



COURION CORPORATION
END-USER LICENSE AGREEMENT
(EULA Short-Form v31-Oct-2014)

This End-User License Agreement (“Agreement”) is made and entered into as of the Effective Date as indicated below, by and between Courion Corporation, a Delaware corporation, having principal offices at 1900 West Park Drive, 1st Floor Westborough, MA 01581-3919 United States (“Courion”) and the company identified below or as identified on a Quotation, (“Customer”). Hereinafter, Courion and Customer may be collectively be referred to as “Parties” and/or individually as “Party”.

WHEREAS, Courion is in the business of providing software and services for identity and access management;

WHEREAS, Customer desires to obtain a license to use such software and/or purchase such services; and

NOW, THEREFORE, in consideration of the promises and covenants contained herein the Parties agree as of the Effective Date to the following:

1. Definitions.

“Authorized Contact(s)” shall mean named individuals trained in the use of Software and Services as identified by Customer as having security authorization to contact Courion’s technical support department to report problems and seek assistance in the use of the Software and Services.

“Calendar Day(s)” shall mean the twenty-four (24) hour period commencing upon 12:00 o’clock AM, as reflected by the Gregorian calendar.

“Customer” shall mean the legal entity specified on the signature page of this Agreement and/or applicable Quotation, which shall include any subsidiary, division, affiliate or legal entity in which Customer has a fifty (50%) percent or greater equity interest and/or control of a majority of the voting rights.

“Documentation” shall mean the applicable installation guides, service descriptions, technical specifications, on-line help files, and user manuals for the Software provided by Courion.

“Intelligence Definition(s)” shall mean content delivered *via* a Subscription Service for enhanced updates, and upgrades to the applicable Software.

“License Term” shall mean a license grant in accordance with this Agreement for the designated amount of Seats and for the period of time as reflected in the applicable Quotation.

“Maintenance Services” shall mean the maintenance and support services as further described in Section 3, “Maintenance & Subscription Services”, below, and the Maintenance, Support and Educational Services Schedule (M&S v05-Dec-2013), a copy can be viewed at <http://www.courion.com/legal.html>, attached hereto as Exhibit A, with respect to the Software licensed by the Customer hereunder commencing and terminating, as reflected in the applicable Quotation.

“Professional Services” shall mean (i) configuration and installation services performed by Courion’s personnel and/or agents for the benefit of Customer as reflected in an applicable Statement of Work(s) and/or Quotation(s); and/or (ii) training services provided by Courion’s personnel and/or agents for the benefit of Customer as further detailed in the Maintenance, Support and Educational Services Schedule (M&S v05-Dec-2013), a copy can be viewed at <http://www.courion.com/legal.html>.

“Quotation” shall mean order forms, issue to Customer by Courion, which incorporates this Agreement by reference evidencing Customer’s obligation to pay associated Fees, as set forth therein, for Software and Services and that is signed by duly authorized representatives of both Parties hereto.

“Seat(s)” shall mean individuals with a unique user identification that can utilize or be managed by the Software, including but not limited to those individuals that are designated by Customer as “Active” or “Inactive” within the Software’s profile data store, as further described in the Documentation.

“Services” shall mean the applicable services provided in conjunction with the Software, which shall include but is not limited to Subscription Services, Maintenance Services, and/or Professional Services.

“Shipment Date” shall mean the earliest Calendar Day in which Courion (i) initially ships to Customer’s designated contact the keys to the Software *via* electronic mail (email); (ii) allows Customer to access the Software and Documentation *via* a TCP/IP and/or FTP transfer site; or (iii) actually installs the Software and provided the Documentation in furtherance of providing Professional Services to Customer.

“Software” shall mean the software products, developed by Courion and/or its subsidiaries as reflected in the applicable Quotation, including selected modules, Intelligence Definitions, application program interfaces, and connectors; provided, however, Third-Party Software shall not construed as Software under this Agreement.

“Statement of Work(s)” &/or “SOW(s)” shall mean the document(s), which detail Professional Services to be performed by Courion, for the benefit of Customer in furtherance of this Agreement, which references this Agreement and is signed by duly authorized representatives of the Parties.

