



Xage Security Gov, LLC End User License Agreement

THIS XAGE END USER LICENSE AGREEMENT, TOGETHER WITH ANY ACCEPTED XAGE ORDER FORM(S) (THE "**AGREEMENT**") IS A LEGAL AGREEMENT BETWEEN THE CUSTOMER LISTED IN THE ORDER FORM(S) ("**CUSTOMER**") AND XAGE SECURITY GOV, LLC, A DELAWARE LIMITED LIABILITY COMPANY, WITH A PLACE OF BUSINESS AT 770 LEGACY PLACE, 2ND FLOOR, DEDHAM, MA 02026 ("**XAGE**"). BY AGREEING TO AN ORDER FORM INCORPORATING THIS AGREEMENT, OR PROCEEDING WITH THE INSTALLATION AND/OR USE OF THE XAGE FABRIC, OR USING THE XAGE FABRIC AS AN AUTHORIZED REPRESENTATIVE OF THE CUSTOMER NAMED ON THE APPLICABLE ORDER FORM ON WHOSE BEHALF YOU INSTALL AND/OR USE THE XAGE FABRIC, YOU ARE INDICATING THAT YOU HAVE READ, UNDERSTAND AND ACCEPT THIS AGREEMENT, AND THAT YOU AGREE TO BE BOUND BY ITS TERMS. IF YOU DO NOT AGREE WITH ALL OF THE TERMS OF THIS AGREEMENT, DO NOT INSTALL OR OTHERWISE USE THE XAGE FABRIC. THE EFFECTIVE DATE OF THIS AGREEMENT SHALL BE THE DATE THAT YOU ACCEPT THIS AGREEMENT AS SET FORTH ABOVE.

1. Definitions.

1.1. "**Hardware**" means third party manufactured hardware equipment and accessories identified in an Order Form, including hardware on which Xage preinstalls the Xage Software.

1.2. "**Documentation**" means any instructions, specifications, documents or materials, to include additional, updated, or revised versions, that describe the operation and use of the Xage Fabric that Xage makes generally available to end users.

1.3. "**Environment**" means the network, infrastructure, digital system, manufacturing operation, facility or environment operated or managed by Customer into which the Xage Fabric is deployed as described in an Order Form.

1.4. "**Excluded Features**" means any additional, new and/or separate products and/or services which Xage may make available on a commercial basis to its customers as add-on features to the Xage Fabric which are typically subject to separate fees.

1.5. "**Identities/Sources**" means any application identities, device identities, or user identities purchased under this Agreement for interaction with the Xage Fabric or any data sources that interact with the Xage Fabric. For clarity, (i) each of the above described identities is only granted on a single identity per application, device, or user basis, with a single identity not to be shared or otherwise exploited in a manner that allows more than one application, device, or user per identity and (ii) for each type of identity (application, device, or user, respectively) the quantities thereof, whether actually used or not, and regardless of whether simultaneously connected or not, that may be instantiated within the Xage Fabric under this Agreement shall not exceed the number specifically purchased and defined on the agreed Order Form related hereto.

1.6. "**Intellectual Property Rights**" means any and all intellectual property rights in any part of the world, whether registered or unregistered, and all registrations, applications, renewals, extensions and other government issued indicia of ownership thereof, including, but not limited to, rights

comprising or relating to: (a) patents, patent disclosures and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with the goodwill associated therewith; (c) copyrights and copyrightable works (including, but not limited to, computer programs), and rights in works of authorship, data and databases; (d) trade secrets, know-how and other confidential information; and (e) all similar or equivalent rights or forms of protection.

1.7. "**Maintenance and Support**" means the technical support and maintenance services for the Xage Software purchased by Customer pursuant to an Order Form.

1.8. "**Open-Source Components**" means any software component that is subject to any open-source copyright license agreement.

1.9. "**Order Form**" means Xage's written order form that is entered into between Customer and Xage or Xage's formally authorized reseller and specifying details of the Customer's order of a Subscription, Hardware and/or purchase of Maintenance and Support pursuant to this Agreement.

