

MASTER LICENSE AGREEMENT

This Master License Agreement (“**Agreement**”) is made on: _____

BETWEEN

HCL Technologies Limited a company duly organized and existing under the laws of India and having its registered offices at 806 Siddharth, 96 Nehru Place, New Delhi-110019 (“**Licensor**” or “**HCLT**”); and HCL America, Inc., a Delaware corporation with an office at 330 Potrero Avenue, Sunnyvale, CA 94805 (“**Licensor**” or “**HCLA**”) (together, HCLT and HCLA are “**HCL**”); and

[*****] (“**Licensee**”).

The Agreement governs the receipt and use of HCL Programs and related Support (as defined below). HCLT, HCLA and Licensee are hereinafter referred to individually or collectively, as “**Party**” or “**Parties**.”

1. **Definitions.** In addition to the terms defined above and elsewhere in this Agreement, the following terms will have the meaning set forth below:
 - 1.1. “**Affiliate**” means an entity that controls, is controlled by, or shares common control with HCL or Licensee, where such control arises from either (a) a direct or indirect ownership interest of more than fifty percent (50%) of the outstanding voting stock and/or equivalent interest, or (b) the power to direct or cause the direction of the management and policies, whether through the ownership of voting stock and/or equivalent interest, by contract, or otherwise, equal to that provided by a direct or indirect ownership of more than fifty percent (50%) of the outstanding voting stock and/or equivalent interest.
 - 1.2. “**Authorized Users**” means the representatives authorized by Licensee including employees, temporary agency staff, contractors, consultants and service providers to access and use the Program(s) as specified in an Order pursuant to the terms of this Agreement and subject to Section 3 and Section 4 of this Agreement.
 - 1.3. “**Documentation**” means HCL’s guides, manuals, and other technical information in printed and machine-readable form that describes the functionality and use of the Program(s).
 - 1.4. “**Effective Date**” means the earlier of the date of acceptance of this Agreement or of the first Order.
 - 1.5. “**Feedback**” means (i) Licensee's requirements, input, comments, responses, opinions, and feedback, concerning the definition, design or validation of the Program and Documentation or (ii) Licensee's technical Program Requirements for HCL to include in the Program specifications, design or validation.
 - 1.6. “**Fees**” means license, Support, and other fees as specified in an Order or provided under this Agreement.
 - 1.7. “**Intellectual Property Rights**” or “**IPR**” means any ideas, whether or not patentable, inventions, discoveries, processes, works of authorship, marks, names, know-how, and any and all rights in such materials on a worldwide basis, including any rights in patents, inventor’s certificates, utility models, copyrights, moral rights, trade secrets, mask works, and all related, similar or other intellectual property rights recognized in any jurisdiction worldwide, including all applications and registrations with respect thereto.
 - 1.8. “**Licensed Capacity**” means the quantity of each Program licensed as specified in an Order.
 - 1.9. “**License Information Document**”, means a document that provides information and any additional terms specific to a Program. License Information Documents as applicable are made available at <https://www.hcltechsw.com/wps/portal/resources/license-agreements>
 - 1.10. “**Object Code**” means software, including all computer programming code, entirely in binary form, which is directly executable by a computer and includes those help, message, overlay, and other files necessary for supporting the intended use of the executable code.

- 1.11. **“Open Source Software”** means software licensed under an open source license.
- 1.12. **“Order”** means an agreed written or electronic document, and any purchase order issued by the Licensee, which shall be subject to the terms and conditions of this Agreement that identifies the Programs to be licensed, the Licensed Capacity thereof, applicable Fees, including tax and payment terms and the Support to be purchased, and any other applicable terms (including but not limited to a listing of any additional Authorized Users, which for avoidance of doubt Licensee shall be responsible for their agreement and compliance with the terms hereof and such obligation shall be deemed part of Section 3). Solely for administrative convenience of the Parties in ordering hereunder, Licensee may issue a purchase order referencing an HCL Order form in lieu of the Parties signing the HCL Order form (HCL Program License and Support Order Schedule) and such purchase order shall then be deemed an Order for ordering purposes, and any different terms in such purchase order will not apply. The purpose of the purchase order is solely for identifying pricing, product/service selected, and quantity for ordering hereunder.
- 1.13. **“Problem”** means a reproducible condition that causes the operation of a Program to deviate from its Documentation, when such Program is used with the prescribed Program Requirements and so as to impact Licensee’s ability to use the Program in the manner described in the Documentation.
- 1.14. **“Program(s)”** means the Object Code of the software (including Third Party Software identified in the applicable License Information Document) and all accompanying Documentation, delivered by HCL to Licensee, including all items delivered by HCL to Licensee under Support.
- 1.15. **“Program Requirements”** means any software, materials, operating systems, hardware, platforms and prerequisite items identified in the Documentation or License Information Document or other specifications provided by HCL which are not included or part of the Programs and are required to ensure that the Program operates in accordance with the Documentation.
- 1.16. **“Reciprocal Open Source Software”** means Open Source Software, the license for which requires, as a condition of use, modification, or distribution, that any resulting software must be (i) disclosed or distributed in Source Code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.
- 1.17. **“Source Code”** means computer programming code in human readable form and related system level documentation, including all associated comments, symbols, and any procedural code such as job control language.
- 1.18. **“Territory”** means world-wide except for those countries considered embargoed or sanctioned countries under U.S. or applicable laws or regulations.
- 1.19. **“Third Party Software”** means third party software, Open Source Software, libraries, and components incorporated in or included with a Program.