“Subscription Services” shall mean the maintenance and support services, as further described in Section 3, “Maintenance & Subscription Services”, below, and the Maintenance, Support and Educational Services Schedule (M&S v05-Dec-2013), a copy can be viewed at <http://www.courion.com/legal.html>, with respect to the Intelligence Definitions licensed by the Customer hereunder, commencing and terminating as reflected in the applicable Quotation.

“Third-Party Software” shall mean software products not developed by Courion and/or its subsidiaries that Courion may distribute to Customer. All Third-Party Software shall be governed strictly by such third-party’s (i) clickwrap agreement, which requires



Customer to “Accept” and/or “Agree” before utilizing and/or installing such software; (ii) the terms and conditions referenced *via* a universal resource locator (URL) indicated on the applicable Quotation; or (iii) terms and conditions contained within a text file (e.g. .txt), which accompanies the Third-Party Software.

2. License Grant & Restrictions.

2.1 License Grant. In consideration for the payment of the License Fees, as reflected in the applicable Quotation, Courion hereby grants to Customer and Customer accepts, a limited nonexclusive, non-transferable license, for the License Term, as reflected in the applicable Quotation(s), to (i) install the Software and/or Third-Party Software on the Customer’s computer systems/network equal to the number and type of Seats described as reflected in the applicable Quotation; (ii) use the Software and/or Third-Party Software in object-code/executable form only for the Customer’s internal business needs; (iii) use the Documentation and/or Third-Party Software documentation to support the use of the Software, Services and/or Third-Party Software; and (iv) make a commercially reasonable number of copies of the Software and/or Third-Party Software in object-code/executable form only, for nonproductive backup purposes.

2.2 Restrictions. Customer specifically agrees to limit the use of the Software, Services, Documentation, Third-Party Software and Third-Party documentation to those specifically granted in this Agreement. Without limiting the foregoing, Customer specifically agrees not to (i) attempt to reverse engineer, decompile, disassemble, or attempt to derive the source code of the Software or any portion thereof; (ii) modify, port, translate, localize or create derivative works of the Software and/or Third-Party Software; (iii) remove any of Courion’s, or its vendors, copyright notices and proprietary legends; (iv) attempt to circumvent, disable or defeat the limitations on Customer’s use of the Software which are encoded into the Software and/or Third-Party Software’s key; (v) use the Software and/or Third-Party Software (a) to infringe on the intellectual property rights of any third party or any rights of publicity or privacy; (b) to violate any law, statute, ordinance or regulation (including but not limited to the laws and regulations governing export/import control, unfair competition, anti-discrimination and/or false advertising); (c) to propagate any virus, worms, Trojan horses or other programming routine intended to damage any system or data; (d) in any application that may involve risks of death, personal injury, severe property damage or environmental damage, or in any life support applications, devices or systems; and/or (e) such that the total number of Seats used is in excess of the total Seats allocated to Customer as reflected in the applicable Quotation; (vi) file copyright or patent applications that include the Software and/or Third-Party or any portion thereof; and/or (vii) use the Third-Party Software within any other applications or products other than with the Software.

3. Maintenance & Subscription Services.

3.1 Maintenance Services. In consideration for the ongoing payment of the Maintenance and/or Subscription Services Fees, as reflected in the applicable Quotation(s), Courion shall provide Maintenance Services and/or Subscription Services for the Software. Customer acknowledges that this Agreement includes a warranty for the Software for a period set forth in Section 6.1, “Software Warranty” commencing from the initial Shipment Date of the initial delivery of Software to Customer. The initial Maintenance Services and/or Subscription Services period commences the initial Shipment Date of

the Software; therefore, the Software Warranty Period overlaps the Maintenance Services and/or Subscription Services period.

3.2 Upgrades and/or Updates. So long as Customer has not lapsed in its payment of the Maintenance Service and/or Subscription Service Fees due hereunder Courion shall provide to Customer all upgrades and updates at no additional charge. If Customer has lapsed in the payment of Fees due hereunder all such payments must be paid in full prior to commencement of Maintenance Service and/or Subscription Service by Courion. Customer shall be responsible for paying all Maintenance Service and/or Subscription Service Fees associated with back Maintenance Services and/or Subscription Services from the date that such Maintenance Services and/or Subscription Services were stopped through to the then-current date.

