

## Cimetrix® License Agreement

### Introduction

This Cimetrix License Agreement (“CLA”) governs all Cimetrix products obtained, received, or used by Equipment Manufacturers and End Users and covers all Cimetrix Software, Documentation, and Services. Since this CLA is a comprehensive document that covers all Cimetrix products and uses, it is divided into different sections that may or may not apply to your particular situation and specific use.

**If you are an Equipment Manufacturer**, the End User License Terms govern your use of Cimetrix Software and Documentation as an End User, including software development kits (SDKs) or Runtime Licenses for Internal Use such as in your test labs or demo centers, unless the Cimetrix Software is in Source Code form, in which case the Source Code License Terms apply. The Equipment Manufacturer Terms govern your bundling, marketing, sale, and distribution of Cimetrix Software as part of your Bundled Products. The General Provisions apply to everyone. The Service Terms govern any Services that you receive from Cimetrix.

**If you are a Factory User or other End User or its Affiliate**, the End User License Terms govern your use of Cimetrix Software and Documentation, unless the Cimetrix Software is in Source Code form, in which case the Source Code License Terms apply. The General Provisions apply to everyone. The Service Terms govern any Services that you receive from Cimetrix.

### Definitions

The following definitions apply to all Cimetrix products and Services:

**"Affiliate"** means a Person that directly or indirectly controls, is controlled by, or is under common control with another Person.

**"Authorized Sublicensor"** means a company that has a written sublicense agreement with Cimetrix that allows the company to sublicense Cimetrix Products directly to End Users and others. For additional information and a list of Cimetrix Authorized Sublicensors, please visit [www.cimetrix.com/sublicensors](http://www.cimetrix.com/sublicensors).

**"Bundled Product"** means an Equipment Manufacturer product that is integrated with Cimetrix Software and is used by the Equipment Manufacturer for development, demonstration, or testing purposes or is marketed and distributed as a single product offering in the regular course of the Equipment Manufacturer's business under this CLA.

**"COA"** means a genuine Cimetrix Certificate of Authenticity, whether provided by Cimetrix in electronic or hardcopy form, for a specific Cimetrix Software product.

**"Cimetrix"** means Cimetrix Incorporated, a Nevada (USA) corporation and subsidiary of PDF Solutions, Inc., or a Cimetrix Authorized Sublicensor, if applicable. References in this CLA to the Cimetrix company include PDF Solutions, Inc. and all subsidiaries thereof. See General Provisions, section 3.

**"Cimetrix IP"** means all Cimetrix Confidential Information, Cimetrix Software and Documentation, and other materials, data, and Intellectual Property provided or used by Cimetrix hereunder, as well as all Improvements thereto and Derivative Products thereof.

**"Client IP"** means your Confidential Information, and other materials, data, and Intellectual Property that you or your licensors own and that you provide to Cimetrix to assist Cimetrix in performing any Services hereunder, as well as all Improvements thereto.

**“Computing Device”** means a single laptop, desktop PC, or other computing device or one virtual machine (“VM”) on a computing device.

**“Copy” or “Copies”** means any copy, in whole or in part, of an item no matter how or in what form it is made or recorded.

**“Confidential Information”** includes, but is not limited to, Cimetrix Source Code and Object Code, program architecture, program flow information, design definitions, design specifications, data structures, data compilations, techniques, interfaces, calculations, symbologies, formulas, algorithms, and other features of the Cimetrix Software, as well as all business information of Cimetrix provided or received on a confidential basis. “Confidential Information” also includes all of your confidential information provided to Cimetrix pursuant to this CLA that is clearly marked as your or your other licensors’ “confidential” or “proprietary” information.

**“Derivative Product”** means a computer program or any other work of authorship, whether in Source Code, Object Code, or other form, that constitutes a Modification of any Cimetrix Software or Documentation.

**“Documentation”** means electronic (including online) or printed documentation that Cimetrix or authorized Equipment Manufacturers publish or distribute relating to Cimetrix Software.

**“Export Control”** means all applicable export control and sanctions laws and regulations, including but not limited to the Export Administration Regulations, 15 C.F.R. Parts 730-774 (EAR) and the sanctions administered by the Office of Foreign Assets Control (OFAC) of the United States of America.

**“End User”** means a Person that is not an Affiliate of an Equipment Manufacturer and obtains Cimetrix Software for Internal Use. For example, a Factory User is a typical End User of Cimetrix Software.

**“Equipment Manufacturer”** means an equipment manufacturer that has purchased a Cimetrix SDK and produces one or more Bundled Products pursuant to this CLA.

**“Factory User”** means an End User that obtains Cimetrix Software for Internal Use at a fabrication plant or other manufacturing facility.

**“Improvements”** means updates, upgrades, maintenance releases, enhancements, or supplements.

**“Including”** means “including, but not limited to,” unless the term “only including” is used.

**“Intellectual Property”** means any and all (a) works of authorship, copyrights, inventions (whether or not patentable or reduced to practice), patents, utility models, industrial designs, trademarks and service marks, trade secrets, confidential commercial information, and all other proprietary rights in information, technology, and creations that exist or hereafter come into existence under any law anywhere in the world; (b) registrations, certificates, and applications for any of the foregoing; (c) Copies and tangible embodiments of any of the foregoing in whatever form or medium; and (d) remedies for past, present, and future infringements, misappropriations, or other violations of any of the foregoing.

**“Internal Use”** means use by employees, agents, or contractors of a Person in performing services or functions for such Person that do not directly produce revenue for such Person. For example, “Internal Use” does not include the license, sale, rental, time share, lease, or lending of Software, or use of Software as an application service provider, service bureau, or any similar operation, or any other distribution or redistribution of Software to a third party, whether or not for financial return or other consideration.

**"Items"** means Software, technology, Services and/or other items that Cimetricx provides that are subject to Export Control.

**"Modification"** means any addition to, change to, translation of, or deletion from Software or Documentation.

**"Object Code"** means computer programming code assembled or compiled in magnetic or electronic binary form and readable and usable by machines but not generally readable by humans.

**"Person"** means any individual, corporation, partnership, trust, limited liability company, association, organization, governmental authority, or other legal entity of any kind.

**"Runtime License"** means a license purchased from Cimetricx or an Equipment Manufacturer or authorized distributor for a specific Cimetricx Software product that allows the installation and use of the Cimetricx Software (a) as part of a Bundled Product or (b) by an End User or its Affiliate in combination with other software or hardware and deployed in a prototype, testing, educational, or production environment (an "End User Deployment").

**"SDK License"** means a license for a Software Development Kit purchased from Cimetricx or an authorized distributor for a specific Cimetricx Software product for use in developing software applications that work with the Cimetricx Software as further set forth below.

**"Sell," "sale," "resell," or "resale"** when used in reference to Software means the sale of a license to use the Software. It does not mean transfer of title to or ownership of the Software or any Copy of the Software.

**"Services"** means the training, support, or other services that you receive from Cimetricx.

**"Software"** means Source Code or Object Code instructions for controlling a central processing unit or computer, and computer files containing data, text, or graphics.

**"Source Code"** means computer programming code in human-readable form, plus any associated interface definition files, commentary, and procedural code, such as job control language.

**"WLG"** means the Cimetricx Web License Generator accessed from the support page of cimetricx.com.

**"You" and "your"** refer to the Person that is licensed under this CLA.

## **End User License Terms**

1. **Grant of limited license.** Subject to the terms and conditions of this CLA, Cimetricx hereby grants you a limited, non-exclusive license to install and use the Cimetricx Software purchased under Quotes from Cimetricx from time to time hereunder as follows:

**SDK License:** An SDK License permits one (1) named individual (the "Named User") associated with an Equipment Manufacturer or End User to install and make Internal Use of the SDK on a single Computing Device or, if the Equipment Manufacturer or End User has current support coverage from Cimetricx, on up to five (5) Computing Devices directly used by the Named User, provided that only one instance of the SDK may be actively running at a time. If support is not renewed, the Named User must remove the SDK from all but one (1) Computing Device. Cimetricx will issue a COA and valid license files as appropriate for each SDK License that you purchase. A valid license file must be installed on each Computing Device that runs the SDK. The SDK may only be used for developing software applications that work with Cimetricx Software. You may use the WLG to transfer the SDK License from one Named User to another Named User within your software engineering team, provided that (i) the first Named User uninstalls and

deletes all copies of the SDK from all Computing Devices used by that Named User upon such transfer, and (ii) you do not make a practice of repeatedly transferring SDK Licenses through the WLG from individual to individual to evade the requirement of obtaining a valid SDK License for each member of your engineering team who works with Cimatrix Software. Any failure to follow these restrictions will, in Cimatrix's sole discretion, result in the termination of your right to use the WLG completely, without affecting the Fees due to Cimatrix or any party's obligations/liability hereunder.