2. **Agreement Structure.**

HCLA is the owner and licensor of the Intellectual Property Rights in the VoltMX Program. HCLT is the owner and licensor of all other Program(s) and all associated Intellectual Property Rights. HCLA is a wholly owned subsidiary of HCLT. Licenses are granted and Support is obtained solely in connection with valid Orders. For Orders issued in the US, HCLA shall be the billing entity for each VoltMX Program Order. HCLT shall be the billing entity for all other Orders. For the rest of the world the billing entity will be the HCL entity stated on the applicable Order. Each Order is subject to the terms of this Agreement and any License Information Document, if applicable, and deemed to be a discrete contract, separate from each other Order, unless expressly stated otherwise therein. Orders may be entered into under this Agreement by and between (a) HCL or an Affiliate of HCL; and (b) the Licensee or an Affiliate of Licensee. With respect to an Order, the term HCL or Licensee (or Customer) will be deemed to refer to the entities that execute such Order. Neither execution of this Agreement nor anything contained herein will obligate either Party to enter into any Orders. In the event an Order is proposed by HCL, and is deemed to constitute an offer, then acceptance of such offer is limited to its terms. As also set forth in Section 1.12 (Order) hereof, in the event Licensee proposes or accepts an Order by submitting a Licensee purchase order, order document, acknowledgment, or other Licensee communication, then regardless of whether HCL acknowledges, accepts, fully or partially performs under any such document, HCL objects to and rejects

any additional or different terms in such document and no such additional or different terms will become part of the agreement between the Parties even if HCL uses or refers to such document for invoicing purposes.

3. License Grant

- 3.1 Subject to the terms, conditions, and other restrictions set forth in this Agreement, any applicable License Information Document and a valid Order (including timely payments of any Fees therein), HCL grants to Licensee a non-exclusive, non-transferable, limited, and revocable license, without the right to sublicense, under HCL IPR, to install, access, and use the Programs (i) in the Territory (ii) up to the Licensed Capacity; (iii) only for Licensee's internal business purposes; (iv) for the term stated in the applicable Order; and (v) in accordance with the Documentation and the applicable Order. For avoidance of doubt, Licensee has no rights to create derivative works, assign, distribute, lease, rent, or otherwise transfer the Program(s).
- 3.2 Licensee Affiliates and Authorized Users may install, access, and use the Programs and Support under the terms of this Agreement, and such use shall be counted in determining Licensee's utilization of the Licensed Capacity. Licensee shall remain fully responsible for ensuring its Affiliates' and Authorized Users' agreement and compliance with the terms of this Agreement and the Order.
- 3.3 If the Program is a pre-release, alpha or beta version of the Program, hereinafter referred to as the "Pre-release Program" and not generally available to date, HCL does not guarantee that the generally available release will be identical to the Pre-release Program or that the generally available release will not require reinstallation. Licensee agrees that if it registers for Support or if otherwise required by HCL, Licensee shall provide HCL with specific information concerning Licensee's experiences with the operation of the Pre-Release Program. Licensee agrees and acknowledges that the Pre-release Program (a) is to be used only for testing purposes and not to perform any production activities unless HCL shall have otherwise approved in writing and (b) has not been tested or debugged and is experimental and that the documentation may be in draft form and will, in many cases, be incomplete. Licensee agrees that HCL makes no representations regarding the completeness, accuracy or Licensee's use or operation of the Pre-Release Program. PRE-RELEASE PROGRAMS ARE PROVIDED ON AN "AS IS" BASIS, WITHOUT ANY INDEMNITY, WARRANTY OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR PURPOSE AS WELL AS ANY EXPRESS WARRANTIES PROVIDED ELSEWHERE IN THIS AGREEMENT. If Licensee is also a tester of the Pre-release Program (as defined by the pre-release testing agreement ("Pre-Release Agreement") that was agreed to by Licensee during the registration process before obtaining the Pre-release Program), Licensee agrees that the terms of this Agreement are in addition to, and do not supersede, the terms of the Pre-Release Agreement.
- 3.4 If the Program is being licensed on a trial, demonstration or evaluation basis, Licensee agrees to use the Program solely for such purposes, in accordance with the usage restrictions set forth in Section 4, for the evaluation period defined in the applicable Order or trial document (the "Trial Period"). At the end of the Trial Period, Licensee's right to use the Program automatically expires and Licensee agrees to de-install the Program and return to HCL all copies or partial copies of the Program or certify to HCL in writing that all copies or partial copies of the Program have been deleted from Licensee's computer libraries and/or storage devices and destroyed. If Licensee desires to continue its use of the Program beyond the Trial Period, Licensee may contact HCL or an HCL Affiliate to acquire a license to the Program for the applicable fee. LICENSEE'S USE OF THE PROGRAM DURING THE TRIAL PERIOD IS ON AN "AS IS" BASIS WITHOUT ANY INDEMNITY, WARRANTY OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR PURPOSE, AS WELL AS ANY EXPRESS WARRANTIES PROVIDED ELSEWHERE IN THIS AGREEMENT.
- 3.5 If the Program includes a Software Development Kit ("SDK"), the terms and conditions of this paragraph apply solely for the use of the SDK. The SDK may include software, APIs and associated documentation. The SDK is provided solely for Licensee's internal use to develop software that enables the integration of