3.3 Previous Versions. It is the responsibility of Customer to obtain and install all upgrades and updates; Courion shall take commercially reasonable efforts in accordance with industry standards to notify Customer of all upgrades and updates. Courion reserves the right to withhold support for versions of the Software, which have not had the latest upgrades and updates installed. If Customer elects not to install the latest upgrades and updates, then Courion shall only provide Maintenance Service for the previous two (2) Functional Versions of the Software. “Functional Version(s)” means a Software release that changes either the first or second digits of the Software version number (i.e., “x” or “y” in “x.y.z”).

3.4 Subscription Services. In exchange for Customer paying to Courion the applicable Subscription Fees, Customer shall have access to utilize the Intelligence Definitions for the applicable Software licensed hereunder, as further described in the Documentation, offered by Courion and licensed hereunder as set forth in an applicable Quotation(s).

3.5 Authorized Contacts. For security purposes, Customer shall provide at all times a minimum of two (2) Authorized Contacts. The Customer shall provide to Courion and keep current the phone numbers and email addresses of all such Authorized Contacts. The Authorized Contacts shall be the sole contacts for all communications between the Customer and Courion’s technical support department, until the reported problems is resolved.

4. Prices and Payment.

4.1 Prices. The prices for (i) the Software including but not limited to the License Fees, and Subscription Services Fees are set forth in the applicable Quotation(s); and (ii) the Professional Services Fees are set forth in the applicable Statement of Work(s) and/or Quotation(s) (hereinafter collectively referred to as “Fee(s)”). All Fees are exclusive of sales, use, value-added or other excise tax, however designated or levied, and therefore, are subject to an increase in an amount equal to any tax Courion may be required to collect or pay (excluding taxes on its income). Customer acknowledges and agrees that all prepaid Fees are non-refundable and no credits shall be made except as provided for in Section 6, “Warranties”.

4.2 Payment. All invoices shall be due and payable within thirty (30) Calendar Days after invoice date. Courion may impose late charges on overdue payments at a rate equal to the lesser of one and a half (1.5%) percent per month or the highest rate legally permitted by law, calculated from the date payment was due until the date payment is made and all expenses incurred in collection, including reasonable



attorneys' fees. Courion may decline to make any shipments or provide services, including but not limited to Maintenance Services and/or Subscription Services, if in Courion's reasonable opinion, circumstances exist, which raise doubt as to Customer's ability or willingness to pay as provided herein. Upon default by Customer, Courion shall have other rights and remedies as may be provided by law. If Maintenance Services and/or Subscription Services are withheld in accordance with the foregoing, in order to reinstate such Services, Customer shall be responsible for paying all fees associated with back Maintenance Services and/or Subscription Services from the date that such Services were withheld through to the then-current date.

4.3 Taxes. Customer shall be liable for payment of all local state and federal sales, use, excise, personal property or other similar taxes or duties that are levied upon and related to the performance of obligations or exercise of rights under this Agreement. Courion may be required to collect and remit taxes from Customer, unless Customer provides Courion with a valid tax exemption certificate. Courion will invoice Customer for all such taxes based on Software and/or Services provided hereunder. In no event will either Party be responsible for any taxes levied against the other Party's net income.

5. Intellectual Property & Protections.

Courion shall have sole and exclusive ownership of all right, title, and interest in and to the Software, Services, Documentation and all copies thereof including all derivations, modifications and enhancements thereto (including but not limited to ownership of all intellectual property rights). The applicable vendor of Third-Party Software shall have sole and exclusive ownership of all right, title, and interest in such Third-Party Software and all copies thereof including all derivations, modifications and enhancements thereto (including but not limited to ownership of all intellectual property rights). This Agreement does not provide Customer with title or ownership of the Software, Services and/or Documentation, Third-Party Software and Third-Party documentation, but only a right of limited use.