**Runtime License:** Cimatrix will issue a COA and valid license files as appropriate for each Runtime License that you purchase. A Runtime License generated by you through the WLG is authorized for installation and Internal Use on a single, identified (a) Bundled Product or (b) piece of equipment in connection with an End User Deployment. Each Runtime License may only be used once and cannot be reused or redeployed, even if the original Bundled Product or piece of equipment is decommissioned or otherwise permanently stops functioning, except that a Runtime License specifically purchased for a testing environment can be reinstalled in the testing environment after you change its configuration, or the Runtime License can be redeployed to a different testing environment within your testing team, which in each case you may obtain through the WLG. Also, in case of failure or upgrade of the Computing Device associated with a Bundled Product or an identified piece of equipment in an End User Deployment, you may obtain through the WLG a replacement license file. For an End User Deployment, the End User agrees to purchase from Cimatrix or an Equipment Manufacturer or authorized distributor the appropriate number of Runtime Licenses for the deployment, as determined by Cimatrix. If the Cimatrix Software associated with the Runtime License is not pre-installed on a Bundled Product, you may install and make Internal Use of the Cimatrix Software consistent with the Documentation and this CLA. Frequent transfers of Runtime Licenses or using the transfer functionality to evade the purchase of required Runtime Licenses will, in Cimatrix's sole discretion, result in the termination of your right to use the WLG completely, without affecting the Fees due to Cimatrix for the correct number of Runtime Licenses or any party's obligations/liability hereunder.

**Mobile Software and Online Access:** Some Cimatrix Software is distributed in the form of application software for mobile devices such as cell phones and tablets (each, a "Mobile App") to interface with other Cimatrix Software. Mobile App software may be downloaded and used by you and all of your employees who have a need to use such Cimatrix Software, subject to these End User License Terms. In addition, some Cimatrix Software may be accessible via website or cloud interface, which you and all of your employees who have a need to use such interfaces may use consistent with these End User License Terms and any other reasonable restrictions that Cimatrix may impose on such use.

**Customer-Specific Code:** You have a perpetual, worldwide, royalty-free license that is equal to the license to the Software purchased to use, modify, and distribute binary versions of any resulting code tailored to you specifically by Cimatrix and provided by Cimatrix to you under this CLA, subject to your confidentiality obligations to Cimatrix under this CLA and the other terms and conditions of this CLA.

Except as expressly provided in the Documentation and this CLA, you are prohibited from making any additional Copies of Cimatrix Software for any reason, either for SDK Licenses, Mobile Apps, or for Runtime Licenses.

2. **Access.** You agree not to disclose or provide access to the Cimatrix Software or any Confidential Information to any Person except on a need-to-know basis to employees and other Persons not competitors of Cimatrix who have contracted to provide you services. It is your responsibility to ensure that all such employees and service providers comply with this CLA and do not use the Cimatrix Software or any Cimatrix Confidential Information to compete with Cimatrix. You agree to

use your best efforts to ensure that all Persons having access to the Cimatrix Software and any Confidential Information protect them from unauthorized use, copying, and disclosure.

3. **Compatible OS software/licenses.** Cimatrix Software requires use of compatible operating system (OS) software. It is your responsibility to acquire compatible operating system software and all required licenses for the use of such software. Cimatrix has no responsibility with respect to that software.
4. **Customization.** Cimatrix may in its sole discretion provide you additional software that customizes the Cimatrix Software used on your system. Such software and any associated media shall be owned exclusively by Cimatrix and shall be part of the Cimatrix Software governed by these End User License Terms.
5. **Demonstration versions.** Any Cimatrix Software designated as a "Demonstration Version" (using those words or words of similar meaning) may not be used for any purpose other than demonstration, testing, or evaluation and must be promptly returned to Cimatrix at its request. In such event, you must destroy all Copies of the Cimatrix Software, such as electronic Copies, that you cannot return to Cimatrix.
6. **No sublicensing or multiplexing.** You may not sublicense, rent, lend, time share, or lease the Cimatrix Software to other persons or use the Cimatrix Software to provide services as an application service provider, service bureau, or any similar operation, without the express prior written consent of Cimatrix. Also, you may not install, use, or execute the Cimatrix Software on any storage device (such as a network server) that permits any of the Cimatrix Software to be shared or used concurrently on two or more computers, terminals, workstations, or other devices, except as specifically provided in the Documentation or unless you have expressly purchased a separate, dedicated license from Cimatrix for each such device. Equipment or software that reduces the number of devices that directly access or use the Cimatrix Software do not reduce the number of required SDK Licenses or Runtime Licenses.
7. **External Transfer.** You agree that your rights to use the Cimatrix Software may not be sold, assigned, licensed, or otherwise transferred to another party, by operation of law or otherwise (such as by merger), without the prior written consent of Cimatrix, except as expressly provided herein. Your license rights in the Cimatrix Software will not be transferred to a successor entity, unless such entity expressly agrees in writing to be bound by all the terms and conditions of this CLA. If you properly obtained the Cimatrix Software embedded in a Bundled Product, however, you may transfer your license rights under this CLA if you: (a) transfer all of your right, title, and interest in and to the complete, original Bundled Product; (b) provide your transferee and specifically bring to its attention this CLA, at or before the time you transfer physical possession of the Bundled Product; and (c) you retain no Copy of the Cimatrix Software. In all cases involving Bundled Products, if the Cimatrix Software does not remain a part of the original Bundled Product, the Cimatrix Software may not be used or transferred, and you may not transfer your license rights under this CLA.
8. **Effective date.** These End User License Terms, as supplemented by the Definitions and General Provisions, are effective from the date the Cimatrix Software is made available to you, either alone or as part of a Bundled Product, and will remain in force until terminated as provided in this CLA.
9. **Term and termination.** This CLA shall remain in effect until terminated by you, by Cimatrix, by operation of the terms hereof, or otherwise by operation of law. You may terminate this CLA at

any time by returning the original Cimatrix Software to Cimatrix and by destroying all other Copies of the Cimatrix Software in your possession or control, including electronic Copies. This CLA and your associated license to use the Cimatrix Software shall otherwise terminate upon the earliest occurrence of any of the following events: (a) a breach by you of any term, provision, or obligation of this CLA; or (b) any assignment, transfer, or disposition of the Cimatrix Software by you, except as expressly provided herein or as otherwise expressly authorized in advance in writing by Cimatrix. On termination of this CLA for any reason, you shall return the original Cimatrix Software to Cimatrix and shall destroy all other Copies of the Cimatrix Software in your possession or control.