third party software or hardware with the Program, or to develop software that functions with the Program, such as an agent. Licensee's use of the SDK is restricted solely to enhance Licensee's internal use of the Program. No distribution rights of any kind are granted to Licensee regarding the Program. In addition to the limitations on use set forth in Section 4, below, Licensee may not reproduce, disclose, market, or distribute the SDK or the documentation or any applications containing any executable versions of the SDK to third parties, on the internet, or use such executables in excess of the applicable Authorized Use Limitation. If there is a conflict between the terms of this section and the terms of any other section in this Agreement, the terms of this section will prevail solely with respect to the use of the SDK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, THE SDK IS PROVIDED AND LICENSED "AS IS" WITHOUT ANY INDEMNITY, WARRANTY OR REPRESENTATION OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OR REPRESENTATIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR PURPOSE, AS WELL AS ANY EXPRESS WARRANTIES PROVIDED ELSEWHERE IN THIS AGREEMENT.

3.6 Licensee hereby acknowledges that the Program(s) may contain Third Party Software and/or may require Program Requirements. In the event that Third Party Software is included in the Program(s), such Third Party Software is made available to Licensee in accordance with the licenses for such Third Party Software. In the event that the Program relies on Program Requirements and unless expressly provided otherwise in an Order, Licensee agrees that: (a) HCL and its Affiliates have not obtained or conveyed to Licensee any Intellectual Property Rights to use the applicable Program Requirements; (b) Licensee shall be solely responsible, at its cost and expense, for procuring the required rights/licenses in the Program Requirements; (c) HCL does not provide any warranties or support for Program Requirements; and (d) any claims with respect to the Program Requirements shall be made against the applicable third party provider of such Program Requirements.

4. License Restrictions

4.1. **Restrictions.** Except for the limited licenses expressly granted in Section 3, Licensee has no further rights in the Program(s), whether express, implied, arising from estoppel or otherwise. Further restrictions regarding Licensee's use of any and all Program(s) are set forth below. Except as expressly authorized herein, Licensee will not:

- 4.1.1. prepare any derivative works, or otherwise use, copy, modify, distribute, assign, sublicense, lease, rent, or otherwise transfer the Program(s), except to the extent required by law;
- 4.1.2. use the Programs in an outsourcing or service bureau environment on its behalf and/or on behalf of non-affiliated third parties or allow the Programs to be used by an outsourcing or service bureau provider on behalf of the Licensee;
- 4.1.3. distribute the Program to end-users as on-premises distributions or offer the Program as a cloud service or software-as-a-service to any end-users;
- 4.1.4. reverse engineer, reverse assemble, reverse compile, translate, or otherwise attempt to discover the Source Code form of any Program(s) that are provided in Object Code form, except as permitted by the national or regional law of the places where the Licensee does business (without the opportunity for contractual waiver), and then only with respect to the particular copy of Object Code incorporated into that particular Program.
- 4.1.5. use any of the Program's components, files, modules, audio-visual content, or related licensed materials separately from the Program;
- 4.1.6. attempt to disable or circumvent any of the licensing mechanisms within the Program;
- 4.1.7. alter or remove any copyright, trademark or patent notice(s) in the Programs; and

4.1.8. use the Programs in a way that requires the Programs to be licensed as Reciprocal Open Source Software.

5. **Feedback.** Licensee is not obligated to provide Feedback to HCL. To the extent that Licensee provides Feedback to HCL, Licensee hereby grants to HCL a worldwide, non-exclusive, perpetual, irrevocable, royalty-free license, with the right to sublicense, under any and all Licensee IPR in and to the Feedback to make, use, sell, offer to sell, have made, import, reproduce, prepare derivative works, distribute, incorporate or otherwise utilize such Feedback.
6. **Ownership.** Licensee acknowledges that, as between Licensee and HCL, HCL has exclusive right, title and interest in and to all of the IPR in and to the Program(s). Notwithstanding the use of the terms “purchase”, “sale”, or any similar terminology in connection with a transaction contemplated by this Agreement, the Program(s) are licensed, not sold. HCL is not a sub-licensor of the HCL IPR. HCL is not a sub-licensor of the HCL IPR.
7. **Delivery.** Provided Licensee is current on all applicable payment obligations HCL will make Program(s) available to Licensee. All Programs are delivered electronically unless stated otherwise in an Order and Licensee agrees upon request from HCL to provide HCL with documentation supporting that the designated items were received electronically.
8. **Support and Updates**

Support services (“Support”) are provided by HCL as described in the current support guide (“Support Guide”) posted at <https://support.hcltechsw.com/csm>. Upon purchase of a license for the Program(s), Licensee is enrolled in standard Support for the Program(s) identified in an Order for the first 12 months thereof at no additional cost. While HCL Support is in effect, HCL may make available defect corrections, restrictions, bypasses, new versions, releases, or updates available as part of Support. Any items provided under Support are subject to the same terms, conditions, usage limitations and restrictions as the Program originally licensed to Licensee by HCL and any applicable License Information Document.