6. Warranties.

6.1 Software Warranty. Courion warrants for a period of ninety (90) Calendar Days from the initial Shipment Date of the Software, ("Software Warranty Period") for Customer's benefit alone, that (i) the Software will perform substantially and materially in accordance with such Software's technical specifications included or referred to in the applicable Documentation; (ii) except as specified in the Documentation and to the best of Courion's knowledge, the Software does not contain any program routine, device, or other undisclosed feature, including, without limitation, a time bomb, software lock (other than a lock for limiting the number of Seats to the number purchased under this Agreement), drop-dead device, malicious logic, worm, Trojan horse, error, defect or trap door, that is capable of deleting, disabling, deactivating, interfering with, or otherwise harming the Software, Customer's databases or hardware, data, or computer programs or codes, or that is capable of providing access or produce modifications; and (iii) the Software and the media on which the Software is delivered to Customer do not contain or include any codes or programs, which causes, directly or indirectly, any material corruption, deterioration, alteration or other adverse change to the Software or any other software or hardware of the Customer ("Software Warranty"). Courion does not warrant that the Software will be error-free in all circumstances. In the event of any defect or error covered by such Software Warranty, Customer agrees to provide Courion with

sufficient detail to allow Courion to reproduce the defect or error. For any defect or error in the Software covered by such Software Warranty during the Software Warranty Period, Courion will attempt to repair or replace the Software at Courion's facility by issuing corrected instructions or a workaround. If Courion is unable to correct such defect or error after a reasonable opportunity, Courion will refund the License Fees paid for such Software.

6.2 Professional Services Warranty. Courion warrants that all Professional Services shall be performed in a professional and workmanlike manner, consistent with then-current industry standards ("Professional Services Warranty"). Customer's exclusive remedy for a breach of the Professional Services Warranty shall be, at Courion's option, either to (i) re-perform such Professional Services and/or training; or (ii) to provide Customer a refund for the allegedly defective Professional Services. Such remedy shall only be available if Customer notifies Courion in writing within ninety (90) Calendar Days of the completion of such Professional Services.

6.3 Warranty Exclusions & Exclusive Remedy. The warranties stated herein shall not include nor extend to (i) any improper use, operation or neglect of the Software and/or Services; (ii) the unauthorized modification of the Software and/or Services or the merger of the Software (in whole or part) with any other software or equipment by Customer not previously approved by Courion; (iii) any material breach by Customer of Customer's obligations under this Agreement; and/or (iv) use of the Software or Services for any purpose not set out in the Documentation and/or Section 2, "License Grant & Restrictions". All remedies stated in this Section 6, "Warranties" are Customer's sole and exclusive remedy and shall be Courion's entire liability in contract, tort, or otherwise.

7. Limitation of Liability; Exclusion of Consequential Damages.

7.1 NO FURTHER WARRANTIES. EXCEPT AS SPECIFIED IN SECTION 6, "WARRANTIES" THE SOFTWARE AND THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, COURION SHALL HAVE NO FURTHER LIABILITY FOR THE SOFTWARE OR ANY SERVICES PROVIDED IN FURTHERANCE OF THIS AGREEMENT; COURION MAKES AND CUSTOMER RECEIVES NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR IN ANY OTHER PROVISION OF THIS AGREEMENT OR ANY OTHER COMMUNICATION; AND COURION SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT.

7.2 EXCLUSION OF CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL COURION BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE AND/OR INCIDENTAL DAMAGES, WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF DATA, EVEN IF COURION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

7.3 LIMITATION OF LIABILITY. COURION SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE UNLESS SUCH LOSS OR DAMAGE IS DUE TO COURION'S GROSS NEGLIGENCE AND/OR WILLFUL MISCONDUCT. IF COURION IS FOUND LIABLE, THE AMOUNT OF COURION'S MAXIMUM



LIABILITY FOR ANY AND ALL LOSSES AND/OR DAMAGES (IN CONTRACT, TORT, OR OTHERWISE) SHALL NOT EXCEED THE TOTAL AMOUNT OF ALL LICENSE FEES ACTUALLY PAID TO COURION FOR THE RELEVANT SOFTWARE WITHIN THE PRIOR SIX (6) MONTHS FROM THE DATE ON WHICH SUCH CLAIM ARISES.

7.4 ESSENTIAL PURPOSE. THE LIMITATION OF LIABILITY AND EXCLUSION OF CERTAIN DAMAGES STATED HEREIN SHALL APPLY REGARDLESS OF THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. BOTH PARTIES HEREUNDER SPECIFICALLY ACKNOWLEDGE THAT THESE LIMITATIONS OF LIABILITY ARE REFLECTED IN THE PRICING.