1.10. "**Start Date**" means the date Xage first issues access to the Xage portal to Customer unless another start date is expressly agreed to by the Parties and set forth in an Order Form; provided, however, in no event shall the Start Date be later than thirty (30) days after execution of such Order Form.

1.11. "**Subscription**" means the subscription license purchased by Customer to access and use of the Xage Fabric set forth on the applicable Order Form.

1.12. "**Subscription Fees**" means the fees set forth on the GSA Schedule Pricelist and applicable Order Form payable by Customer for the Subscription.

1.13. "**Subscription Term**" means the term set forth on the applicable Order Form for the Subscription, for both the initial Subscription order and any renewal Subscriptions.

1.14. **“Support Fees”** means the fees payable by Customer for the Maintenance and Support ordered by Customer as set forth on the applicable Order Form.

1.15. **“Support Term”** has the meaning given to such term in Section 3.2.

1.16. **“Updates and Upgrades”** means bug fixes, maintenance releases, features, enhancements, functionality and/or new versions of the Xage Software, that are generally made available to Xage customers who have purchased a Subscription.

1.17. **“Usage Parameters”** means the maximum number, quantity, and/or type of permitted Identities/Sources, Xage nodes, Xage brokers, Xage Managers, Xage Enforcement Points and solutions ordered by Customer on an Order Form(s), and any other parameters specified in the Documentation, Order Form, or in writing by Xage regarding the scope of use of the Xage Fabric by Customer.

1.18. **“Xage Fabric”** means the Xage Software identified in Customer’s Order Form, which may include Xage Manager, Xage Broker, Xage Node, Xage Enforcement Point, Client Agent and/or Cloud software products as described on Xage’s website at <https://xage.com/products/xage-fabric-platform>.

1.19. **“Xage Software”** means Xage’s proprietary software, whether provided as source or executable code, together with any Updates and Upgrades or bug fixes or other code provided by Xage to Customer as part of Maintenance and Support.

1.20. **“Xage Technology”** means any and all of the following: (a) Xage Fabric and other Xage Software; (b) any accompanying or related Documentation; (c) other materials including, but not limited to content made available by Xage; and (d) any and all modifications, improvements, bug fixes, maintenance releases, features, enhancements, functionality, new versions, and/or additional, new, and/or separate products and/or services to any of the items set forth in clause (a) through (c).

2. License Grant.

2.1. **License.** Subject to the terms and conditions of this Agreement, Xage hereby grants Customer a nonexclusive, paid-up, irrevocable, worldwide, nontransferable, non-sublicensable Subscription license during the Subscription Term to (a) use the Xage Fabric for the purpose of providing cyber security in the Customer Environment, subject to the applicable Usage Parameters and in accordance with the Documentation; (b) reproduce and use copies of the applicable Documentation in support of the exercise of the licenses granted herein; (c) prepare derivative works of the Xage Technology; and (d) perform publicly and display publicly the Xage Technology, by or on behalf of the Customer.

2.2. **Restrictions.** Customer shall not, and shall not permit others to: (a) reverse engineer, disassemble, decompile, decode or adapt the Xage Technology, or otherwise attempt to derive or gain access to the Xage Software source code, in whole or in part; (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available any Xage Technology to any third party; (c) exceed the number of Identities/Sources, Xage Nodes, Xage Brokers, Xage Managers, Xage Enforcement Points or other Usage Parameters

which Customer has purchased; (d) share any Identities/Sources or exploit the Identities/Sources in a manner that results in usage of any Identity/Source beyond its singular grant, or (e) remove any copyright or other Intellectual Property Rights notices from the Xage Technology or from third party manufactured Hardware; any violation of the foregoing is a breach of this Agreement. No other right is granted to Customer to use the Xage Technology for any purpose other than that expressed herein, and nothing herein shall be construed as granting, by implication, waiver, estoppel or otherwise to Customer or any third party any Intellectual Property Rights or other right, title, or interest in or to any of the Xage Technology.