9. **Licensee Data and Privacy**

9.1 HCL as controller. Licensee authorizes HCL and its Affiliates to store and use Licensee's business contact information wherever it does business, in connection with Licensee's use of HCL Programs and related services or Support, or in furtherance of HCL's business relationship with Licensee. Any personal data used by HCL as a data controller will be processed under the terms of the HCL online privacy statement found here: <https://www.hcltechsw.com/wps/portal/legal/privacy>.

9.2 Data excluding personal data. To assist Licensee in isolating the cause of an error or Problem with the Program(s), HCL may request that Licensee send certain information to HCL. Such information may include metadata, usage metrics, and/or system data, excluding personally identifiable information. Licensee acknowledges that HCL uses information about errors and problems to improve its products and services and to assist with its provision of related Support offerings. Licensee is responsible for ensuring that such data is backed up before providing same and that it is sent only through HCL approved secure channels.

9.3 HCL as processor. To the extent Licensee provides personally identifiable information to HCL for purposes of using the Program, or for receiving Support or related services (including information contained in a support ticket or file attachment), such information shall be processed by HCL as a data processor. The terms of the HCL data processing addendum (“DPA”) found at <https://www.hcltechsw.com/wps/portal/resources/master-agreements> posted as of the Effective Date shall apply to such processing and are hereby incorporated by reference. To the extent personal data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by HCL, the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Licensee and its applicable Affiliates are each the data exporter, and Licensee's acceptance of this Agreement shall be treated as its execution of the Standard Contractual Clauses and Appendices. Licensee acknowledges that it shall have no reason to provide sensitive personal data/special category of personal data to HCL for any purposes and shall not include same in any support ticket or file attachment without HCL's prior express written consent.

9.4 Protection of Licensee Data. HCL will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Licensee data, as described in HCL's Technical and Organizational Measures found here: <https://www.hcltechsw.com/resources/sw-toms>

10. Payments.

10.1. Fees. Licensee will pay any and all Fees, without deduction, offset or withholding, as detailed in the Order. Except as provided therein, all amounts in the Order are in United States Dollars (USD). Payment is due in advance. Licensee will pay HCL for the amounts due, owing, and duly invoiced under the Order within thirty (30) days of the date of invoice. Licensee shall make all payments pursuant to the Order through electronic transfer of funds to the designated bank accounts as nominated by HCL in writing. Overdue amounts payable under the Order will bear interest from the original due date at the rate of one percent (1%) per month or the maximum legal rate, whichever is less. Except as provided in this Agreement, all Fees are non-refundable and non-cancellable. If the Licensee has a bona fide dispute in respect of the whole or any part of any invoice, Licensee shall notify HCL in writing within ten (10) days of receipt of an invoice and, if a dispute remains unresolved within 10 days of receipt of notification, Licensee may withhold payment of the amount in dispute but shall pay the undisputed amount in accordance with this Agreement. If HCL subsequently determines any disputed amount is due from Licensee, or if the Parties resolve the payment dispute, the amount due shall be paid within 7 days after such determination or resolution.

10.2. Right to charge additional Fee. Where applicable, Licensor reserves the right to charge, upon notice to the Licensee, additional fees if applicable for (i) over deployment as per Section 11; and (ii) re-instatement fee for lapsed Support and/or other Program.

10.3. Taxes. All Fees quoted are exclusive of taxes. Licensee is responsible for payment of any and all sales, use, value added, GST, and other similar taxes or governmental fees associated with the Order, except for taxes based on HCL's net income, gross revenue or employment obligations. If HCL is obligated by applicable law to collect and remit any taxes or fees, the appropriate tax or fee amount will be charged and set forth in the applicable invoice. Licensee agrees to bear any withholding tax liability as may be required by applicable law and would increase payment due under the Order by such an amount so that the net payment made to HCL after deduction of applicable withholding tax is the same, had there been no withholding tax applicable. Licensee is solely responsible for timely and accurate payment of applicable taxes and fees without deduction from HCL's invoiced amounts, irrespective of what HCL's invoice may state.

11. **License Compliance**. Licensee agrees that HCL may, no more than one time per twelve (12) month period, audit the Licensee's use of the Programs including but not limited to software logs of Licensee, its Affiliates and Authorized Users, relating to the Program in order to verify their use in compliance with this Agreement and/or the Order. HCL may make copies of any such software logs to the extent necessary to verify Licensee's compliance with the terms hereof. HCL may at its option and cost, engage an independent third party to do such audit, provided that such third party is subject to confidentiality obligations consistent with this Agreement. The audit may be conducted at any sites of Licensee's Affiliates and Authorized Users, where the Program is installed, used or accessed from, including remotely. HCL will bear its own costs in connection with an audit. HCL will provide fifteen (15) calendar days' notice prior to an audit. Any such audit will be performed during the usual business hours of the Licensee, its Affiliates or Authorized Users and HCL will use commercially reasonable efforts to have the audit conducted in a manner that minimizes disruption to business. Licensee, its Affiliates, and Authorized Users will provide all assistance reasonably necessary for HCL to carry out such audit. If the audit reveals underpayments, including but not limited to any underpayments due to any usage of Programs other than as authorized in this Agreement, Licensee will promptly make such payments and in case of unauthorized usage, pay for the differentials at HCL's then list price for the Program. As with all provisions of this Agreement, HCL's rights and remedies in this section will be without prejudice to other rights and remedies HCL has under this Agreement or in any Order, at law or in equity. HCL's audit rights under this section will survive for two years beyond the longer of the term license on the Order, the relevant perpetual License or the Agreement.

