed Software or Documentation to any third parties.

2.7   Licensee Data and Telemetry Data. Licensee retains all right, title and interest in and to the Licensee Data and Telemetry Data (as defined below), other than the limited rights expressly granted in this Section 2.7.

2.7.1   For purposes of this Agreement, "Licensee Data" means any information or data collected and/or stored by Virtualitics consisting of content, data, and other information supplied or input by Licensee's and/or End Users.

2.7.2   For the purposes of this Agreement, "Telemetry Data" means any diagnostic data, metadata, usage data or other telemetry data about Licensee's or End Users' access to, installation of and use of the

Licensed Software, except for Licensee Data.

2.7.3 Nothing herein shall be construed to restrict, impair encumber, alter, or adversely affect Licensee Data or Telemetry Data, or any of Licensee's or End User's rights or interests therein.

2.7.4 With the exception of U.S. federal government Licensees, Licensee hereby grants to Virtualitics a non-exclusive right and license to (a) transfer the Licensee Data and Telemetry Data to Virtualitics' servers for processing, analysis, retention, and visualization pursuant to this Section 2.7, (b) host and store the Licensee Data and Telemetry Data on Virtualitics' servers, (c) use, copy, create derivative works of, perform and otherwise exploit the Licensee Data, as well as share the Licensee Data with other end users of the Licensed Software to the extent requested or authorized by Licensee and solely to the extent necessary to provide the Licensed Software to Licensee and its End Users pursuant to the terms and conditions of this Agreement for the duration of this Agreement, and to (d) copy, modify, use, distribute, display or disclose aggregated and/or anonymized Telemetry Data in connection with Virtualitics' internal operations and functions for the purpose of improvement of the Licensed Software, including, but not limited to, operational analytics and reporting, solely to the extent that: (i) the aggregated Telemetry Data does not include information that identifies or would reasonably be expected to identify Licensee, any End User or any of Licensee's properties or brands as the source of such data; and (ii) the data set into which the Telemetry Data is bundled includes similar data from other licensees of the Licensed Software. For U.S. federal government Licensees, Telemetry Data will not be transferred to Virtualitics.

2.7.5 Nothing in this section 2.7 prohibits Virtualitics from using Telemetry Data for Virtualitics' operational purposes, i.e., "business purposes" as that term is defined in the CCPA, provided that such use is reasonably necessary and proportionate to achieve the operational purpose for which the Telemetry Data was collected or processed or for another operational purpose that is compatible with the context in which the data was collected.

2.7.6 Virtualitics shall not: (i) sell, as it is defined in the CCPA, Telemetry Data or share such information with any third party other than what is described in this Agreement without Licensee's permission; (ii) retain, use or disclose the Telemetry Data for any purpose other than the purposes specified in this Agreement, including retaining, using or disclosing the Telemetry Data for a commercial purpose other than to provide its services to Licensee; and (iii) retain, use or disclose Telemetry Data outside of Virtualitics' business relationship with Licensee.

2.7.7 Nothing herein shall prevent Virtualitics from de-identifying any information covered by this Agreement and using such de-identified data for its own internal purposes.

2.7.8 In the event either party receives an access or deletion request from any individual related to the data exchanged under this Agreement (each a "Data Subject Request"), the parties agree to cooperate and respond to the Data Subject Request promptly and in accordance with applicable Data Privacy Legislation.

2.8 Online Services. Virtualitics will make available to Licensee certain online services as described in Virtualitics' marketing materials, which may include remote collaboration networking features (the "Online Services"). The Online Services will generally be hosted on Amazon Web Services ("AWS") servers unless Licensee is otherwise notified. Availability of the Online Services will be subject to AWS' service level agreements and other terms of service.

2.9   Third-Party Code. The Licensed Software may contain or be provided with components which are licensed from third parties ("Third Party Code"), including components subject to the terms and conditions of "open source" software licenses ("Open Source Software"). To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.

2.10   Security & Compliance. Virtualitics may monitor all use of the Virtualitics software for security and operational purposes. We may temporarily suspend access in the event Licensee or Registered User is engaged in, or Virtualitics in good faith suspect is engaged in, any unauthorized conduct (including any violation of any terms and conditions of this Agreement, any applicable law, or third party rights); provided, however, Virtualitics will use commercially reasonable efforts under the circumstances to provide Licensee with notice and an opportunity to remedy such unauthorized conduct prior to such suspension.