10. **Improvements.** In its sole discretion, Cimatrix may make updates, upgrades, or other Improvements of the Cimatrix Software available to you. Cimatrix shall have the right to charge an additional license fee for any and all Improvements. Normal product updates are provided to clients who purchase ongoing support services from Cimatrix. You have the right not to accept any Improvement, except that your failure to accept Improvements will void the Limited Warranty provided in these End User License Terms, to the extent the failure to accept and install the Improvement interferes with the operation or functionality of the Cimatrix Software. The terms of this CLA shall apply to all Improvements, unless you accept updated terms, or another agreement governs the Improvements.
11. **Support.** These End User License Terms do not entitle you to any support or services for the Cimatrix Software, including without limitation releases of the Cimatrix Software that correct errors or defects in the Cimatrix Software (except as provided in the Limited Warranty) or that contain Improvements to the Cimatrix Software. You must purchase the right to receive software support Services from Cimatrix or an authorized distributor separately.
12. **Limited warranty.** The Cimatrix Software is provided to you with and subject to the following limited warranty and associated terms and conditions:

Cimatrix warrants for a period of ninety (90) days from the date the Cimatrix Software is made available to you that the Cimatrix Software, when properly installed and used in compliance with the Documentation, shall operate on compatible equipment and operating system software substantially in accordance with the specifications set forth in the Documentation (the "Limited Warranty"). The Limited Warranty is contingent upon your notifying Cimatrix in writing of any errors and non-conformities within ninety (90) days after you receive the Cimatrix Software. Changes made to any Cimatrix Software during the warranty period to correct any errors will not extend the warranty period. Cimatrix does not warrant that the Cimatrix Software will meet your requirements, that the operation of the Cimatrix Software will be uninterrupted, error-free, or secure, or that all defects will be corrected.

Your only remedy, if the Cimatrix Software fails in a material manner to perform substantially in accordance with the published specifications, is for Cimatrix to use reasonable efforts to remedy any such material failure or to accept return of the Cimatrix Software or, at Cimatrix's election, to refund the applicable license fee, in full satisfaction of any and all claims you may have. If Cimatrix elects to issue a refund, you must promptly return the original Cimatrix Software to Cimatrix and destroy all other Copies, and this CLA will terminate as to that Cimatrix Software. The Limited Warranty is also subject to the following other limitations and disclaimers:

The Limited Warranty does not cover damage to the Cimatrix Software, or to any Licensee or third-party equipment, caused by power spikes or other potentially harmful environmental or operating conditions; third-party software and other materials, acts of God, terrorism, or sabotage; user error; third-party

devices; configuration changes not completed by or under the express direction of Cimatrix; or Licensee abuse, neglect, and/or negligence. The Limited Warranty does not extend to software viruses, corrupted software, or data. The Limited Warranty will be rendered null and void if any attempt is made to modify the Cimatrix Software by anyone other than Cimatrix or Person(s) acting under the express written direction of Cimatrix.

The Cimatrix Software is not designed to be fault tolerant. The Cimatrix Software is not designed, manufactured, or intended for use with on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities; aircraft navigation or aircraft communication or control systems; direct life support machines; weapons systems; or other uses in which failure of the software could lead directly to death, personal injury, or severe physical or environmental damage. Cimatrix disclaims all liability for any death, injury, or damage resulting from any such use of the Cimatrix Software.

The Cimatrix Software is only compatible with certain computers and operating systems. It is not warranted for non-compatible computers or operating systems. Call Cimatrix for information about compatibility. Cimatrix makes no representations or warranties regarding the compatibility of any third-party software or hardware. The published specifications for the Cimatrix Software may be updated by Cimatrix from time to time, and any such update will constitute a change in specifications and the Limited Warranty.

With respect to any Services provided by Cimatrix, it is Licensee's responsibility to back up the contents of Licensee's hard drives, including any data that Licensee has stored or software installed thereon before the Services begin. Cimatrix will not be responsible for any damage to or loss of any programs, data, or other information stored on any media involved in the Services provided by Cimatrix.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE FOREGOING PROVISIONS CONTAIN THE ONLY REMEDIES YOU WILL HAVE IF THE CIMATRIX SOFTWARE DOES NOT PERFORM ACCORDING TO THE LIMITED WARRANTY OR YOUR EXPECTATIONS. THE REASON FOR THIS LIMITATION IS THAT THE LICENSE FEE FOR THE CIMATRIX SOFTWARE REFLECTS AN ALLOCATION OF RISKS BETWEEN YOU AND CIMATRIX, AND THE LICENSE FEE WOULD NATURALLY HAVE TO BE HIGHER IF ADDITIONAL REMEDIES WERE AVAILABLE TO YOU. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE, PROVINCE TO PROVINCE, AND COUNTRY TO COUNTRY.

### **Equipment Manufacturer Terms**

1. **Authorization.** The Equipment Manufacturer is authorized and agrees to distribute Cimatrix Software and Documentation only as part of a Bundled Product or as an update, upgrade, or other Improvement to a Bundled Product.
2. **Runtime Licenses.** The Equipment Manufacturer agrees to purchase from Cimatrix or an authorized Cimatrix distributor the appropriate number of Runtime Licenses, as determined by Cimatrix for each Bundled Product that the Equipment Manufacturer distributes. For example, where a Bundled Product is a single piece of equipment with a unique serial number, one Runtime License is typically required for each Cimatrix Software product included as part of the Bundled Product. Where the Bundled Product is a software bundle designed to connect to two pieces of equipment, the Bundled Product typically requires two Runtime Licenses for each Cimatrix Software product included in the bundle. Any questions or special cases must be reviewed with Cimatrix for correct license usage and Cimatrix product pricing. Upon request, the Equipment Manufacturer agrees to notify Cimatrix in writing of the manner in which the Cimatrix

Software is used in each Bundled Product. You agree that each Runtime License may only be used once on a specific Bundled Product and cannot be redeployed or reused on another Bundled Product, even if the original Bundled Product permanently stops functioning. The Equipment Manufacturer will receive a COA for each Runtime License the Equipment Manufacturer purchases.

3. **Cimetrix license files.** The Equipment Manufacturer agrees to install on each Bundled Product a valid Cimetrix license file, which can be obtained from the WLG using the COA number and the target Computing Device MAC address or by sending that information to Cimetrix at [licenses@cimetrix.com](mailto:licenses@cimetrix.com) and requesting the Cimetrix license file. It is the responsibility of the Equipment Manufacturer to distribute, with each Bundled Product, the COA for the applicable Cimetrix Software product. This allows for prompt replacement of the Cimetrix license file in case of failure or upgrade of the associated Computing Device. Access to the WLG is only available to customers with a current support contract.
4. **Required documentation.** The Equipment Manufacturer agrees to include a copy of or link to this CLA, or at a minimum the Definitions, End User License Terms, and General Provisions of this CLA, with the documentation that the Equipment Manufacturer requires the Factory User or other End User to accept to acquire the Bundled Product. However, if the Equipment Manufacturer has an end user agreement that is at least as protective of Cimetrix and its Software and Documentation as the Definitions, End User License Terms, and General Provisions of this CLA (an "End User Agreement"), the Equipment Manufacturer may distribute Cimetrix Software (as part of Bundled Products) pursuant to the Equipment Manufacturer's qualifying End User Agreement, after Cimetrix has given written approval of the Equipment Manufacturer's End User Agreement.
5. **Support.** Cimetrix makes training and support programs available to Equipment Manufacturers under the Service Terms of this CLA. Descriptions and pricing for the Cimetrix training and support programs are available from Cimetrix. Equipment Manufacturers who purchase support from Cimetrix receive preferred Runtime License pricing for the support period. These Equipment Manufacturer Terms do not give Equipment Manufacturer any license or right to Cimetrix Source Code.
6. **Resellers.** If the Equipment Manufacturer distributes Bundled Products through dealers, distributors, or other resellers, the Equipment Manufacturer shall ensure that each of them complies with all applicable terms and conditions of this CLA.
7. **Cimetrix product pricing.** The pricing and payment terms in a written proposal from Cimetrix or its authorized distributor and accepted by the Equipment Manufacturer through the issuance of a purchase order will apply to all orders received within the time periods stated in the proposal or within any time periods subsequently agreed in writing. Otherwise, Cimetrix's standard Equipment Manufacturer pricing and payment terms will apply.
8. **Use of Cimetrix trademarks.** Unlike End Users, Equipment Manufacturers have the limited, non-exclusive right and license to use Cimetrix trademarks in connection with the authorized offering and sale of Bundled Products and other Cimetrix products. All uses that the Equipment Manufacturer makes of Cimetrix trademarks shall comply with the [Cimetrix Trademark Guidelines and Policies](#), as Cimetrix may amend them from time to time in its sole discretion.
9. **Support Copies of Cimetrix Software and Documentation.** The Equipment Manufacturer may make Copies of Cimetrix Software, Documentation, and license files for Bundled Products



distributed to Factory Users or other End Users and may provide replacement Copies to the Factory Users or End Users for legitimate support purposes.