8. Indemnification.

If a third party claims that the original, unaltered, unmodified Software infringes any U.S. patent, copyright, trade mark, service mark or trade secret, Courion will (provided Customer is not in material default under this Agreement and is fully paid up with respect to all Fees due hereunder and is currently receiving Maintenance Services) indemnify Customer against such claim at Courion's expense and pay all damages that a court finally awards, provided that Customer promptly notifies Courion in writing of the claim, allows Courion to control the defense or any related settlement negotiations and cooperates with Courion in the defense of any claim, provided that Courion will not enter into any settlement unless such settlement provides Customer with a full release. If such a claim is made or appears possible, Courion may, at its option, secure for Customer the right to continue to use the Software, modify or replace the Software so it is non-infringing, or, if neither of the foregoing options are available, in Courion's reasonable judgment, require Customer to return the Software for a refund or credit, at Courion's sole option, equal to the portion of previously paid Fees allocable to the remaining term, which in the case of a Software of with a perpetual License Term, shall be based on a straight-line amortization over a period of five (5) years. However, Courion has no obligation for any claim based on a modified version of the Software or the combination, operation, or use of the Software with any software, product, data, or apparatus not provided by Courion. THIS PARAGRAPH STATES COURION'S ENTIRE OBLIGATION TO CUSTOMER AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIMS OF INFRINGEMENT.

9. Termination.

9.1 Termination for Convenience. Customer may terminate this Agreement and related licenses at any time by destroying the Software and Documentation, together with all copies in any form, and providing Courion with written notice of termination certifying the destruction of such Software and Documentation. If Customer terminates this Agreement under this Section 9, "Termination for Convenience", Customer acknowledges and agrees that all prepaid Fees are non-refundable. If a Quotation or SOW hereunder provides for ongoing payments and Customer terminates prior to the end of the term, *via* this Section 9.1 "Termination for Convenience", then Customer agrees to pay the full amount that would have become due during the Term. Such payment shall be due in full upon termination.

9.2 Termination for Material Breach. This Agreement and related licenses may be terminated by either Party upon thirty (30)

Calendar Days' written notice for a material breach by the other Party, unless such other Party cures the breach within the thirty (30) Calendar Day notification period. Customer agrees upon any termination to destroy the Software, together with all copies in any form. Termination of this Agreement does not relieve Customer of any outstanding payments due or any liability arising prior to termination.

10. Confidentiality.

10.1 Confidential Information. "Confidential Information" means any proprietary, confidential and/or trade secret information of the disclosing Party hereto ("Discloser") and/or others possessed by the Discloser relating to, among other things, the Discloser's products, technology, specifications, manufacturing methods, know-how, business or marketing plans, or business relationships. Confidential Information may be disclosed either in documentary form (including without limitation traditional tangible media such as written documents, photographs and drawings, and intangible media such as diskettes and other magnetic or electronic data), or orally or visually or in other non-documentary form (including without limitation presentations, displays or inspections of writings, designs, drawings, photographs, models, prototypes, samples or facilities).

10.2 Confidential Disclosure. Confidential Information disclosed in documentary form shall be stamped "Confidential Information" or in some other manner clearly indicating that it is confidential or proprietary. The Discloser must confirm by written notice to the receiving Party hereto ("Receiver") within thirty (30) Calendar Days of disclosure that Confidential Information disclosed orally, visually or in any other non-documentary form is "Confidential Information." Notwithstanding the foregoing, the following shall be considered Confidential Information if disclosed orally or in writing by either Party during discussions concerning the business relationship: (i) all inventions, discoveries, know-how, techniques, devices, ideas, research, software implementation methods, practices, processes, systems, formulae, designs, products, projects, computer programs, improvements and developments, which have not been generally available to the public; (ii) all client or customer lists, trade secrets, or other information pertaining to the financial condition, business affairs or prospects of the Parties including, without limitation, information relative to customers, suppliers or other parties with which a Party has a business relationship, samples, sketches, bulletins, correspondence, company forms and records (including financial statements and product specification sheets), information concerning sources of supply, costs of manufacture and sale and applications of equipment, whether or not published or unpublished, confidential or protected or susceptible to protection by patent, trademark, copyright or any other form of legal protection and whether or not any attempt has been made to secure such protection; and/or (iii) all information that a reasonable prudent person would recognize as confidential when provided to Recipient.