2.3. **Feedback.** Customer agrees to notify Xage of any errors or deficiencies in Xage Technology and may in its sole discretion make suggestions for improvements, enhancements, features and other information regarding Xage Technology (collectively, **“Feedback”**). Customer hereby grants Xage a perpetual, irrevocable, non-exclusive, royalty-free, fully-paid-up, fully-transferable, worldwide license (with rights to sublicense through multiple tiers of sublicensees) under all of Customer’s Intellectual Property Rights, for Xage to use and exploit such Feedback in any manner and for any purpose, except for classified information or controlled unclassified information, which must be protected in accordance with law and regulation. Customer acknowledges that Xage may or may not incorporate Feedback into Xage Technology at Xage’s sole discretion without restriction and without compensation to Customer. Xage acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

2.4. **Open-Source Components.** Any use of Open-Source Components under this Agreement will be governed by, and subject to, the terms and conditions of the applicable open-source license (**“Open-Source License”**). Xage may identify and describe the Open-Source Components of the Xage Technology in Documentation or text files, or by some other reasonable means. Customer may also request Xage to provide a list of the Open-Source Components. Customer agrees to comply with the terms and conditions of the Open-Source Licenses.

3. Hardware and Services.

3.1. **Hardware Delivery.** All Hardware orders shall be shipped Incoterms 2010 FOB (Destination) from Xage’s facility or the facility of its third-party manufacturer to Customer or its carrier agent. In the absence of specific shipping instructions from Customer, Xage will choose the method of shipment in its reasonable discretion. Xage will pay for all reasonable freight, insurance, and other shipping expenses or other fees relating to the transportation of the Hardware. All Hardware will be deemed accepted in accordance with FAR 52.246-2, to include inspection prior to acceptance.

3.2. **Maintenance and Support.** Subject to Customer’s payment of the Support Fees specified on the applicable Order Form, Xage will provide Maintenance and Support in accordance with its standard support terms then in effect. Maintenance and Support will commence concurrent with the Start Date listed on the Order Form and continue for the period set forth therein (**“Support Term”**). Customer is solely responsible for taking appropriate measures to back up Customer’s systems and data and all other necessary measures to prevent any file or data loss.

Any other professional services, if any, to be provided by Xage to Customer, or otherwise requested by Customer, will be subject to the terms and conditions set forth in Xage's then-current standard professional services agreement entered into by the parties for such services.

3.3. Updates and Upgrades. During the Subscription Term, subject to Customer's payment of Subscription Fees, Xage shall provide Customer with Updates and Upgrades that are generally made available to Xage's customer base. Updates and Upgrades are separate from Maintenance and Support provided in Section 3.2. Updates and Upgrades expressly exclude any Excluded Features. The use of any Excluded Features purchased by Customer hereunder shall be governed by the terms of this Agreement.

4. Payment, Taxes, Records and Verification.

4.1. Payment. Customer shall pay Xage or Xage's authorized reseller the fees listed in an Order Form in accordance with the terms set forth in such Order Form and this Section 4. Xage will invoice Customer (i) for Subscriptions, beginning on the Start Date; (ii) for Maintenance and Support fees on the Start Date for the related license for the initial Support Term and then in advance for any renewal Support Term; and (iii) for Hardware on the date Hardware is received in accordance with FAR 52.246-2. Unless otherwise set forth on the applicable Order Form, all fees payable by Customer hereunder are due within thirty (30) days after the date of Xage's or Xage's authorized reseller's invoice therefor and interest will accrue on any late payments at the Treasury applicable rate. Interest does not apply where advance payments have been made. At any time during a Subscription Term and/or Support Term (as applicable), Customer may submit an Order Form to increase the Usage Parameters and/or level of support and, upon Xage's acceptance of such Order Form, Customer shall pay the Subscription Fees and/or Support Fees (as applicable) for such increase, pro-rated for the remainder of Customer's then-current Subscription Term and/or Support Term (as applicable).

4.2. Taxes. Xage shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes or provide evidence necessary to sustain an exemption in accordance with FAR 52.229-1 and FAR 52.229-3, if applicable.

4.3. Changes to Fees. Xage may change its fees and payment terms at its discretion; provided however, that such changes will not take effect for Customer until the start of the next Subscription Term and/or Support Term, as applicable (as specified in the applicable Order Form). Xage will provide written notice to Customer of any changes to the fees that affect the Subscription and/or Maintenance and Support purchased by Customer.