10. **Agreement not to make any additional representations or warranties.** The Equipment Manufacturer and Cimatrix agree not to make any written or oral representations, warranties, or commitments about the other party's products that are inconsistent with published documentation for such products or (for Cimatrix products) the End User License Terms. The Equipment Manufacturer and Cimatrix also each agree to conduct business at all times in a manner that reflects favorably on the other party and its products, subject to each party's right to seek judicial relief for any breach or threatened breach of these terms and conditions.
11. **Term and Termination.** These Equipment Manufacturer Terms, as supplemented by the Definitions and General Provisions, will become effective when you purchase an SDK and thereby become an authorized Cimatrix Equipment Manufacturer. You may terminate your participation as an authorized Cimatrix Equipment Manufacturer on thirty (30) days written notice to Cimatrix, unless you have agreed to minimum purchase requirements. In those instances, the Equipment Manufacturer may terminate its participation as an authorized Cimatrix Equipment Manufacturer on thirty (30) days written notice to Cimatrix after fulfilling the minimum purchase requirements. Cimatrix may terminate your status as an authorized Cimatrix Equipment Manufacturer for any breach by you that is not cured within thirty (30) days after you receive notice of the breach from Cimatrix. If you remain an End User of Cimatrix Software after any such termination, the applicable End User License Terms, Definitions, and General Provisions will continue to apply to your possession and use of the Cimatrix Software, unless your status as an End User is also terminated in accordance with the End User License Terms.

## Source Code License Terms

1. **Equipment Manufacturers.** Equipment Manufacturers may use Cimatrix Source Code: (a) to compile or assemble the Source Code and make Internal Use of the resulting Object Code; (b) to create and have created Derivative Products, whether in Source Code or Object Code form, and to make Internal Use of such Derivative Products; (c) to make, sublicense and distribute Copies, in Object Code only, of (i) Software compiled or assembled from the Source Code, and (ii) other Derivative Products, to its authorized distributors and dealers and to End Users, as part of Bundled Products or as upgrades, updates, or other Improvements enhancements to Bundled Products; and (d) to make such Copies of the Source Code, in whole or in part, as are reasonably necessary to exercise the rights expressly granted to Equipment Manufacturer in this CLA. For avoidance of doubt, Cimatrix Source Code is only provided to Equipment Manufacturers for their internal use and shall never be included in any shipment of a Bundled Product.
2. **End User License Terms.** For all Object Code that the Equipment Manufacturer compiles from Cimatrix Source Code that the Equipment Manufacturer has not modified but distributes as part of a Bundled Product, or as an update, upgrade, or other Improvement to a Bundled Product, the Equipment Manufacturer must include this CLA, or at a minimum the Definitions, End User License Terms, and General Provisions of this CLA, or a Cimatrix-approved End User Agreement (see End User License Terms), as part of the documentation that the Factory User or other End User must contractually accept to acquire the Bundled Product, update, upgrade, or enhancement. For all Object Code that the Equipment Manufacturer compiles from Cimatrix Source Code that the Equipment Manufacturer has modified and distributes as part of a Bundled Product, or as an update, upgrade, or other Improvement to a Bundled Product, the Equipment

Manufacturer shall include an End User Agreement as part of the documentation that the End User must contractually accept to acquire the Bundled Product, update, upgrade, or enhancement. Each End User Agreement by its terms must cover all subsequent software updates, upgrades, and enhancements to Bundled Products and must contain warranty disclaimers and product warnings that are at least as protective as those contained in the End User License Terms.

3. **Factory Users and other End Users.** Factory Users and other End Users may use any Cimatrix Source Code provided to them by Cimatrix or, with prior written authorization from Cimatrix, by an Equipment Manufacturer or Cimatrix distributor: (a) to compile or assemble the Source Code and make Internal Use of the resulting Object Code; (b) to create and have created Derivative Products, whether in Source Code or Object Code form, and to make Internal Use of such Derivative Products; and (c) to make such Copies of the Source Code as are reasonably necessary to exercise the rights expressly granted to the Factory User or other End User in these Source Code License Terms.
4. **Derivative Products.** All Intellectual Property rights in and to all Cimatrix Source Code incorporated into a Derivative Product shall at all times be owned solely and exclusively by Cimatrix. All Intellectual Property rights in and to any Modification of Cimatrix Source Code shall be owned by the party that made them, except that if any Modification made by you or on your behalf is disclosed to Cimatrix, in consideration of the license granted to you by Cimatrix under this agreement, you hereby grant Cimatrix a perpetual, irrevocable, royalty-free, unconditional, absolute, non-exclusive, non-transferable (except in connection with the sale of substantially all of Cimatrix's assets) license to use such Modifications, including without limitation the right to modify, make, sublicense, and distribute Copies of such Modifications. Notwithstanding the foregoing, if any modified Cimatrix Source Code constitutes a "derivative work" for purposes of copyright law, the copyrights in the derivative work shall be owned exclusively by Cimatrix, subject to your ownership of any Modifications that were made by you or on your behalf to the Cimatrix Source Code. You agree to keep complete, accurate records of all Modifications of Cimatrix Source Code.
5. **Limitations on Modifications.** You agree not to create any Derivative Products from Cimatrix Source Code using any open-source Software or other Software or material(s) that would prevent you from complying with all of its obligations under these Source Code License Terms, including but not limited to its assignment obligations set forth in these Source Code License Terms. In addition, you agree not to create any Derivative Products from Cimatrix Source Code using any other third-party Intellectual Property, except to the extent that all Intellectual Property rights therein will be assigned or licensed to you, so that you can comply with all of your obligations under this CLA.
6. **Protection of Cimatrix Source Code.** You agree not to make or permit any use of any Cimatrix Source Code except as expressly authorized in this CLA and any other written agreement(s) you have with Cimatrix. All Cimatrix Source Code constitutes the Confidential Information and trade secrets of Cimatrix, and you agree to keep it strictly confidential, to use your best efforts to protect all Cimatrix Source Code from unauthorized use and disclosure, and to promptly notify Cimatrix of any unauthorized use or disclosure. Without limiting the foregoing, you agree not to use any Cimatrix Source Code or any Confidential Information or trade secrets it contains, or any other non-public information about the Cimatrix Source Code gained from working with it to compete with or assist or enable any other Person to compete with Cimatrix, nor may you disclose to any competitor of Cimatrix any Cimatrix Source Code, any Confidential Information or trade secrets it

contains, or any other non-public information about the Cimatrix Source Code gained from working with it. Nothing in this CLA shall limit any other protection that other agreements provide Cimatrix with respect to its Source Code and Confidential Information. You agree to keep complete and accurate records of your use and disposition of all Copies of Cimatrix Source Code and Derivative Products made using Cimatrix Source Code. You agree not to distribute any Cimatrix Source Code or Derivative Products in Source Code form without prior written authorization from Cimatrix. Because of the Confidential Information and trade secrets contained in Cimatrix Source Code, Cimatrix will be entitled to preliminary and permanent injunctive relief against any unauthorized use or disclosure of any Cimatrix Source Code or Derivative Products, without needing to prove irreparable harm or actual damages and without posting a bond or other security. Notwithstanding anything contained in Section 15 of the General Provisions to the contrary, this Section 6 and not Section 15 of the General Provisions governs the confidentiality, use, and protection of Cimatrix Source Code, any information embodied or otherwise contained in it, and any information obtained from it.