2.11   Limitations. Except as expressly authorized in this Agreement, Licensee may not (a) assign, sublicense, transfer, lease, rent or distribute any of its rights in the Licensed Software or Documentation, (b) modify, alter, port, translate, localize, or create derivative works based upon the Licensed Software or Documentation in any manner, (c) reverse assemble, decompile, reverse engineer, translate or otherwise attempt to derive or obtain the source code, the underlying ideas, algorithms, structure or organization of the Licensed Software (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, or as permitted by an applicable Open Source Software license), (d) copy or duplicate the Licensed Software or Documentation, (e) utilize any equipment, device, software, or other means designed to circumvent or remove any form of

copy protection or product key used by Virtualitics in connection with the Licensed Software, (f) use the Licensed Software to develop a product which is competitive with any Virtualitics product offering, (g) enable access to the Licensed Software for a greater number of users than the total number of Registered Licenses purchased, (h) reassign license rights between Registered Users so frequently as to enable a single license to be shared between multiple users, (i) interfere with or disrupt the integrity or performance of any services associated with the Licensed Software; (j) use the Licensed Software in violation of any law or regulation, including by allowing the transfer, transmission, export or re- export of the Licensed Software or any portion thereof in violation of any export control laws or regulations administered by the U.S. Commerce Department, the Office of Foreign Assets Control, or any other government agency, (k) remove, alter or obscure any proprietary notices in or on the Licensed Software including copyright notices, (l) disclose or make available passwords, user IDs or other credential and login information (collectively, "Passwords") associated with the Licensed Software, other than to the applicable Registered User, or (m) cause or permit any Registered User or third party to do any of the foregoing. Licensee will use best efforts to prevent unauthorized access to, and use of, the Passwords and the Licensed Software, and will immediately notify Virtualitics in writing of any unauthorized access to or use of the Licensed Software.

2.12 Virtualitics' Hosting Services. Unless otherwise stated in the Order Form, Licensee is responsible for contracting directly with the Authorized Hosting Service to host the Licensed Software. If Licensee desires to purchase hosting services from Virtualitics, then the terms in this Section 2.12 apply. In such case, Virtualitics will arrange for hosting of the Licensed Software through Amazon Web Services or another comparable hosting service ("Hosting Provider") and provide Licensee with access to such Licensed Software in accordance with this Agreement. Licensee shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Licensed Software, including without limitation, hardware, servers, software, operating systems, networking, internet connection, and web servers. Licensee shall also be responsible for maintaining the security of Licensee's account and passwords in Licensee's custody or

possession, and for all uses of Licensee's account with or without Licensee's knowledge or consent. Licensee acknowledges and accepts that since the Licensed Software is hosted on the Hosting Provider's Platform, all Licensee Data is stored by the Hosting Provider, not Virtualitics. As such, Licensee agrees the Hosting Provider, and not Virtualitics, is responsible and liable for the security and backup/recovery of stored Licensee Data in accordance with the Hosting Provider's procedures, including any disaster recovery plan the Hosting Provider may maintain. Virtualitics disclaims any and all responsibility or liability for any data breach, security incident, or other loss or corruption of Licensee Data hosted by the Hosted Provider unless such breach, incident or corruption was a directly due to the gross negligence or willful misconduct of Virtualitics.

2.13 Licensee Code. Virtualitics may offer Licensee the ability to upload certain code, models and other materials into the production server for the Licensed Software. Virtualitics reserves the right to remove any such code, models or materials from its server or systems at any time and for any reason, without or without prior notice to Licensee.

3.   Licensee's Obligations.

3.1   Personnel and Equipment. Licensee is responsible for providing qualified personnel to assist in the installation and operation of the Licensed Software, and to assure that such personnel are familiar with the use, operation, maintenance and support of the Licensed Software. The parties agree that it is Licensee's responsibility to ensure that there is a proper network and environment for the Licensed Software. Virtualitics has no responsibility or liability for any failure, nonconformity or defect which is caused by or related to any failure to maintain an appropriate network or software or hardware not approved by Virtualitics.