12. Term and Termination.

- 12.1. **Term.** This Agreement shall enter into force as of the Effective Date and shall remain in force until terminated in accordance with the terms contained herein. The Program license period (“Subscription Period”) and Support period (“Support Period”) are set forth in the applicable Order.
- 12.2. **Termination by Licensee.** Licensee may terminate the applicable Program license or Support in an Order upon written notice to HCL if HCL commits any material breach hereunder and fails to cure such breach within thirty (30) days after Licensee notifies HCL in writing providing details of the breach.
- 12.3. **Termination (or Suspension) by HCL.** HCL may terminate or suspend this Agreement and/or any Order(s), in whole or in part, and at any time if:
- 12.3.1. If HCL does not receive payment against HCL’s invoices in accordance with the payment terms under this Agreement or an applicable Order (i) within a further fifteen (15) days after the relevant due date, or (ii) on more than one occasion in any 12-month period;
- 12.3.2. Licensee infringes the IPR of HCL, its Affiliates, or its licensors or uses the Program(s) outside the scope of the license.
- 12.3.3. Licensee commits any material breach of this Agreement or any Order (i) and fails to cure such breach within thirty (30) days after HCL notifies Licensee in writing of the breach, or (ii) if such breach is incurable; or
- 12.3.4. Licensee (i) files, or has filed against it, a petition in bankruptcy, (ii) has a receiver appointed to handle its assets or affairs, (iii) makes or attempts to make an assignment for benefit of creditors,

in each case, HCL shall provide written notice of termination and/or suspension.

For avoidance of doubt, HCL’s rights to terminate or suspend are in addition to any other rights HCL may have.

- 12.4. **Effect of Termination or Expiration.** In the event of termination or expiration of this Agreement or an Order, in whole or in part:
- 12.4.1. All affected licenses granted hereunder will terminate, except perpetual licenses (unless terminated as provided herein);
- 12.4.2. Licensee shall pay to HCL, on the date of termination or expiration, the total amounts due per the Agreement and/or the Order, and, unless Licensee terminated for HCL’s uncured material breach, Licensee shall pay all Fees that would have been paid over the term of the Order and/or Agreement had the Agreement or Order (as the case may be) not terminated.
- 12.4.3. Licensee will return to HCL, and/or certify that it has destroyed all copies of, the terminated Program(s) and Documentation (except for perpetual licenses unless terminated as provided herein), which are in the possession of the Licensee;
- 12.4.4. all affected Support obligations under the Agreement or an Order will terminate, and Licensee will no longer have access to same;
- 12.4.5. HCL will be entitled to deactivate license keys (remotely or otherwise) or shut off Support for the terminated Programs.
- 12.5. **Effect of Suspension.** In the event of suspension of an Agreement and/or an Order, in whole or in part, by HCL:
- 12.5.1 Licenses to the affected Programs and/or provision of Support will be suspended during the suspension period;
- 12.5.2 HCL’s obligations (except for confidentiality) will be suspended during the suspension period;
- 12.5.3 Licensee will be liable for Fees for the suspension period;
- 12.5.4 Licensee’s obligations continue to be in force during the suspension period;

12.5.5 Suspension will not be withdrawn until HCL is reasonably satisfied that Licensee has cured the conditions that led to the suspension.

13. **Confidentiality.** Except as otherwise expressly permitted in this Agreement, both Parties will hold in confidence the Programs, Documentation and all other non-public or proprietary information or any other information that by its form, nature, content or mode of transmission would to a reasonable recipient be deemed confidential or proprietary as made available by the disclosing Party (“**Confidential Information**”). Both Parties agree that the Programs and Documentation will be treated as proprietary trade secrets of HCL. Neither Party will make Confidential Information available in any form to any person or entity other than to its respective Affiliates and Licensee’s Authorized Users on a need to know basis and subject to the same restrictions of this Section 13. Recipients of Confidential Information that are not employees of either Party must be subject to confidentiality restrictions no less stringent than those contained herein (in the case of non-employees such restrictions will be contained in a written agreement executed by the applicable contractor/person/entity). Each Party warrants to the other Party that it maintains a system of confidentiality to protect its own Confidential Information, including written agreements with employees, that the Confidential Information will be protected by such system using no less than a reasonable degree of care, and that it shall ensure its recipients’ compliance with this Section. If the receiving Party at any time becomes aware of any unauthorized use or disclosure of the disclosing Party’s Confidential Information, it will promptly and fully notify the disclosing Party of all facts known to it concerning such unauthorized use or disclosure and reasonably cooperate with the disclosing Party in seeking a protective order or other appropriate remedy to limit such disclosure.