4.4. Verification and Audit. At Xage's request, Customer will furnish Xage with a certification signed by Customer's authorized representative verifying that the Xage Fabric is being used in accordance with this Agreement and the applicable Order Form. Upon at least ten (10) days' prior written notice to Customer, Xage may audit Customer's use of the Xage Fabric to ensure that Customer is in compliance with this Agreement and the applicable Order Form. Any such audit will be conducted during regular business hours at Customer's facilities, will not unreasonably interfere with Customer's

business and will comply with Customer's reasonable security procedures. Customer will provide Xage with reasonable access to all relevant records and facilities reasonably necessary to conduct the audit. If an audit reveals that Customer has exceeded the scope of Customer's license grant during the period audited, then Xage will invoice Customer, and Customer will promptly pay Xage any underpaid fees based on Xage's price list in effect at the time the audit is completed. This Section 4.4 will survive expiration or termination of this Agreement for a period of three (3) years.

5. Ownership.

5.1. Xage. Subject to the express license granted by Xage under Section 2.1 of this Agreement and to FAR 52.227-20 (including both as to its rights notice and data rights protection period), as between the parties, Xage reserves and retains all right, title and interest in and to the Xage Technology and Xage's other Confidential Information, including the sole and exclusive ownership of all Intellectual Property Rights relating thereto.

5.2. Rights in Open-Source Components. Ownership of all Intellectual Property Rights in Open-Source Components remains with the respective owners thereof, subject to Xage's and Customer's respective rights and licenses under the applicable Open-Source Licenses.

6. Confidentiality.

6.1. Confidential Information. Customer acknowledges that Xage may disclose or make available to the Customer confidential information and other sensitive or proprietary information and materials such as reference designs, pricing, business affairs, future products/services, customer and prospect lists, know-how, ideas, concepts, designs, drawings, flow charts, diagrams, third-party confidential information and other intellectual property relating to the Xage Technology or subject matter of this Agreement (collectively, "**Confidential Information**"). Confidential Information also includes Feedback and Xage Technology.

6.2. Use and Disclosure. Customer agrees: (a) not to use Confidential Information other than as strictly necessary to exercise its rights or perform its obligations under this Agreement, including without limitation not to use any of the Confidential Information, in any manner to the detriment of Xage; (b) to maintain Confidential Information in strict confidence and not to disclose any Confidential Information without Xage's prior written consent, provided, however, that Customer may disclose the Confidential Information to its employee, contractors and agents ("**Representatives**") who: (i) have a "need to know" for purposes of any performance, or exercise of any rights with respect to such Confidential Information, under this Agreement; (ii) have been apprised of this restriction; and (iii) are themselves bound by written nondisclosure agreements, the Trade Secrets Act, or obligations at least as restrictive as those set forth in this Section provided, further, that Customer shall be responsible for ensuring its Representatives' compliance, and shall be liable for any of its Representatives' noncompliance; and (c) notify Xage in writing immediately of any unauthorized accessing, possession or use of the Confidential Information of which it may become aware and cooperate fully with Xage in any investigation or litigation relating to or arising from any of such unauthorized acts. Customer shall use, and ensure that its Representatives use,

reasonable care, at least as protective as the efforts it uses with respect to its own confidential information, to safeguard Confidential Information from use or disclosure other than as permitted hereby.

6.3. Exceptions. Except as to any disclosure permitted under the Freedom of Information Act (FOIA), if Customer becomes legally compelled to disclose any Confidential Information, it shall: (a) provide prompt written notice to Xage so that Xage may seek a protective order or other appropriate remedy; and (b) disclose only the portion of Confidential Information that it is legally required to produce. If a protective order or other remedy is not obtained, Customer shall use reasonable efforts to obtain assurance that confidential treatment will be afforded the Confidential Information.

7. Term and Termination.

7.1. Term. This Agreement commences as of the Start Date of the first Order Form and will continue in effect for so long as there is an unexpired Order Form.