10.3 Exclusions. Confidential Information shall not include information that: (i) was in the public domain when disclosed; (ii) becomes public domain after disclosure, other than as a result of the Receiver's violation of this Agreement; (iii) was in the Receiver's lawful possession when disclosed and was not acquired directly or indirectly from the Discloser; (iv) is shown by written evidence to have been developed by the Receiver independently after disclosure without benefit of the Confidential Information; and/or (v) was received after disclosure from a third party who did not require it to be held in confidence and who did not acquire it directly or indirectly from the Discloser.

10.4 Disclosures & Care. The Receiver: (i) will not disclose Confidential Information, except to its employees or to its agents, representatives, suppliers and/or subcontractors which are bound by a written confidentiality agreement, with terms and conditions substantially similar to those presented in this Section 10, "Confidentiality"; (ii) will not use Confidential Information except for the purposes contemplated by this Agreement; (iii) will use at least the same degree of care to safeguard Confidential Information that it uses to protect its own confidential and proprietary information, and in any event not less than a reasonable degree of care under the circumstances; and (iv) will make copies of Confidential Information only on an "as-needed" basis for such purpose, all of which shall include any existing markings indicating that they are Confidential Information of the Discloser, or shall have markings supplied by the Receiver.

11. Subpoena.

Courion is authorized to comply with any subpoena or similar order related to the data in its possession, provided that Courion notifies Customer promptly upon receipt thereof, unless such notice is prohibited by law. Customer shall pay Courion's applicable charges on a time and materials basis at Courion's then-current rates for such compliance. Courion will cooperate with Customer's efforts to quash or limit any subpoena, at Customer's expense.

12. Self-Certification; Seat Audit.

During the License Term, Customer will maintain records reasonably required to verify its compliance with this Agreement, including but not limited to Customer's compliance with the Seat restriction set forth in Section 2.2 "Restrictions". Within fifteen (15) Calendar Days of receipt of a written request, Customer shall either (i) generate a report *via* of the Software's profile data store and provide a certify copy indicating the number of Seats being utilized; (ii) conduct a webinar to show Courion the number of Seats within the Software's profile data store; or (iii) allow Courion to access the Software's data profile store remotely. In the event that Courion determines that Customer has underpaid any payment due under this Agreement, Courion shall notify Customer in writing of this alleged discrepancy. Any undisputed underpayment by Customer shall be paid to Courion (plus interest at the lesser of one and a half (1.5 %) percent per month or the highest rate permitted by law), within thirty (30) Calendar Days of such determination.

13. General Provisions.

13.1 Entire Agreement; Integration. This Agreement, the applicable Quotation(s), Statement(s) of Work(s), Exhibit(s) and Attachments referencing this Agreement represent the entire agreement between the Parties on the subject matter hereof and supersede all prior discussions, agreements and understandings of every kind and nature between the Parties. Neither party shall be deemed the drafter of this Agreement. No modification of this Agreement shall be effective unless in writing and signed by both Parties. All additional and conflicting terms and conditions presented with or in any communication, including but not limited to Customer's purchases order ("P.O."), except with respect to price, quantity and location specified in a P.O., are hereby rejected and shall be deemed *null* and *void*.

13.2 Notices. All notices under this Agreement shall be in English and shall be in writing and given by registered airmail or overnight delivery. Notices shall be deemed given when received.

13.3 Force Majeure. Neither Party shall be liable for any failure or delay in performing services or any other obligation under this Agreement, nor for any damages suffered by the other or an end user by reason of such failure or delay, which is, indirectly or directly, caused by an event beyond such Party's control including but not limited to strikes, riots, natural catastrophes, terrorist acts, governmental intervention, or other acts of God, or any other causes beyond such Party's reasonable control.

13.4 Relationship with Third Parties. This Agreement governs the relationship between Courion and Customer. No Customer, end user or other person or entity not a Party to this Agreement shall be considered a third party beneficiary of this Agreement.

13.5 Severability & Survival. The illegality or unenforceability of any provision of this Agreement shall not affect the validity and enforceability of any legal and enforceable provisions hereof. Should any provision of this Agreement be deemed unenforceable by a court of competent jurisdiction then such clause shall be re-construed to provide the maximum protection afford by law in accordance with the intent of the applicable provision. The following provisions shall survive any termination of this Agreement, Sub-Section 2.2, "Restrictions" of Section 2, "License Grant & Restrictions"; 4, "Prices & Payment"; 5, "Intellectual Property & Protections"; 7, "Limitation of Liability; Exclusion of Consequential Damages"; 8, "Indemnification"; 10, "Confidentiality"; and 13, "General Provisions".