14. **Performance Warranty.**

14.1.HCL warrants that the Programs will operate materially in accordance with the applicable specifications set forth within the Documentation for a period of six (6) months (“**Warranty Period**”) after delivery of the Programs subject to Licensee’s compliance with the Agreement (“**Performance Warranty**”).

14.2.The Performance Warranty does not cover Problems, failures, or defects in the Programs caused by any act or omission of Licensee or its representatives, or any other non-HCL person or entity, including but not limited to: (a) the misuse of or damage to the Program; (b) modifications to the Programs not made by or as authorized in writing in advance by HCL; (c) combination or use of the Programs with other software, hardware or cloud infrastructure not provided by HCL; (d) use of the Program in an operating environment other than that described in the Documentation or Program Requirements mutually agreed in writing; or (e) failure to install updates, patches or fixes provided by HCL.

14.3.THE LIMITED WARRANTIES EXPRESSLY SET FORTH IN SECTION 14.1 ABOVE ARE LICENSEE’S EXCLUSIVE WARRANTIES. HCL DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND ANY WARRANTY OR CONDITION OF NON-INFRINGEMENT. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF EXPRESS OR IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO LICENSEE. IN THAT EVENT, SUCH WARRANTIES ARE LIMITED IN DURATION TO THE RESPECTIVE WARRANTY PERIOD. NO WARRANTIES APPLY AFTER THE WARRANTY PERIOD. SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO LICENSEE.

14.4.THE WARRANTIES IN THIS SECTION 14 ARE PROVIDED SOLELY BY THE HCL ENTITY LICENSING THE PROGRAM AND NOT BY A THIRD PARTY OR ANY OTHER HCL ENTITY. THE DISCLAIMERS IN THIS SECTION 14, HOWEVER, ALSO APPLY TO ALL HCL ENTITIES AND THEIR LICENSORS AND SUPPLIERS OF THIRD PARTY SOFTWARE. THOSE SUPPLIERS PROVIDE SUCH SOFTWARE WITHOUT WARRANTIES OR CONDITION OF ANY KIND.

14.5.**Performance Warranty Remedy.** In the event of breach of the above stated Performance Warranty, Licensee’s remedy is for HCL, in consultation with Licensee, to either (i) use reasonable efforts consistent with industry standards to repair the defect within a commercially reasonable time frame, (ii) replace the affected Program(s) with one that materially complies with the Documentation, or in the event (i) or (ii) do

not resolve the issue to then (iii) terminate the license and provide a pro-rata refund of the license fees paid and/or Support fees to Licensee. If option (iii) applies, the pro-rata refund shall be calculated on the number of months left remaining on the Term of the applicable Order or if the Program(s) is licensed under a perpetual license, using (only for purposes of a refund calculation) an amortization schedule of three (3) years. The above warranty remedies are HCL's sole obligation and Licensee's sole and exclusive remedy for breach of the above Performance Warranty. The Performance Warranty Remedy is conditioned upon (i) any error or defect reported is reasonably reproducible by HCL, (ii) the Program(s) is not modified and is being used in accordance with the Documentation and the terms of the Agreement, and (iii) the breach is not attributable in whole or in part to any non-HCL products or services.

15. Indemnification

- 15.1. HCL will, at its election, settle or defend, any third party claim brought in any suit or proceeding against Licensee based upon an allegation that any Program(s) furnished hereunder constitutes a direct infringement of any patent, trade secret or copyright, and HCL will pay all damages and costs finally awarded against Licensee for the claim or agreed in settlement by HCL. In the event of any claim, allegation, or suit, HCL, in its sole discretion, may reengineer the Program(s) in a manner that removes the infringing material, replace the Program(s) with non-infringing software, or terminate the Agreement or applicable Order. HCL will not be liable for any costs or damages and will not indemnify or defend Licensee to the extent such action is based upon a claim arising from:
- 15.1.1. modification of the Program(s) by a party other than HCL after delivery by HCL;
 - 15.1.2. use of the Program(s) in combination with hardware or software not provided by HCL, unless the Documentation refers to combination with such hardware or software (without directing Licensee not to perform such a combination);
 - 15.1.3. any failure to use the Program in accordance with the Program Requirements and/or Documentation;
 - 15.1.4. any unauthorized use of the Program(s);
 - 15.1.5. Licensee's failure to incorporate updates or upgrades that would have avoided the alleged infringement; or
 - 15.1.6. provision of Programs as Pre-Release Programs (Section 3.3) or for trial purposes (Section 3.4) or including SDK (Section 3.5) .
- 15.2. The foregoing obligations are HCL's entire liability and Licensee's sole and exclusive remedy for any infringement claims, and are conditioned on the following: (i) HCL is notified promptly in writing of such claim; (ii) HCL controls the defense or settlement of the claim; and (iii) Licensee cooperates reasonably and gives all necessary authority, information and assistance.