7.2. Termination.

Termination of this Agreement shall be governed by the applicable termination provisions of GSAR 552.212-4(l) and (m), and FAR 52.233-1.

Recourse against the United States for any alleged violation or breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Xage shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

7.3. Survival. The rights and obligations of the parties set forth in this Section 7.3 (Survival) and Sections 2.2 (Restrictions), 2.3 (Feedback), 4 (Payment, Taxes, Records and Verification), 5 (Ownership), 6 (Confidentiality), 8.2 (Disclaimer), 9 (Indemnification), 10 (Limitations of Liability) and 13 (Miscellaneous), and any right, obligation or required performance of the parties in this Agreement which by its express terms or nature and context is intended to survive expiration of this Agreement, will survive any such expiration.

8. Limited Warranty; Disclaimer.

8.1. Limited Warranty. For the entire period of performance, starting on starting on the date that Xage first deploys the Xage Software in Customer's Environment under this Agreement ("**Warranty Period**"), Xage represents and warrants that the Xage Software will perform substantially in accordance with the Documentation, and that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract. Customer shall promptly notify Xage of any breach of the foregoing limited warranty during the period of performance, in which event Xage shall use commercially reasonable efforts to correct such problem, provide a work-around, repair or replace nonconforming supplies, or reperform nonconforming services at no increase in contract price. If repair/replacement or reperformance will not correct the defects or is not possible, the Government may seek an equitable price

reduction or adequate consideration for acceptance of nonconforming supplies or services.

The Government must exercise its post-acceptance rights-

(1) Within a reasonable time after the defect was discovered or should have been discovered; and

(2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

8.2. Xage's warranty does not extend to the following, and the Government is responsible for damages, if Xage reasonably determines that the non-conformance was caused by: (i) any alteration or modification to the Xage Software made by Customer or any third-party; (ii) third party applications or software, or hardware manufactured by a third party not authorized by Xage; or (iii) improper maintenance performed by Customer, (iv) accidental, negligence, abuse or misuse, or any use of the Xage Fabric inconsistent with this Agreement, the applicable Order Form and/or applicable Documentation. If faulty Hardware is the source of a non-conformance, Xage will need to obtain an RMA number and return the Hardware for a replacement.

8.3. Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.1 OR FAR 52.212-4(o) IMPLIED WARRANTIES, XAGE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, AS TO ANY ASPECT OF THE XAGE FABRIC AND HARDWARE, ITS OPERATION, MAINTENANCE OR SUPPORT OR ANY OTHER SERVICES TO BE PERFORMED BY XAGE HEREUNDER. XAGE DOES NOT WARRANT THAT THE XAGE FABRIC OR HARDWARE WILL OPERATE UNINTERRUPTED OR ERROR-FREE OR THAT ALL ERRORS WILL BE CORRECTED.

9. Indemnification.

To the extent expressly permitted by the Federal law of the United States, including without limitation the anti-deficiency laws (31 USC 1341 and 41 USC 6301), and subject to authorized agency annual appropriations, Customer shall defend, indemnify and hold harmless Xage and its officers, members, owners, directors, employees, customers, agents, successors and assigns from and against any and all loss, damage, settlement, costs or expense (including legal expenses and expenses of other professionals), resulting from, or arising out of any third party claim which alleges that the Customer Environment has caused or contributed to bodily injury, death or damage to property. Xage shall promptly notify Customer in writing of any such claims, give Customer sole control of the defense thereof and any related settlement negotiations, and at Customer's reasonable request and expense, cooperate and assist in such defense. Under no circumstances shall Customer enter into any settlement that involves an admission of liability, negligence or other culpability of Xage or requires Xage to contribute to the settlement without Xage's prior written consent. Xage may participate and retain its own counsel at its own expense. 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. Limitation of Liability.

