

END USER LICENSE AGREEMENT (“EULA”) TERMS

Read this End User License Agreement (“EULA”) carefully before accessing and/or using the licensed software product and related documentation, if any (collectively, the “Software”). This EULA constitutes a legally binding agreement between an employee, contractor or agent of the Company who is granted permission to use and access the Software in accordance with the [Terms of Service](#) (the “End User”) and TESSALink. By using or accessing the Software, End User has demonstrated End User’s acceptance of this EULA and this EULA is effective as of that date (“Effective Date”).

End User has been authorized by the Company as a user of the Software in accordance with the Agreement between the Company and TESSALink; End User may access and use the Software on behalf of and solely for the benefit of Company. Company assumes the entire responsibility and liability to verify Company’s authorized and recognized End Users that access and utilize the Software.

1. License and Access Grant

- 1.1 TESSALink has granted Company a non-exclusive, non-sublicensable, non-transferable, revocable limited right to access and/or use the Software pursuant to the Agreement, which may be accessed and used by multiple authorized End User of Company as set forth on the Quote and Agreement associated with this EULA only for the purposes of Company’s internal business use and for no other purposes. End User shall be authorized to access and use the Software only with TESSALink provided and/or authorized software and/or hardware systems and components as may be more particularly identified in the Quotes and Agreement associated with the Software. End User is not authorized to use, interface or facilitate interoperability of the Software with any unauthorized or non-provided and/or non-identified software and/or hardware system or components. End User is not authorized to network, timeshare, lease, distribute, disseminate or make available, in any manner, the Software to any third party. End User shall not be permitted to alter, modify, or change, in any way; copy or reproduce; create derivative works of; or disassemble, reverse engineer, decompile or otherwise derive the source code of the Software. No other intellectual property rights or interests are granted, either express or implied, by the provision of the Software. No proprietary notices may be altered or removed on the Software or any work products derived therefrom.
- 1.2 TESSALink may at any time remove access rights to the Software or require End User and Company to change their passwords if TESSALink determines, in its sole discretion, that End User and Company’s use or access to the Software poses an imminent threat to the Software, to others’ use of the Software or of a violation of law. TESSALink will restore connectivity and functionality as soon as practicable after they identify and neutralize the threat and implement any measures to ensure the threat does not reoccur.

2. Third-Party Software-Hardware/Updates/Maintenance/Support/Customized Services

- 2.1 Except where otherwise agreed, End User assumes all risks, liabilities and obligations and cancels any warranties recited herein when End User accesses, uses or combines the Software with any unauthorized or non-recommended third-party software or any third-party hardware or components or causes the Software to interface with any unauthorized or non-recommended third-party software or any third-party hardware systems or components or causes the Software to become interoperable with any unauthorized or non-recommended third-party software or any third-party hardware systems or components. End User assumes all risks, liabilities and obligations and cancels all warranties for any damages suffered by End User or Company as a result of the use of unauthorized or non-recommended third-party software or any third-party hardware components.

3. Confidential and/or Proprietary Information

- 3.1 All right, title and interest (including all intellectual property rights embodied therein) in and to the Software and will remain the sole and exclusive property of TESSALink. This EULA and the Agreement grant End User no title or right of ownership in or to the Software, or any component thereof including source code, or to any associated materials, documentation, intellectual property, or in or to any derivatives of the Software, enhancements, modifications or improvements thereto. Company and End User will not, at any time, take or cause any action, which would be inconsistent with or tend to impair the rights of TESSALink or its affiliates in the Software. Company and End User may not remove or alter any of TESSALink’s proprietary or copyright notices, trademarks or logos.
- 3.2 End User shall consider the Software and TESSALink intellectual property, including all related technical and business information, whether disclosed in oral, visual or written form, to be confidential and proprietary to

TESSALink. End User shall maintain confidentiality of all such confidential information, and without obtaining the written consent of TESSALink, it shall not disclose any relevant confidential information to any third parties, except for the information that: (a) is or will be in the public domain (other than through End User's or Company's unauthorized disclosure); (b) is under the obligation to be disclosed pursuant to the applicable laws or regulations, rules of any stock exchange, or orders of the court or other government authorities; or (c) is required to be disclosed by any party to its shareholders, investors, legal counsels or financial advisors regarding the transaction contemplated hereunder, provided that such shareholders, investors, legal counsels or financial advisors shall be bound by the confidentiality obligations similar to those set forth in this Section.

4. Warranty/Disclaimer of Warranties

4.1 THE SOFTWARE IS PROVIDED "AS IS" AND END USER'S USE OF THE SYSTEM IS AT ITS OWN RISK. ALL WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY OR FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, TITLE OR NON- INFRINGEMENT OR CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, MISUSE OR UNAUTHORIZED USE FROM A THIRD PARTY ARE EXCLUDED FROM THIS EULA TO THE FULLEST EXTENT PERMITTED BY LAW.