3.2   General. Licensee will (i) be responsible for Users' compliance with this Agreement, and Order Form, (ii) be responsible for the accuracy, quality and legality of Licensee Data and the

means by which Licensee acquired Licensee Data,

(iii) use commercially reasonable efforts to prevent unauthorized access to or use of Virtualitics software, and notify Virtualitics promptly of any such unauthorized access or use, use Virtualitics software only in accordance with this Agreement and applicable laws and government regulations, (v) comply with terms of service of any Third Party Offering with which Licensee uses Virtualitics software, and (vi) ensure that any third party Users of Virtualitics software are bound by an approved Software License Agreement. Licensee will not, nor permit third parties to: (a) make Virtualitics software available to, or use for the benefit of, anyone other than Licensee, unless expressly stated otherwise in this Agreement, (b) sell, resell, license, sublicense, distribute, make available, rent or lease Virtualitics software in a service bureau or outsourcing offering, (c) use Virtualitics software to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights,

(d) use Virtualitics software to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Virtualitics software or third-party data contained therein, (f) attempt to gain unauthorized access to Virtualitics or its related systems or networks, (g) permit direct or indirect access to or use of any Virtualitics software in a way that circumvents Licensee obligations in this Agreement, or use any of Virtualitics software to access or use any Virtualitics Intellectual Property except as permitted under this Agreement, (h) copy Virtualitics software or any part, feature, function or user interface thereof, (i) frame or mirror any part of any Virtualitics software, other than framing on Licensee's own intranets or otherwise for Licensee's own internal business purposes or as permitted in this Agreement, (j) access, use or copy any Virtualitics software in order to build a competitive product or service or to benchmark with any third party product or service, (k) reverse engineer any Virtualitics software (to the extent such restriction is permitted by law), or (1) alter, modify or create derivative works of any Licensed Software to develop or provision their own software or applications.

3.3   License to Use Feedback. Licensee grants to Virtualitics a non-exclusive, worldwide, perpetual, irrevocable, sub-licensable, royalty-free license, without restriction, to use in any manner and incorporate into

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Virtualitics products or services, any suggestion, enhancement request, recommendation, correction or other feedback provided by Licensee or End Users concerning Virtualitics current or future products or services.

3.4   Compliance With Laws. Licensee represents and warrants that on behalf of itself and its Registered Users that neither will engage, and all such parties will use commercially reasonable efforts to avoid engaging, in any activity which violates any applicable law or regulation in connection with their use of the Licensed Software. Licensee acknowledges that it is solely responsible for ensuring that the manner in which Licensee transmits and receives information complies with all applicable laws and regulations.

3.5   Results of Use. VIRTUALITICS WARRANTS THAT THE LICENSED SOFTWARE WILL, FOR A PERIOD OF SIXTY (60) DAYS FROM THE DATE OF YOUR RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH LICENSED SOFTWARE WRITTEN MATERIALS ACCOMPANYING IT. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, LICENSEE ACKNOWLEDGES THAT VIRTUALITICS MAKES NO REPRESENTATION OR WARRANTY REGARDING THE ACCURACY OR FITNESS FOR ANY PARTICULAR PURPOSE OF PROJECTIONS OR OTHER INFORMATION CONTAINED IN, OR GENERATED USING, THE LICENSED SOFTWARE. VIRTUALITICS WILL HAVE NO LIABILITY OR RESPONSIBILITY IN CONNECTION WITH ANY BUSINESS DECISION OR OTHER ACTION UNDERTAKEN BY LICENSEE IN CONNECTION WITH THEIR USE THE LICENSED SOFTWARE, AND LICENSEE WILL UNDERTAKE ANY SUCH BUSINESS DECISIONS OR ACTIONS AT THEIR SOLE RISK.

4.   Updates

4.1   Provision of Updates. Virtualitics will provide Licensee, at no additional cost, with all Updates to the Licensed Software that Virtualitics may make available during the term of this Agreement from time to time, so long as Licensee is in good standing and not in breach of this Agreement. Virtualitics will not have any obligation under this Agreement to develop or release any Update or to adapt any other software product for use with the Licensed Software. Virtualitics will have no obligation to provide technical support, advice and assistance for changes, modifications or revisions to the Licensed Software that were not created by or on behalf of Virtualitics.