13.6 Assignment. Neither party may assign any rights or delegate any obligations hereunder, whether by operation of law or otherwise, except in the case of a sale of either parties business whether by merger, sale of assets, sale of stock or otherwise, or except with the prior written consent of the other Party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, Customer may not assign this Agreement to a direct competitor of Courion or an affiliate of such direct competitor. Any attempted assignment or delegation outside these exceptions or without such written consent shall be *voidable* by the non-assigning party. This Agreement may also be terminated without a notice period by a written communication to Customer if as the result of any transaction a change of control occurs, directly or indirectly, such that a competitor of Courion controls Customer or any entity, which becomes a party to this Agreement, directly or indirectly. This Agreement binds the parties, their respective participating subsidiaries, affiliates, successors and permitted assigns.

13.7 European Union Data Protection Act. In accordance with Commission Decision 2010/87/EU of 05 February 2010 on standard contractual clauses for the transfer of personal data to third countries, under Directive 95/46/EC, the Annex titled "Standard Contractual Clauses (Processors)" is hereby incorporated by reference in its entirety. With respect to such Annex the "data exporter" shall be defined as "Customer" and the "data importer" shall be defined as "Courion". You may find a complete version of the text at <http://www.courion.com/legal>.

13.8 Export Restrictions. Customer acknowledges that the Software is subject to United States export control laws. Customer shall comply with all applicable export laws, obtain all applicable export licenses and will not export or re-export any part of the Software Products to any country in violation of such restrictions or any country that may be subject to an embargo by the United States.



13.9 Government End-User Notice. The Software is a “Commercial Item”, as that term is defined at 48 C.F.R. § 2.101, consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as such terms are used in 48 C.F.R. § 12.212 and 48 C.F.R. § 227.7202, as applicable. Consistent with 48 C.F.R. §§ 12.212, 227.7202-1 through 227.7202-4, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users (a) only as Commercial Items and (b) with only those rights as are granted to all other end-users pursuant to the terms and conditions herein.

13.10 Waiver. Each Party agrees that the failure of the other Party at any time to require performance by such Party of any of the provisions herein shall not operate as a waiver of the rights of such Party to request strict performance of the same or like provisions, or any other provisions hereof, at a later time.

13.11 Headings & Order of Precedence. All headings used herein are for convenience of reference only and are not a part of this Agreement, nor shall they in any way affect the interpretation hereof. If there is any conflict between this Agreement and any Attachment hereto, the order of precedence shall be that this Agreement shall supersede and then the applicable Attachment.

13.12 Applicable Law & Disputes.

Parties specifically agree that the U.N. Convention on the International Sale of Goods, and the Uniform Computer Information Transactions Act (“UCITA”), shall not apply to any and all actions performed by either Party hereunder in furtherance of this Agreement.

If the Customer is a legal entity established within the United States of America, then this Agreement and all resulting claims and/or counterclaims shall be governed, construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts, USA, without reference and/or regard to its conflicts of laws principles. Each Party hereby submits to the exclusive jurisdiction of the courts of Massachusetts and hereby waives any objections to venue with respect to actions brought in such courts.

If the Customer is a legal entity established out-side of the United States of America than this Agreement and all resulting claims and/or counterclaims shall be governed, construed, enforced and performed in accordance with the laws of the Commonwealth of Massachusetts, United States of America, without reference and/or regard to its conflicts of laws principles. Any dispute arising out of or in connection or associated with this Agreement shall be referred to and finally resolved by arbitration in accordance with the Rules of the International Chamber of Commerce (“ICC”) then in force; provided, however, that either party may, at its sole discretion, seek injunctive relief in the courts of any jurisdiction as may be necessary and appropriate to protect its proprietary or confidential information. The language used in the arbitral proceedings, and the governing language of the Agreement, shall be English. Unless otherwise mutually agreed upon in writing by the parties, the site of the Arbitration shall be in Boston, Massachusetts, U.S.A. Judgment upon the award of the arbitration may be entered in any court having jurisdiction thereof.

{End}