4.2 TESSALINK MAKES NO WARRANTY THAT THE SOFTWARE WILL MEET END USER'S REQUIREMENTS OR OPERATE UNDER END USER'S SPECIFIC CONDITIONS OF USE. TESSALINK MAKES NO WARRANTY THAT OPERATION OF THE SOFTWARE WILL BE SECURE, ERROR FREE, BUG FREE OR FREE FROM INTERRUPTION. END USER MUST DETERMINE WHETHER THE SOFTWARE SUFFICIENTLY MEETS END USER'S REQUIREMENTS FOR SECURITY AND UNINTERRUPTABILITY. END USER SHALL BEAR SOLE RESPONSIBILITY AND ALL LIABILITY FOR ANY LOSS INCURRED DUE TO FAILURE OF THE SOFTWARE TO MEET END USER'S REQUIREMENTS. TESSALINK WILL NOT, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE FOR THE LOSS OR CORRUPTION OF DATA ON ANY COMPUTER OR INFORMATION STORAGE DEVICE OR IN CONNECTION WITH THE SOFTWARE THAT IS ACCESSED AND USED BY END USER. END USER SHALL ASSUME ENTIRE LIABILITY FOR ANY OF END USER'S DATA OR INFORMATION WHICH IS IMPORTED, PROCESSED AND/OR EXPORTED IN CONNECTION WITH THE SOFTWARE.

5. Limitation of Remedies/Limitation of Liability and Damages/Indemnity

5.1 TESSALINK WILL NOT BE LIABLE FOR VIOLATION OF ANY APPLICABLE LAW, RULE OR REGULATION OR TO ANY THIRD PARTY FOR CLAIMS ARISING OUT OF OR RELATED TO COMPANY DATA PROVIDED TO TESSALINK OR PLACED ON THE SYSTEM BY COMPANY, END USER OR AT COMPANY'S DIRECTION. IN NO EVENT WILL (A) TESSALINK BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, THE EULA OR THE SOFTWARE; AND (B) TESSALINK'S TOTAL CUMULATIVE LIABILITY TO END USER EXCEED THE AMOUNT PAID TO TESSALINK UNDER THE EULA DURING THE PREVIOUS 12-MONTH PERIOD.

5.2 End User agrees to indemnify, defend and hold harmless TESSALink from all claims, judgments, liabilities, expenses, or costs (including attorney's fees and litigation costs) that TESSALink may suffer or incur from claims arising out of (i) End User's breach of its representation, warranties, obligations covenants or agreements this EULA; (ii) material or data provided by End User.

6. Term and Termination.

6.1 This EULA shall commence on the Effective Date remain in force and effect for the duration of the Term of the Agreement or for so long as End User continues to use the Software unless: (a) Company or TESSALink terminate the Agreement pursuant to Section 5 of the Agreement; or (b) TESSALink terminates End User's access and use of the Software under this EULA in the event of a breach by End User, which is not cured to TESSALink's satisfaction with 15 days of receipt of a written notice of such breach by End User. This Section contains the parties' exclusive termination rights. Termination of the Agreement or the EULA will relieve TESSALink of all obligations to provide End User access to the Software and any licenses granted under the Agreement or the EULA will immediately cease. The following Sections shall survive termination of this EULA: 3, 4, 5, 6 and 7.

7. Other Provisions

- 7.1 This EULA, and any understandings explicitly referenced herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and supersedes any and all prior or contemporaneous oral or written understandings between the parties concerning the subject matter hereof. In the event of conflict between this EULA and terms and conditions and agreements incorporated herein by reference, the other terms and conditions and agreements shall prevail and supersede this EULA. The provisions of this EULA are severable; and if any provision shall be deemed invalid or unenforceable, the applicability or validity of any other provision of this EULA shall not be affected, and if any such provision shall be deemed invalid or unenforceable in any respect, this EULA shall be construed as if such invalid or unenforceable provisions are not contained in this EULA.
- 7.2 TESSALink reserves the right to modify this EULA The, at any time and without notice, and at the discretion of TESSALink. Any such changes shall be posted to [End User License Agreement](#) and shall include the last updated date. It is the End User's responsibility to periodically review the most recently updated EULA. End User's continued use of the Software indicates End User's agreement to be bound by the updated terms of the EULA.
- 7.3 End User shall not, without TESSALink's prior written consent transfer, assign or delegate this EULA, or any rights or duties hereunder, directly, indirectly, by operation of law, or otherwise. Any prohibited assignment is void. This EULA shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns.
- 7.4 TESSALink reserves the right, upon reasonable notice and during normal business hours, to conduct an audit of End User's access and use of Software to verify compliance with this EULA.
- 7.5 No failure or delay by either party in exercising any right or remedy under this EULA shall be construed as a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise of such right or remedy. All rights and remedies under this EULA are cumulative and shall not be deemed exclusive of any other rights or remedies provided by law.
- 7.6 This EULA shall be governed by the laws of the State of Texas and of the United States, as applicable, without regard to the applicability of the principles of conflicts of law, and any dispute between the parties shall be adjudicated in the competent courts in Harris County in the State of Texas. TESSALink shall be entitled to seek all available legal and equitable remedies available. The 1980 United Nations Convention on Contracts for the International Sale of Goods shall not apply to this EULA or to any sale or other transaction hereunder and the Uniform Computer Information Transaction Act ("**UCITA**") shall not apply to this EULA or any sale or transaction hereunder.