4.2   Installation. Licensee will install all Updates. Licensee acknowledges that Virtualitics may develop new or different computer programs which use portions of the Licensed Software or which perform all or part of the functions performed by the Licensed Software, and nothing in this Agreement will give the Licensee any rights to such software or any software other than the Licensed Software and Updates.

5.   Fees, Taxes

5.1   License Fees. Licensee will pay Virtualitics the license fees described in the Order Form in accordance with the GSA Schedule Pricelist (the "Fees") in the manner and time as set forth on the Order Form.

5.2   Payment of License Fees. Unless otherwise set forth in the Order Form, (a) all applicable Fees are expressed in U.S. dollars, and

(b) License Fees will be paid in in monthly installments.

5.3   Records and Audit Rights. Licensee will maintain full, complete and accurate records of business conducted pursuant to this Agreement, including data relating to the number of Licenses used and Registered Users. Records will be retained for the longer of 3 years, or as long as required by applicable law. Upon Virtualitics' written request, Licensee will certify in a signed writing that Licensee's use of the Licensee Software is in full compliance with the terms of this Agreement (including with respect to Seat License limitations) and provide a current list of Registered Users for all purchased Registered User Licenses. Virtualitics reserves the right to perform, no more frequently than one time per year (unless any prior audit has revealed a breach of this Agreement), an audit of the records maintained by Licensee in order to verify Licensee's compliance with the terms of this Agreement. Upon Virtualitics' request, Virtualitics, or an agent or representative chosen by Virtualitics, subject to Government security requirements,

will be provided access during normal business hours to the books and records of Licensee for the purpose of performing an audit of the payments due to Virtualitics.

5.4   Late Payment. Any License Fee amounts not paid when due will accrue interest at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

6.   Publicity.

Virtualitics and Licensee agree and acknowledge that neither party may use any of the other party's names, trademarks or logos except as expressly set forth in this Agreement or as permitted in writing by the other party; except that Virtualitics may list Licensee as a customer on Virtualitics' website and marketing material.

7.   Proprietary Rights

7.1   Proprietary Rights Notices. Licensee will not remove, alter or otherwise obscure any proprietary rights notices appearing in or on the Licensed Software or Documentation, including any proprietary rights notices relating either to Virtualitics or any third party.

7.2   Federal Government End Use Provisions. We provide Virtualitics software and technology, including technical data, for ultimate U.S. federal government end use solely in accordance with the following: Government technical data and software rights related to the Virtualitics offerings include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFARS 252.227-7015 (Technical Data — Commercial Items). If a government agency has a need for rights not granted under these terms, it must negotiate with Virtualitics to determine if there are acceptable

terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement. The terms of this Agreement supersede and are in lieu of any FAR, DFARS, or supplemental regulations to the FAR. Licensee agrees not to remove or deface any portion of any legend on any Licensed Software or Documentation delivered to it under this Agreement.

8.   Representations and Warranties

8.1   Authority. Each party represents and warrants to the other party that it has all necessary rights, power and authority to enter into this Agreement, and to grant the rights granted and to undertake the obligations accepted by such party under this Agreement.

8.2   Virtualitics Warranty. Virtualitics warrants to Licensee that for a period of thirty (30) days from delivery to Licensee (the "Warranty Period"), the Software will operate in substantial conformity with the Documentation. Virtualitics does not warrant that the Licensed Software and Documentation, or any use of the Licensed Software or Documentation, will meet the requirements of Licensee, or that the operation of the Licensed Software will be uninterrupted or error free.

8.3   Licensee Warranty. Licensee represents and warrants that no code introduced into or uploaded by Licensee into the Licensed Software shall contain any back door, time bomb, drop dead device, virus, Trojan horse, worm, or other software routines or hardware components designed to (1) permit unauthorized access, (2) disable, erase, or otherwise harm software, hardware, or data, (3) disable a computer program automatically with the passage of time, or (4) perform any other similar malicious actions.