16. Limitation of Liability

- 16.1. IN NO EVENT WILL EITHER PARTY (OR HCL'S AFFILIATES AND SUPPLIERS) BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF OPPORTUNITIES, LOSS OF REPUTATION/GOODWILL, BUSINESS INTERRUPTION OR LOSS OF CONFIDENTIAL OR OTHER INFORMATION AND LOSS OR CORRUPTION OF DATA, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE PROGRAM(S), OR OTHERWISE IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF THE REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
- 16.2. EXCEPT FOR BREACHES OF LICENSE GRANTS IN SECTION 3, LICENSE RESTRICTIONS IN SECTION 4, LICENSEE'S CONFIDENTIALITY OBLIGATIONS IN SECTION 13, AND LICENSEE'S PAYMENT OBLIGATIONS (INCLUDING, BUT NOT LIMITED TO, PAYMENTS ARISING FROM

HCL'S AUDIT RIGHTS), IN NO EVENT WILL LICENSEE'S TOTAL CUMULATIVE LIABILITY HEREUNDER FOR DIRECT DAMAGES (REGARDLESS OF BASIS FOR CLAIMS) EXCEED THE VALUE OF THE APPLICABLE ORDER.

- 16.3. IN NO EVENT WILL HCL'S (AND ITS AFFILIATES' AND SUPPLIERS') TOTAL CUMULATIVE LIABILITY HEREUNDER FOR DIRECT DAMAGES (REGARDLESS OF BASIS FOR CLAIMS) EXCEED THE SUM PAID BY LICENSEE TO HCL UNDER THE APPLICABLE ORDER FOR THE AFFECTED PRODUCT OR SERVICE, DURING THE PRECEDING TWELVE (12) MONTH PERIOD.
- 16.4. IN NO EVENT WILL HCL BE LIABLE TO LICENSEE OR TO ANY OTHER PARTY UNDER SECTIONS 3.3, 3.4 AND 3.5 FOR ANY DAMAGES, LOSS OR LIABILITY, INCLUDING WITHOUT LIMITATION, DIRECT, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGE, LOSS OR LIABILITY, TIME, MONEY OR GOODWILL WHICH MAY ARISE DIRECTLY OR INDIRECTLY FROM OR RELATED TO COMPANY'S OR ANY OTHER PERSON'S USE OF THE PRODUCTS WHETHER IN CONTRACT, TORT, FOR BREACH OF STATUTORY DUTY OR OTHERWISE TO THE EXTENT PERMITTED BY LAW.
- 16.5. For the avoidance of doubt, (a) HCL shall have no responsibility for matters beyond its reasonable control, including the acts or omissions of Licensee and its users; (b) each Party shall have a duty to mitigate its damages; and (c) except for injunction and exercise of termination rights hereunder, the Parties shall negotiate in good faith for 30 days prior to commencing any legal action against the other.
- 16.6. The foregoing disclaimers, limitations, and exclusions may be invalid in some jurisdictions and apply only to the extent permitted by applicable law or regulation in Licensee's jurisdiction. Licensee may have additional rights that may not be waived or disclaimed. HCL does not seek to limit Licensee's warranty or remedies to any extent not permitted by law.

17. Other Terms

- 17.1. **Conflict.** In the event of a conflict between this Agreement and an Order to this Agreement, the terms of the Order will prevail solely with respect to such Order. If there is a conflict between the terms this Agreement and License Information Document for a Program, the terms of this Agreement will prevail. In the event of a conflict between the terms of a click-wrap version of this Agreement and the terms of a negotiated physically signed version of this Agreement, the terms of the negotiated physically signed version of this Agreement shall govern.
- 17.2. **Force Majeure.** Neither Party will be liable for any failure to perform (except Licensee's monetary obligations and each party's confidentiality obligations) due to circumstances that it could not have been reasonably foreseen or causes beyond its reasonable control, including, but not limited to, acts of God, war, riot, embargoes, acts of civil or military authorities, epidemic, pandemic, delay in delivery by vendors, fire, flood, accident, strikes, inability to secure transportation, facilities, fuel, energy, labor, or materials. In the event of force majeure, time for delivery or other performance will be extended for a period equal to the duration of the delay caused thereby.
- 17.3. **Export.** Both Parties will comply with all applicable export and import laws and associated embargo and economic sanction regulations, including those of the United States, that prohibit or restrict the export, re-export, or transfer of products, technology, services, or data, directly or indirectly, to certain countries, or for certain end uses or end users. Licensee acknowledges that the Program is subject to U.S. export laws and regulations. Licensee agrees that, unless authorized by the U.S. export license or regulation, it will not export or re-export the Program provided by HCL under this Agreement or an Order to (i) those countries (or nationals of countries) considered embargoed countries under U.S. export laws and regulations or (ii) prohibited end users or end uses, including but not limited to: nuclear, space or missiles, and weapons systems (including chemical and biological). At the time of this Agreement, those countries considered embargoed/terrorist are Cuba, Iran, North Korea, Sudan and Syria and Crimea region of Ukraine.
- 17.4. **Anti-Corruption and Other Laws.** Each Party will comply, at its own expense, with all applicable laws, including, without limitation, all laws prohibiting corruption and bribery (such as, if applicable, the U.S. Foreign Corrupt Practices Act of 1977), laws governing transactions with government and public entities,

antitrust and competition laws, insider trading, securities, and financial reporting laws, and laws governing consumer transactions, where such compliance has any direct or indirect connection or relation to this Agreement or either Party's exercise of rights or satisfaction of obligations under this Agreement.