7. **Contractors.** You agree not to sublicense, distribute, or disclose any Cimatrix Source Code or any Derivative Products thereof in Source Code form to any third party without the express written consent of Cimatrix, except that you may provide such Source Code to third-party contractors for the sole purpose of assisting you to develop Derivative Products consistent with this CLA and any other written agreements with Cimatrix, provided that (a) each contractor is bound by a written agreement with you that (i) prohibits the disclosure of the Source Code to any other third parties, (ii) requires the contractor to use all reasonable means to protect the Source Code from unauthorized disclosure and use, and (iii) requires the contractor to assign all Intellectual Property rights in and to any Modification(s) that it makes to such Source Code to you; (b) you are responsible to Cimatrix for any breach of the above-listed requirements by any such contractor(s); and (c) if and when requested by Cimatrix, you agree to cause the contractor to enter into a written Cimatrix Incorporated Contractor Agreement with you and Cimatrix for the protection of Cimatrix's Intellectual Property. You agree promptly to notify Cimatrix of any breaches of any such agreements, to make reasonable efforts to remedy the breaches, to enforce the agreement if and as requested in writing by Cimatrix, and otherwise to secure the contractor's compliance with such agreements.

## Service Terms

The following terms and conditions (the "Service Terms") govern all of the Services that Cimatrix performs or otherwise provides, including training and support, whether or not a fee is charged for the Services:

1. **Cimatrix Services.** Cimatrix provides training, onboarding, coaching, technical support, and other Services for its products (excluding, in any case, customer-specific code provided by Cimatrix hereunder), as described in the Cimatrix [Client Support Overview](#), which Cimatrix may modify from time to time in its sole discretion. Any changes to the [Client Support Overview](#) will only apply to orders placed or proposals made by Cimatrix after the changes. Please check the most recent version of the [Client Support Overview](#) before placing an order. Cimatrix also provides software development services for its customers.
2. **Limited warranty.** Cimatrix agrees to perform its Services with reasonable skill and diligence and in substantial compliance with Cimatrix's applicable written descriptions, if any, for such Services contained in the [Client Support Overview](#) or the written specifications agreed by the parties in writing for any deliverables (the "Limited Services Warranty"). If any Service or deliverable does

not comply with the Limited Services Warranty, and you notify Cimatrix within thirty (30) days of receiving the applicable Service or deliverable, Cimatrix will, at its option and expense, either (a) re-perform the Service or correct the deliverable so that it complies with the Limited Services Warranty, or (b) provide you a refund for the applicable Service or deliverable. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE REMEDY PROVIDED HEREIN WILL BE YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY NONCOMPLIANCE WITH THE LIMITED SERVICES WARRANTY. THE LIMITED SERVICES WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE, PROVINCE TO PROVINCE, AND COUNTRY TO COUNTRY.

3. ***Intellectual Property ownership.*** Subject to the terms and conditions of this CLA, any and all Client IP shall, as between Cimatrix and you and your licensors, remain the sole and exclusive property of you or your licensors. For clarification, if you provide source code from your application to Cimatrix for technical support purposes, Cimatrix will have the right to review the source code, provide suggestions, and make modifications to the source code, however, any and all modifications to your source code shall, as between you and Cimatrix, be owned by you, subject to the terms and conditions of this CLA. Any and all Cimatrix IP shall, as between you and Cimatrix and its licensors, remain the sole and exclusive property of Cimatrix or its licensors. The only exception to the foregoing is as follows:

**Standard Case:** Any modifications that you make to Cimatrix customer-specific code as permitted hereunder will belong to you, provided that, Cimatrix will have no obligation to support any such code and, if you disclose them to Cimatrix, Cimatrix will have a perpetual, worldwide, royalty-free license to use, modify, and distribute the modifications (without any obligation to report or account to you). This Standard Case will apply unless you and Cimatrix mutually agree in a writing signed by you and an authorized representative of Cimatrix that the Standard Case does not apply. •

**Customer Ownership Case:** Cimatrix provides the Services and a writing signed by you and an authorized representative of Cimatrix provides that, subject to the terms and conditions of this CLA, you own all resulting new Intellectual Property, in which case, Cimatrix will not use any pre-existing Cimatrix code in providing the Services. As a result, the Services will typically take more time and have a higher cost.

The parties agree to perform all acts and deliver all assignments and other instruments necessary and appropriate to effectuate the provisions of this section.

4. **Services acknowledgment.** You acknowledge that Cimatrix provides Services to customers in various industries and that the expertise and proficiency that Cimatrix develops in helping integrate Cimatrix Software with the software and hardware of its customers benefits all customers and reduces the overall cost of Cimatrix's Services. You also acknowledge that if employees of Cimatrix were precluded from working on projects and providing Services for different customers in the same industry, Cimatrix could not operate its business efficiently, Cimatrix would not be able to develop and retain the expertise it needs to solve customer issues effectively, and its Services may be cost-prohibitive. For that reason, notwithstanding anything contained in this Agreement to the contrary, including Section 15 of the General Provisions, you agree that it will not be a breach of this CLA or constitute an infringement, misappropriation, or other violation of your Intellectual Property rights or the Intellectual Property rights of your third-

party suppliers for employees of Cimetricx, after providing you Services, to use the information retained in their unaided memories to provide Services or deliverables to other customers of Cimetricx, including customers in your same industry. If you have concerns about the potential use of any specific information that may constitute your Intellectual Property or the Intellectual Property of your third-party suppliers, you must discuss the matter with Cimetricx before the information is disclosed to Cimetricx and reach a mutual written understanding with Cimetricx of any alternative procedures or requirements that will be used in connection with the Services. Otherwise, the provisions of this Section 4 of these Service Terms will apply to all information provided to Cimetricx.

## General Provisions

The following General Provisions apply to all users and recipients of Cimetricx products and Services:

1. **Relationship of the parties.** You and Cimetricx are independent parties and nothing herein will make the parties joint ventures, co-owners, or participants in any joint or common undertaking.
2. **Successors and assigns.** This CLA shall be binding upon, and inure to the benefit of, the parties and their permitted assigns, if any.
3. **Authorized sublicensors.** Notwithstanding anything to the contrary in this CLA, if you obtain your Cimetricx products or Services through a Cimetricx Authorized Sublicensor, this CLA will constitute a contract between you and the Authorized Sublicensor, not Cimetricx. In that case, all references in this CLA to "Cimetricx" as the contracting party will mean and refer to the Authorized Sublicensor, instead of Cimetricx, but Cimetricx will be a third-party beneficiary of the contract with the right to enforce it. Not all Cimetricx authorized Equipment Manufacturers or other distributors are Authorized Sublicensors, however, so your contract will still be with Cimetricx unless you obtain your Cimetricx products and Services through an Authorized Sublicensor.
4. **Invoices and payment.** Unless you and Cimetricx agree to different payment terms in writing, or except as otherwise provided in this CLA, all fees and other amounts charged by Cimetricx under this CLA will be due within thirty (30) days of the date of the Cimetricx invoice. You agree to pay all amounts to Cimetricx in U.S. Dollars (unless Cimetricx agrees in writing to accept payment in a different currency), without offsets or deductions of any kind, except as expressly provided in this CLA. Notwithstanding the foregoing, Cimetricx shall have the right to require you to pay for items and Services in advance if you fall out of good financial standing with Cimetricx. All amounts not received by Cimetricx by the due date shall accrue interest at the rate of one and a half percent (1.5%) per month or the maximum legal rate allowed by law, whichever is less. Within thirty (30) days from the date of any invoice issued by Cimetricx, you agree to give Cimetricx written notice of any dispute that you have about the invoice. If you do not do so, the invoice shall be deemed correct in all respects. Cimetricx's prices exclude all federal, state, local, and foreign sales, use, value-added, alternative, add-on minimum, transfer, property, franchise, license, excise, import, export, registration, and other taxes, tariffs, duties, and fees.
5. **Responsibility for employees, contractors, and others.** You are fully responsible for the actions of each of your officers, directors, employees, contractors, dealers, agents, and Affiliates with respect to all Cimetricx Software, Documentation, and Derivative Products, whether or not

such Person was or is acting with the scope of his or her employment, appointment, agency, or contract.