8.4   DISCLAIMER. THE WARRANTIES SET FORTH IN SECTIONS 8.1 AND 8.2 ARE IN LIEU OF ALL OTHER REPRESENTATIONS, WARRANTIES OR CONDITIONS, AND EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTIONS 8.1 AND 8.2, VIRTUALITICS MAKES NO ADDITIONAL REPRESENTATIONS, WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 8, THE LICENSED SOFTWARE IS PROVIDED "AS IS" AND "AS AVAILABLE". VIRTUALITICS HEREBY DISCLAIMS ANY AND ALL WARRANTIES OF MERCHANTABILITY,

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9.   Indemnification

9.1   By Virtualitics. Virtualitics shall, at its own expense, indemnify and hold Licensee, and its officers, directors, employees ("Licensee Affiliates") harmless and defend any suit or proceeding that is instituted against Licensee Affiliates, to the extent such suit or proceeding alleges that the Licensed Software or Documentation licensed pursuant to this Agreement infringes any Intellectual Property Rights of a third party; provided that Licensee and Licensee Affiliates (i) give Virtualitics reasonably timely notice in writing of any such suit, proceeding or threat thereof, (ii) permit Virtualitics sole control, through counsel of Virtualitics' choice, to defend and/or settle such suit, and (iii) give Virtualitics all the needed information, assistance and authority (to the extent that Licensee and Licensee Affiliates are reasonably capable of doing so), at Virtualitics' expense, to enable Virtualitics to defend or settle such suit. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516. The above provisions shall not apply to, and Virtualitics shall have no liability or obligation for, any claim of infringement arising from (a) any modification, servicing or addition made to the Licensed Software or Documentation by anyone other than Virtualitics, (b) the use of such Licensed Software and Documentation as a part of or in combination with any devices, parts or software not provided or approved by Virtualitics, (c) Virtualitics' compliance with Licensee's design requirements or specifications, if any, (d) the use of other than the then-current, unaltered release of the Licensed Software and Documentation available from Virtualitics or, (e) the use of the Licensed Software or Documentation to practice any method or process that does not occur wholly within the Licensed Software, to the extent that such claim of infringement would not have arisen but for the use or action set forth herein where such use or action was undertaken by Licensee, Licensee Affiliates. Virtualitics' obligations hereunder shall survive any termination or expiration of this Agreement.

9.2   Remedies. Should the use of any Licensed Software or Documentation be enjoined, or in the event Virtualitics wishes to minimize its potential liability under this Agreement (including without limitation to any of its third party licensors), Virtualitics may, at its sole discretion, either: (i) substitute functionally equivalent, non-infringing Licensed Software or Documentation, as the case may be; (ii) modify the infringing item so that it no longer infringes but remains functionally equivalent; (iii) obtain for Licensee, at Virtualitics' expense, the right to continue use of such item; or

(iv) if none of the foregoing is feasible, refund to Licensee the License Fee paid therefor, depreciated over a three year period using the straight line method. THE FOREGOING STATES LICENSEE'S AND LICENSEE AFFILIATES' SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO CLAIMS OF INFRINGEMENT OF PROPRIETARY RIGHTS OF ANY KIND, AND ALL WARRANTIES OF NON-INFRINGEMENT, EXPRESS OR IMPLIED, ARE SPECIFICALLY DISCLAIMED AND EXCLUDED.

10.   Confidentiality

10.1   Confidential Information. Licensee hereby acknowledges that the structure, sequence and organization of the Licensed Software, in whatever form, are the valuable intellectual property of Virtualitics and include trade secrets and other confidential and proprietary information of Virtualitics. This License and all information provided under this License are exempt from disclosure under the Freedom of Information Act.

11.   Limitation of Liability

11.1 Consequential Damages Waiver. WITHOUT LIMITING THE RIGHTS OR REMEDIES OF THE PARTIES PURSUANT TO SECTION 9, NEITHER PARTY WILL HAVE ANY LIABILITY FOR INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OR LIABILITIES OF ANY KIND OR FOR LOSS OF REVENUE, LOSS OF BUSINESS OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE, EVEN IF ANY REPRESENTATIVE OF A PARTY HERETO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

11.2 Liability Cap. WITHOUT LIMITING THE RIGHTS OR REMEDIES OF THE PARTIES PURSUANT TO SECTION 9, IN NO EVENT WILL EITHER PARTY'S LIABILITY UNDER THIS AGREEMENT EXCEED THE LICENSE FEES PAID BY LICENSEE TO VIRTUALITICS UNDER THIS AGREEMENT.