10.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL XAGE OR ITS SUPPLIERS BE LIABLE TO CUSTOMER FOR ANY INDIRECT DAMAGES, INCLUDING ANY LOST PROFITS, LOST SAVINGS, OR OTHER INCIDENTAL, SPECIAL OR CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE SOFTWARE OR A LOSS OF DATA OR PROFITS WHETHER IN AN ACTION OF CONTRACT, OR OTHER TORTIOUS ACTION, EVEN IF XAGE OR ANY AUTHORIZED XAGE BUSINESS PARTNER HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, NOR SHALL XAGE BE LIABLE FOR ANY SIMILAR CLAIM AGAINST THE CUSTOMER BY ANY OTHER PARTY. LIABILITY SHALL EXTEND TO XAGE IN THE EVENT OF DIRECT DAMAGES CAUSED BY XAGE'S SOFTWARE.

10.2. XAGE'S LIABILITY UNDER THIS AGREEMENT, AND LIABILITY OF ITS SUPPLIERS, DISTRIBUTORS, OR DEALERS, SHALL ONLY EXTEND TO DIRECT DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE XAGE'S SOFTWARE, OR OTHER DIRECT DAMAGES FROM ACTIONS DURING PERFORMANCE OF THIS CONTRACT IN ACCORDANCE WITH APPLICABLE UCC SECTIONS. THE FOREGOING LIMITATIONS SHALL NOT APPLY (1) TO PERSONAL INJURY OR DEATH RESULTING FROM XAGE'S GROSS NEGLIGENCE; (2) INTENTIONAL TORTS; OR (3) FOR ACTUAL FRAUD.

11. Export. Customer acknowledges that the laws and regulations of the United States may restrict the export and re-export of certain commodities and technical data of United States origin, including components of the Xage Fabric or Hardware. Customer agrees that it will not export or re-export any Xage Fabric or Hardware without the appropriate United States or foreign government licenses. Without limiting the foregoing, (i) Customer represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) Customer shall not permit access or use of the Xage Fabric or Hardware in violation of any U.S. export embargo, prohibition or restriction.

12. Government End Users. The Xage Fabric is a "commercial computer software" product as that term is described in DFAR 252.227-7014(a)(1). If Customer is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Xage Fabric, or any related documentation of any kind, including technical data and

manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 and 12.11 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. All other use is prohibited.

13. Miscellaneous. (a) The relationship of the parties hereto are independent contractors, and neither party is an employee, agent, partner or joint venturer of the other. (b) This Agreement shall be governed by the Federal Procurement Laws of the United States of America. The Parties hereby agree that the jurisdiction and venue for any claim, dispute, controversy, or other action arising out of or in connection with the Software, this Agreement or Xage, shall be in the Armed Services Board of Contract Appeals (ASBCA) or the United States Court of Federal Claims and is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. Chapter 71) and as implemented by FAR 52.233-1. (c) This Agreement sets forth the entire agreement and understanding of the parties relating to the subject matter hereof and merges all prior discussion between them. No modification of or amendment to this Agreement, nor any waiver of any rights under this Agreement, will be effective unless set forth in writing signed by officers of both parties hereto. (d) Any notice required or permitted by this Agreement will be sent through email to all parties, programs, and contracting offices with confirmation of receipt, or in writing sent by prepaid, registered or certified mail, return receipt requested, addressed to the other party at the address (i) shown at the beginning of this Agreement, with respect to notices to Xage, and (ii) to Customer's address set forth on the initial Order Form, or (iii) at such other address for which such party gives notice hereunder. Such notice will be deemed to have been given when delivered or, if delivery is not accomplished by some fault of the addressee, when tendered. (e) Customer may not transfer or assign its rights or obligations under this Agreement without the prior written consent of Xage. Subject to the foregoing sentence, this Agreement will be binding upon and inure to the benefit of the parties hereto, their successors and assigns. (f) Any provision found by a court of law or the ASBCA to be illegal, invalid, or unenforceable shall automatically be deemed conformed to the minimum requirements of law and it, with all other provisions, shall be given full force and effect. Waiver of provision in one instance shall not preclude its enforcement on future occasions; however, UCC course of performance and course of dealing provisions apply. Such findings of illegality, invalidity, and/or unenforceability of one or more of the provisions herein shall not affect the remaining provisions. (g) The failure of either party to enforce at any time any of the provisions of the Agreement, or the failure to require at any time performance by the other party of any of the provisions of this Agreement, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of either party to enforce each and every such provision thereafter.