6. **Proper books and records.** You agree to keep all proper books and records relating to the Cimetrix Software, the Documentation, the Services, and your performance of this CLA. You also agree to provide Cimetrix, for no additional consideration, all assignments that are required by this CLA.
7. **Notices.** All notices, authorizations, and requests in connection with this CLA shall be deemed given (a) five days after being deposited in the U.S. mail, postage prepaid, certified or registered, return-receipt requested; or (b) one day after being sent by overnight courier, charges prepaid, with a confirming fax; provided they are addressed to the party's last-known address or to such other address as the party to receive the notice or request so designates by written notice.
8. **Construction of CLA.** The headings throughout this CLA are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, or aid in the interpretation, construction or meaning of the provisions of this CLA. This CLA shall be construed as though both parties had drafted it or had equal opportunity to do so.
9. **No third party beneficiaries.** The provisions of the CLA are solely for the benefit of the parties and their successors and permitted assigns and not for any other Person, and the provisions of the Contracts (Rights of Third Parties) Act of Singapore (Cap 53B) and any other equivalent legislation otherwise entitling a third person to enforce any right or remedy under the CLA are hereby excluded; provided that nothing herein is intended to prevent Cimetrix from relying on and/or enforcing the terms of the CLA in relation to a contract between you and a Cimetrix Authorized Sublicensor (if you obtain your Cimetrix products or Services through such Authorized Sublicensor).
10. **Compliance with laws.** You agree to comply with all applicable laws, rules and regulations (including local, international and foreign laws, rules and regulations such as U.S. federal and state laws, rules, and regulations) with respect to your possession, use, distribution, and protection of Cimetrix Software and Documentation and your receipt of any Cimetrix Services. Cimetrix shall have the right to intervene in any action or proceeding involving any Cimetrix Software or Documentation.
11. **Waiver.** No failure by any party to insist upon the strict performance of any covenant, duty, term, or condition of this CLA, or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or of any other covenant, duty, term, or condition. Either party may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation, or covenant of the other party. No waiver shall be effective unless it is stated in writing and signed by a duly authorized representative of the waiving party. No waiver shall affect or alter the remainder of this CLA, but each and every other covenant, duty, term, and condition hereof shall continue in full force and effect with respect to any other existing or subsequently occurring breach.
12. **Cimetrix changes.** Cimetrix reserves the right to change this CLA, or any of its terms and conditions, at any time in its sole discretion, provided that any such changes shall only apply to existing customers thirty (30) days after Cimetrix announces that changes have been made to the CLA. It is your responsibility to review the CLA and become familiar with its provisions and any changes to them.

13. **Reservation of rights.** The Cimatrix Software is licensed to you, not sold. All ownership of, and all associated right, title, and interest in and to, the Cimatrix Software and Documentation and the proprietary, confidential, and trade secret information, techniques, and technology embodied or contained in them shall be retained by Cimatrix or its licensors. You also agree that Cimatrix will own all Copies of Cimatrix Software and Documentation, whether you, Cimatrix, or any other Person makes the Copies. This CLA only grants you a limited right to use the Cimatrix Software and Documentation as expressly provided in this CLA. This CLA does not grant you any rights to Cimatrix Source Code or to patents, copyrights, trade secrets, trademarks, or any other rights with respect to the Cimatrix Software, Documentation, or Services, except as expressly provided herein. Cimatrix and its licensors reserve all Intellectual Property and other rights not expressly granted to you in this CLA. For example, you may not, without the express prior written permission of Cimatrix, register or seek to register the copyrights in, register or seek to register the industrial designs of, register or seek to register any trade names, service marks, or trademarks of, patent or seek to patent, or otherwise obtain or seek to obtain from any government, quasi-governmental authority, industry authority or organization, or any other authority in any jurisdiction any Intellectual Property protection for any code, program, module, deliverable, component, system, or other item or combination of items, including any invention, industrial design, or work of authorship, that contains any Cimatrix Software or Documentation, any Cimatrix code, or any other Cimatrix Intellectual Property of any kind or nature, except to the extent that the Cimatrix Software and Documentation, Cimatrix code, and any and all other Cimatrix Intellectual Property are specifically and completely excluded and you refrain from disclosing any and all related Cimatrix Confidential Information. Cimatrix shall have the exclusive right, in its sole and absolute discretion, to register, patent, otherwise seek protection for, and/or enforce the Intellectual Property rights associated with the Cimatrix Software, Documentation, and Services.
14. Cimatrix shall have the exclusive right, in its sole and absolute discretion, to enforce the Intellectual Property rights associated with the Cimatrix Software, Documentation, and Services.
15. **No reverse engineering.** You agree that neither you nor any Person that is given access to Cimatrix Software by you will decompile, disassemble, reverse engineer, or modify the Cimatrix Software, except with the express written permission of Cimatrix and strictly in accordance with such permission, or except as authorized by law notwithstanding this provision, but only after contacting Cimatrix to attempt to resolve any compatibility or use issues. You agree not to make or enable any Person to make any unauthorized copies of Cimatrix Software or to break or make any unauthorized Copies of any Cimatrix license code.
16. **Confidential Information.** You agree to keep any and all Confidential Information of Cimatrix and its Affiliates that you receive or uncover in connection with your use of the Software strictly confidential, to use Cimatrix Confidential Information solely for the proper performance of this CLA, and to notify Cimatrix of any unauthorized disclosure or use of Confidential Information that comes to your attention. Cimatrix agrees to keep any and all Confidential Information that you provide to Cimatrix strictly confidential, to use the Confidential Information solely for the proper performance of this CLA, and to notify you of any unauthorized disclosure or use of Confidential Information that comes to Cimatrix's attention. Notwithstanding the foregoing, the obligations of this section shall not apply to any information that the receiving party ("Recipient") can prove, with contemporaneous written records: (a) was at the time of disclosure already in the public domain or becomes available to the public through no breach by Recipient of this CLA, except that Confidential Information shall not be deemed to be in the public domain merely because part of

the Confidential Information is embodied in general disclosures or because individual features, components, or combinations thereof are now or become known to the public; (b) is received by Recipient from a third party lawfully permitted to disclose such information to Recipient; (c) was already in Recipient's lawful possession without any breach of any confidentiality provision, (d) is independently developed by Recipient without the benefit of any of the Confidential Information; (e) is approved for release by written agreement of other party; or (f) is required to be disclosed to comply with legal requirements or a judicial or official order or decree, provided that (i) Recipient first gives at least ten (10) days advance written notice to the other party of the required disclosure, if legally permitted, (ii) limits the disclosure to what is legally required, and (iii) if notice cannot legally be provided to other party, makes reasonable efforts to secure confidential treatment of the Confidential Information prior to its disclosure. If you have signed a confidentiality or non-disclosure agreement ("NDA") with Cimetrix or its Affiliates, this CLA does not supersede or replace the NDA, which will continue to govern disclosures made under that agreement. If there is any conflict between the NDA and this CLA as it relates to Cimetrix Confidential Information, this CLA will control.

17. **Export Restrictions and Economic Sanctions.** You acknowledge that certain of the Items may be subject to Export Control. Notwithstanding anything to the contrary, availability of and Cimetrix obligation to provide Items are subject to Export Control, and you and Cimetrix agree that, in the event Export Control that prohibits or restricts Cimetrix from providing an Item, any Cimetrix obligation to provide such Item will be excused without liability or penalty. You confirm that you will comply with Export Control with respect to the Items and, without limiting the generality of the foregoing, that you will not without any required export license or other government authorization: (A) export, re-export, transfer or provide Items to any country or region that is subject to an applicable embargo, or to any entity or person located in any such embargoed country or region; (B) export, re-export, transfer or provide Items to any entity or person on an Export Control list of prohibited or restricted parties or for which an export license would be required; or (C) export, re-export, transfer in-country, use, or allow any third party to use, any of the Items in any activities related to: (i) the development, production, storing or testing of nuclear, chemical or biological weapons or missiles, (ii) any other military end-use, or (iii) any military end-user. You certify that you do not develop, produce, maintain, or use military items, and are not a military end-user.
18. **U.S. Government Restricted Rights.** Cimetrix Software is commercial computer software developed at private expense, is published and copyrighted, and is provided with Restricted Rights. Use, duplication, and disclosure by civilian agencies of the U.S. Government shall be governed by the terms and restrictions of this CLA and FAR § 52.227-14 Alternative III(g)(3) (June 1987), as applicable, subject to FAR § 52.227-19(c) (June 1987). Use, duplication, and disclosure by agencies of the U.S. Department of Defense shall be governed by the terms and restrictions of this CLA, as provided in DFARS § 227.7202 (10/14/98). The "contractor" and "licensor", as referred to in the U.S. Government FAR and DFARS regulations, is Cimetrix Incorporated. Additional information about Cimetrix, including its address, is available at [www.cimetrix.com](http://www.cimetrix.com).
19. **Third-Party Software.** Some Cimetrix Software contains or uses third-party software or other materials protected by third-party license, copyright laws, international copyright treaties, and other intellectual property laws and treaties. The third-party software and materials and their associated terms and conditions of use are set forth in the "about" section of each such Software product and/or are listed in a document entitled [Third Party Acknowledgements and Terms](#), which is hereby incorporated into these General Provisions and which Cimetrix may modify from time to time in its sole discretion.