11.3 Failure of Essential Purpose. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THIS SECTION 11 WILL BE GIVEN FULL EFFECT EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

12. Export Regulations; Foreign Corrupt Practices Act

12.1 Export Regulations. Licensee agrees that it will not export or re-export the Licensed Software, Documentation or other technical data received hereunder (or any copies thereof) (collectively "Technical Data") or any products utilizing the Technical Data in violation of any applicable laws or regulations of the United States or the country in which Licensee obtained them or where Licensee resides. Licensee is responsible for obtaining any licenses to export, re-export or import the Technical Data. In addition to the

above, Technical Data may not be used, exported or re-exported (i) into or to a national or resident of any country to which the U.S. has embargoed goods, or (ii) to any one on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders.

13. Term and Termination

13.1 Term. This Agreement will become effective on the Effective Date and will remain in effect for an initial term of 1 year from the Effective Date, unless a different Initial Term is specified in the Order Form (the "Initial Term").

13.2 Survival. Neither the termination or expiration of this Agreement will relieve either party from its obligations to pay the other any sums accrued hereunder. The parties agree that their respective rights, obligations and duties under Sections 2.6, 8.3, 9, 10, 11, and 14 will survive any termination or expiration and remain in effect thereafter.

14. Miscellaneous

14.1 Notices. Any notice provided for or permitted under this Agreement will be treated as having been given (a) when delivered personally or sent by fax, on the next business day after the day on which it is sent, (b) when sent by commercial overnight courier with written verification of receipt, on the next business day after its delivery to the courier during normal business hours, or (c) when mailed postage prepaid by certified or registered mail, return receipt requested, on the fifth business day after its date of posting. Notices will be sent to the addresses set forth in the Order Form, or at such other place of which the other party has been notified in accordance with the provisions of this Section 14.1.

14.2 Amendment; Waiver. Licensee's use of the Licensed Software is subject to this Agreement, which may be updated by Virtualitics at any time with notice to Licensee, such as by sending an email, providing a notice through the Licensed Software, or updating the Agreement posted at the following URL: https://virtualitics.com/eula. Any such updates will be effective upon Virtualitics' publishing such updated Agreement. Licensee's continued usage of the Licensed Software shall constitute its acceptance of the changes. If Licensee does not agree with this Agreement or any

updated published version thereof, it may not use (or continue to use) the Licensed Software. No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether express or implied, will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach by either party.

14.3 Severability. If any provision of this Agreement is held invalid or unenforceable for any reason, the remainder of the provision will be amended to achieve as closely as possible the economic effect of the original term and all other provision will continue in full force and effect.

14.4 Governing Law. This Agreement will be governed by and construed under the Federal laws of the United States.

14.5 Force Majeure. In accordance with 552.212-4(f), except for the payment of money, neither party will be liable for any failure or delay in performance under this Agreement due to fire, explosion, earthquake, storm, flood or other weather, unavailability of necessary utilities or raw materials, war, insurrection, riot, act of God or the public enemy, law, act, order, proclamation, decree, regulation, ordinance, or instructions of Government or other public authorities, or judgment or decree of a court of competent jurisdiction (not arising out of breach by such party of this Agreement) or any other event beyond the reasonable control of the party whose performance is to be excused.

14.6 Assignment. Neither this Agreement nor any of the rights or obligations hereunder, either in whole or in part, may be assigned or otherwise transferred, whether voluntarily or by operation of law, by Licensee without the prior written consent of Virtualitics, which consent may be withheld in Virtualitics' sole discretion, and any attempted transfer or assignment is null and void and will be deemed a material breach of this Agreement.

14.7 Relationship of the Parties. The parties to this Agreement are independent contractors. There is no relationship of agency, partnership, joint venture, employment, or franchise between the parties. Neither party has the authority to bind the other or to incur any obligation on its behalf.

14.8 English Language. Licensee agrees that the original of this Agreement will be written in the English language and waives any rights it may have under the laws of its country of residence to have such Agreement written in its local language. If a local language version is provided, it is for convenience only and the English language version will be the binding document.

14.9 Conflict. The terms set forth in this Agreement will prevail notwithstanding any conflict with the terms of any purchase order or other instrument submitted by Licensee or Virtualitics.

14.10 Entire Agreement. This Agreement, including all Annexes to this Agreement, constitutes the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous representations, discussions, negotiations, and agreements, whether written or oral with respect to the subject matter hereof.