- 17.5. **Marketing.** Licensee hereby grants HCL, its employees, agents and contractors a worldwide, irrevocable license, without compensation, to use Licensee's logo and/or branding in and for general marketing, sales, and promotion purposes and Licensee waives its right to inspect and/or approve each use of such materials.
- 17.6. **Notices.** Except as provided herein, all notices required or permitted by this Agreement will be in writing and will be valid and sufficient if sent by (i) registered or certified mail, return receipt requested, postage prepaid; or (ii) by express mail or courier service providing a receipt of delivery. Notices will be effective upon receipt as demonstrated by reliable confirmation. Notices will be addressed to the Parties using the contact information given in the applicable Order or this Agreement. Either Party may change its address or other contact information by a notice given to the other Party in the manner set forth above.
- 17.7. **Limitation of Claims.** Unless otherwise required by applicable law without the possibility of contractual waiver or limitation: (i) neither Party will bring a legal action, regardless of form, for any claim arising out of or related to this Agreement more than two (2) years after the cause of action arose; and (ii) upon the expiration of such time limit, any such claim and all respective rights related to the claim lapse.
- 17.8. **Credit Checks.** HCL may conduct and Licensee agrees to credit checks of Licensee during the term of the Agreement and/or any Order.
- 17.9. **Survival.** All of the provisions in sections 1, 4, 5, 6, 10, 11, 12, 13, 15, 16 and 17 will survive expiration or termination of this Agreement.
- 17.10. **Assignment.** HCL may assign, delegate, subcontract or transfer this Agreement or any Order, in whole or in part, including but not limited to, its payment rights hereunder. Licensee shall not assign or transfer this Agreement or an Order without the prior written consent of HCL. Except as mentioned herein, any attempted assignment or transfer by Licensee of this Agreement or Order is null and void.
- 17.11. **Relationship of Parties.** The relationship between the Parties is that of independent contractors. This Agreement does not constitute a partnership or joint venture between Licensee and HCL. Licensee is not the representative or agent of HCL and HCL is not the representative or agent of Licensee, and neither will so hold itself out publicly or to any third party or incur any liability for the other Party. Customer's relationship with HCL business partners and resellers is governed by the agreement between Customer and any such HCL business partner and reseller. For this reason, HCL shall not be responsible for the acts or omissions of HCL business partners and resellers in their specific interactions with the Customer.
- 17.12. **Modifications.** Neither Party shall modify this Agreement except by the express written agreement of both Parties and annexed hereto.
- 17.13. **Severability.** All rights and remedies whether conferred hereunder, or by any other instrument or law will be cumulative and may be exercised singularly or concurrently. The failure of any Party to enforce any of the provisions hereof will not be construed to be a waiver of the right of such Party thereafter to enforce such provisions. The terms and conditions stated herein are declared to be severable. If any provision or provisions of this Agreement will be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.
- 17.14. **Counterparts.** This Agreement may be executed in several counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.
- 17.15. **Injunctive Relief.** Licensee agrees that preliminary injunctive or other equitable relief will be a necessary and proper remedy in the event of a breach of this Agreement in violation of HCL's IPR, in addition to all other rights that HCL has at law or in equity.

- 17.16. **Governing Law; Jurisdiction; and Waiver of Jury Trial.** For purchases in the U.S., any claims arising under or relating to this Agreement will be governed by the internal substantive laws of the State of California or federal courts located in California, without reference to (i) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the Parties' rights or duties; (ii) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (iii) other international laws. For purchases in the U.S., each Party (i) hereby irrevocably agrees to submit to the jurisdiction and venue in the courts of the State of California for all disputes and litigation arising under or relating to this Agreement and (ii) waives any right to a jury trial in any proceeding arising out of or related to this Agreement. For purchase outside the U.S., both Parties agree to the application of the laws of the country in which Licensee obtained the Program license to govern, interpret, and enforce all of Licensee's and HCL's respective rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without reference to (i) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the Parties' rights or duties; (ii) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (iii) other international laws. Furthermore, all rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, are subject to the jurisdiction of the courts of the country in which Licensee obtained the Program license.
- 17.17. **U.S. Government Restricted Rights.** The Programs and Documentation provided with the products and services are "commercial items" as that term is defined at 48 C.F.R. 12.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end-users acquire the Programs and Documentation with only those rights set forth herein.
- 17.18. **Public Announcement.** Neither Party will publicly announce or create a press release referencing this Agreement, its contents or its related activities without the prior written consent of the other Party.
- 17.19. **Entire Agreement.** This Agreement, along with the Orders entered into pursuant to the Agreement, is the entire agreement between HCL and Licensee relating to the Program(s) and it supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Program(s) or any other subject matter covered by this Agreement and/or the Orders. However, in the event Licensee purchased perpetual licenses for the Programs from a third party prior to the Effective Date, nothing herein shall modify Licensee's rights to use the Programs under those license terms but HCL shall have the right to enforce its IPR in the Programs during and after the term hereof.

IN WITNESS THEREOF, the Parties have executed this Agreement as of the Effective Date.

HCL TECHNOLOGIES LIMITED By: _____ Name: _____ Title: _____ Date: _____	LICENSEE: By: _____ Name: _____ Title: _____ Date: _____
HCL AMERICA, INC.: By: _____ Name: _____ Title: _____ Date: _____	