20. **Independent developments.** Each party will remain free to develop any and all products and Intellectual Property as that party in its sole discretion chooses, provided that (a) the party does so independent of the other party's disclosures and Confidential Information, and (b) the developing party maintains contemporaneous records that establish the independence of such developments.
21. **Injunctive Relief.** If either party breaches any of its obligations regarding the use or confidentiality of the other party's Confidential Information or Intellectual Property, such other party shall be entitled to equitable relief to protect its interests, including preliminary and permanent injunctive relief, without the necessity of proving irreparable harm or damages or posting a bond or other security.
22. **Proprietary notices.** You agree not to remove any patent, copyright, trademark, proprietary rights, disclaimer, or product warning included on or embedded in any part of Cimatrix Software or Documentation, any Copy that you make of any Cimatrix Software or Documentation, except as expressly provided herein. If you are an Equipment Manufacturer, for any Derivative Product containing any Equipment Manufacturer Modification and distributed in Object Code to an End User, you agree not to identify Cimatrix as a source of any portion of such Derivative Product and shall remove all references to Cimatrix from such Derivative Product, including any reference in any proprietary notice, disclaimer, or product warning. This removal requirement will not eliminate or diminish your obligations under the other applicable provisions of this CLA. The proprietary notices referenced in and required in CLA shall be loaded into computer memory for use, display, or reproduction, shall be embedded in program Source Code and Object Code and in the video screen display, shall be placed on any physical medium embodying the Copy of the Cimatrix Software, Documentation, or Derivative Product, if practicable, and shall be included in any associated End User manuals and other End User documentation.
23. **Rights and Remedies.** No right or remedy herein conferred upon or reserved to Cimatrix is exclusive of any other right or remedy, at law or in equity, but each such remedy shall be cumulative of every other right or remedy now or hereafter existing.
24. **Indemnity.** Subject to all of the provisions of this CLA, including the limitation of liability provisions, Cimatrix agrees to defend and indemnify you and your officers, directors, employees, and agents ("Your Indemnitees") against, or settle, any third-party claims that (1) the Cimatrix Software, Documentation, or deliverable infringes any patents issued before release of the Cimatrix Software or Documentation or delivery of the deliverable or any copyrights or misappropriates any trade secrets; or (2) an Equipment Manufacturer's authorized use of any Cimatrix trademarks infringes any trademark; and to pay those damages and costs, including without limitation reasonable attorneys' fees, finally awarded against you or Your Indemnitees or amounts agreed to in a monetary settlement, that are specifically attributable to such claims. If your authorized use of the Cimatrix Software, Documentation, or deliverable, and for Equipment Manufacturers your authorized use or distribution of the Cimatrix Software, Documentation, or deliverable is, or in Cimatrix's sole opinion is likely to be, enjoined by a court of competent jurisdiction due to such infringement or misappropriation, Cimatrix in its sole discretion will (a) procure the right for you to continue such authorized use or distribution; (b) modify the Cimatrix Software, Documentation, or deliverable to eliminate the infringement or misappropriation, while maintaining substantially equivalent functionality and performance; or (c) terminate this CLA as to the Cimatrix Software, Documentation, or deliverable at issue and refund all license fees that have been paid to Cimatrix for or on your behalf for such Cimatrix Software, Documentation, or deliverable, less depreciation calculated on a five-year, straight-line basis. This provision is your

sole and exclusive remedy for any claims of infringement or misappropriation of any third-party Intellectual Property rights of any kind. Cimatrix will have no responsibility for, and you agree to defend and indemnify Cimatrix and its officers, directors, employees, and agents (the "Cimatrix Indemnitees") against, or settle, any third-party claims arising from (1) your product(s); (2) your Modification of the Cimatrix Software, Documentation, or deliverable; (3) the combination of the Cimatrix Software, Documentation, or deliverable with any third-party technology or material, if the claim(s) would have been avoided but for such combination; (4) your failure to employ materials or instructions provided by Cimatrix that would have eliminated the infringement or misappropriation; and (5) your breach of this CLA, and you agree to pay those damages and costs, including reasonable attorneys' fees, finally awarded against Cimatrix or the Cimatrix Indemnitees, or amounts agreed to in a monetary settlement, that are specifically attributable to such claims. The party seeking indemnity shall provide timely notice of the claim(s) to the indemnifying party, provide all assistance reasonably requested by the indemnifying party, and allow the indemnifying party to control the defense and settlement of the claim(s), except that no settlement shall be entered without the indemnified party's written consent, which shall not be unreasonably withheld or delayed.

25. **Disclaimers.** CIMATRIX MAKES NO WARRANTY, PROMISE, OR REPRESENTATION NOT EXPRESSLY SET FORTH IN THIS CLA. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS CLA, CIMATRIX PROVIDES THE CIMATRIX SOFTWARE, DOCUMENTATION, SERVICES, AND DELIVERABLES "AS IS" AND WITH ALL FAULTS, WITHOUT WARRANTY OF ANY KIND, AND DISCLAIMS ANY AND ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY OF CIMATRIX, AND EVEN IF CIMATRIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING THE IMPLIED WARRANTIES (IF ANY) OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, FITNESS FOR A PARTICULAR PURPOSE, RELIABILITY OR AVAILABILITY, CONDITION OF TITLE, QUIET ENJOYMENT, OR QUIET POSSESSION, OF ACCURACY OR COMPLETENESS OF RESPONSES, OF RESULTS, OF WORKMANLIKE EFFORT, OF LACK OF VIRUSES, OR OF LACK OF NEGLIGENCE. THE LIMITATIONS, DISCLAIMERS, AND EXCLUSIONS CONTAINED IN THIS CLA SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. NO CIMATRIX AGENT, EMPLOYEE, OR OTHER REPRESENTATIVE IS AUTHORIZED TO MODIFY OR ADD TO THE LIMITED WARRANTIES PROVIDED IN THIS CLA IN ANY MANNER. THE TERMS OF ANY IMPLIED WARRANTIES THAT CANNOT BE DISCLAIMED UNDER APPLICABLE LAW IS LIMITED TO NINETY (90) DAYS OR TO THE SHORTEST PERIOD PERMITTED BY LAW.
26. **Limitation of liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS CLA, IN NO EVENT WILL CIMATRIX OR ITS LICENSORS BE LIABLE TO YOU OR TO ANY OTHER PERSON FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, INDIRECT, OR SIMILAR DAMAGES, REGARDLESS OF THE FORM OF PROCEEDING OR THE THEORY OF LIABILITY, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT, OR BREACH OF WARRANTY OF CIMATRIX, AND EVEN IF CIMATRIX HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION MEANS, FOR EXAMPLE, THAT NEITHER CIMATRIX NOR ITS LICENSORS ARE RESPONSIBLE OR LIABLE FOR DAMAGES

OR COSTS INCURRED BY YOU OR ANY OTHER PERSON AS A RESULT OF LOSS OF TIME, DATA, INCOME, PROFITS, OR USE OF THE CIMETRIX SOFTWARE, DOCUMENTATION, AND SERVICES, OR FOR DAMAGES TO, CAUSED BY, OR AS A RESULT OF DAMAGE TO, ANY COMPUTING DEVICE OR OTHER EQUIPMENT OR PROPERTY CONTROLLED BY THE CIMETRIX SOFTWARE. SOME STATES, PROVINCES, AND COUNTRIES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE PRECEDING LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU. IN ADDITION, NEITHER CIMETRIX NOR ITS LICENSORS ARE RESPONSIBLE OR LIABLE FOR DAMAGES OR COSTS INCURRED IN CONNECTION WITH OBTAINING SUBSTITUTE SOFTWARE, INCONVENIENCE, OR SIMILAR DAMAGES OR COSTS. NOTWITHSTANDING ANYTHING CONTAINED IN THIS CLA TO THE CONTRARY, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE LIABILITY OR ANY OTHER OBLIGATION OF CIMETRIX TO YOU OR TO ANY OTHER PERSON EXCEED THE PRICE PAID FOR THE LICENSE TO USE THE CIMETRIX SOFTWARE AND DOCUMENTATION SPECIFICALLY AT ISSUE OR FOR THE FEES YOU PAID TO CIMETRIX FOR THE SPECIFIC SERVICES AT ISSUE, REGARDLESS OF THE FORM OF THE CLAIM OR THE THEORY OF LIABILITY. ONCE CIMETRIX REACHES THAT LIMIT, IT MAY OFFER TO CONTINUE TO PERFORM THE OBLIGATION OR OTHERWISE DISCHARGE THE LIABILITY AT YOUR SOLE EXPENSE.

27. **Termination.** In addition to any other rights of termination provided in this CLA, a party may terminate this CLA by notice to the other party: (a) if such other party breaches any of the terms or conditions of this CLA or any change order; (b) if such other party generally fails to pay its debts and obligations as they mature, admits in writing its inability to do so, or makes an assignment for the benefit of creditors; and/or (c) if a petition under any foreign, state, or United States bankruptcy act, receivership statute, or the like, as they now or hereafter may exist, is filed by such other party, or if such a petition is filed against such other party by any third Person, or an application for a receiver is made as to such party by any other Person, and such petition or application is not resolved favorably with respect to such other party within ninety (90) days.
28. **Effect of Termination.** On termination of this CLA for any reason, all amounts due and owing to Cimetrix shall be accelerated and become immediately due and payable, even if longer or different terms were previously agreed by the parties. Except as otherwise expressly agreed by the parties, or as otherwise provided in this CLA, all licenses granted by one party to the other pursuant to this CLA shall remain in force and effect according to their respective terms and conditions. The termination of this CLA shall not affect or impair the right of either party to recover damages or any other remedies occasioned by any breaches of the other party of this CLA. The following provisions of this CLA will survive any termination, for any reason, of this CLA in whole or in part and shall continue to apply after any such termination: Definitions; End User License Terms sections 9 and 12; Equipment Manufacturer Terms sections 10 and 11; Source Code License Terms sections 6 and 7 (enforcement of Contractor Agreements only); Service Terms section 3; and General Provisions sections 1 through 10 and 12 through 30.
29. **Return of Materials.** On termination of this CLA for any reason, each party shall promptly return to the other party all of such other party's property, materials, and Confidential Information provided pursuant to this CLA, except for any Confidential Information or other materials as to which the receiving party has license or other rights under this CLA or otherwise, unless the parties otherwise agree in writing, or except as otherwise expressly provided in this CLA. Instead of returning Copies of Confidential Information, the receiving party may destroy them and send

written certification thereof to the disclosing party. Notwithstanding these requirements, the receiving party may retain such Copies of the other party's Confidential Information as are required to comply with applicable laws or as necessary to enforce the receiving party's rights under this CLA, subject to section 15 above.

30. **Severability.** If any provision in this CLA is determined by a court of competent jurisdiction to be void, invalid, unenforceable, or illegal, that provision shall be construed, limited, modified or, if necessary, severed, to the extent necessary to eliminate its violability, invalidity, unenforceability or illegality, and the other provisions of this CLA shall remain unaffected and continue in full force and effect.
31. **Governing Law and Attorneys' Fees.** This CLA shall be governed by and interpreted in accordance with the laws of the State of Utah, USA, excluding its conflicts of law rules, unless you are located solely in China, Taiwan, or Hong Kong, in which case the laws of Singapore, excluding its conflicts of law rules, will govern this CLA (which choice the parties respectively agree and represent is made in good faith, legal and is not, to the best of their knowledge or belief, contrary to public policy). You agree that the United Nations Convention on Contracts for the International Sale of Goods is hereby excluded in its entirety and does not apply to this CLA or to the Cimetrix Software, Documentation, or Services. Notwithstanding the foregoing, nothing in this CLA will diminish any rights you may have under existing consumer protection legislation or other applicable laws in your jurisdiction that may not be waived by contract. If any action, suit, or arbitration, as applicable, is instituted with respect to this CLA, the prevailing party shall be entitled to recover its costs, expenses, and reasonable attorneys' fees, including but not limited to those incurred in any and all appeals. Any and all disputes arising out of or relating to this CLA ("Disputes") shall be decided as follows: (a) If you reside in the United States, any and all Disputes shall be brought and decided exclusively in the federal or state courts sitting in Salt Lake County, State of Utah, USA, and the parties irrevocably consent to the exclusive jurisdiction and venue of such courts; (b) if you reside solely outside the United States and are not located solely in China, Taiwan, or Hong Kong, any and all Disputes shall be finally decided by arbitration under the then-current Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with those rules, and any such arbitration shall take place in Salt Lake City, Utah, USA; or (c) if you reside solely outside the United States and are located solely in China, Taiwan, or Hong Kong, any and all Disputes shall be finally decided by arbitration under the then-current commercial arbitration rules of the Singapore International Arbitration Centre (the "SIA Centre") by arbitrator(s) appointed in accordance with such rules, and any such arbitration shall take place in Singapore at the SIA Center before a tribunal of one arbitrator, if the claim amounts in the arbitration demand(s) total US\$1 million or less, and three arbitrators, if the amounts in the arbitration demand(s) total more than US\$1 million. In such event, each party shall nominate one arbitrator, and the two arbitrators so chosen shall together select the third arbitrator. Any and all arbitration proceedings under this CLA shall be conducted in the English language. THE PARTIES HEREBY AGREE THAT NEITHER WILL REQUEST A JURY FOR ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS CLA AND EXPRESSLY WAIVE ANY AND ALL SUCH RIGHTS TO A JURY TRIAL THAT MAY EXIST UNDER STATE, FEDERAL, CONSTITUTIONAL, OR OTHER LAW.
32. **Force majeure.** Neither Party shall be liable to the other Party for any loss, damage, or penalty, or subject to specific performance or injunction, arising from delay or non-performance to the extent due to causes beyond its reasonable control. Examples of such causes include but are not limited to acts of God, disaster, acts of government, war (declared or undeclared), terrorism,

sabotage, armed conflict, riots, civil disturbance, labor dispute, cyber or communication system attacks or disruptions, epidemic/pandemic, public health restriction, embargoes, sanctions, export control restrictions, or similar prohibitions.

33. **Entire Agreement.** This CLA sets forth the entire understanding and agreement between you and Cimatrix and supersedes all prior communications, proposals, representations, or agreements, whether written or oral, express or implied, with respect to the Cimatrix Software or any other subject matter covered by this CLA, except as provided in section 15 above relating to NDAs. Except as expressly set forth in this CLA, this CLA may not be modified or terminated orally, and no modification or waiver shall be valid unless it is in writing, signed by the party against whom the same is sought to be enforced. NO DISTRIBUTOR, DEALER, RETAILER, SALESPERSON, OR SIMILAR PERSON IS AUTHORIZED TO MODIFY THIS CLA OR TO MAKE ANY WARRANTY, REPRESENTATION, OR PROMISE WITH RESPECT TO CIMATRIX SOFTWARE, DOCUMENTATION, OR SERVICES THAT IS DIFFERENT FROM, OR IN ADDITION TO, THE EXPRESS TERMS AND CONDITIONS OF THIS CLA.