

Uila Software License Agreement

BY ACCESSING OR USING THE SERVICES OR SOFTWARE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON, COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY, OR LEGAL ENTITY TO THESE TERMS.

Uila (as defined below) and Customer (as identified in the Grant Letter) agree to the following Uila Software License Agreement (“Software License Agreement”) and the terms as specified in the Grant Letter.

- 1. DEFINITIONS.** For purposes of the Agreement, the following definitions apply:
- a. “Access Software” means programs, applications or object code obtained from Uila and installed in the Customer’s environment, including Updates and Upgrades and for the purposes of facilitating the delivery or functionality of the Services or On-Premises Software.
 - b. “Agreement” means this Software License Agreement, the Grant Letter and any materials available on the Uila website that are specifically incorporated by reference.
 - c. “Annual Customers” means Customers who have a valid annual or multi-year contract for a subscription for Services or On-Premises Software, as applicable.
 - d. “Channel Partner” means the Uila partner identified in the Grant Letter through which the Customer purchased the Subscription.
 - e. “CPU Socket” means the physical socket on a computer server or host where the CPU chip is housed.
 - f. “Customer Data” means any data provided by Customer to Uila under this Agreement.
 - g. “Documentation” means explanatory materials created by Uila in printed, electronic or online form that accompany the Services, Access Software or On-Premises Software.
 - h. “Grant Letter” means, collectively, the quotation delivered by Uila to Customer in writing or electronically that details the total cost of the Subscription or Perpetual License to be purchased by Customer, together with the confirmation notice issued electronically by Uila to Customer, confirming the Licensed Product purchased and access details. Grant Letter includes services order forms or other purchasing documentation entered into between Customer and Uila or Channel Partner for the Licensed Products.
 - i. “Licensed Products” means all Uila Services, Access Software, On-Premises Software, Updates or Documentation to which Customer has rightful access through a valid Grant Letter.
 - j. “Monthly Customer” means Customers who have a valid monthly contract for a subscription for Services or On-Premises Software, as applicable, with no annual or multi-year commitment.
 - k. “On-Premises Software” means programs, applications or object code obtained from Uila and installed on Customer’s servers, including Updates and Upgrades, for the purposes of providing the functionality of Uila Cloud on-premises in the Customer’s environment.
 - l. “Perpetual License” means a perpetual license purchased by Customer for the use of the On-Premises Software.
 - m. “Perpetual License Customer” means a Customer who has purchased a Perpetual License, as set forth on the Grant Letter.
 - n. “Perpetual License Fee” means the one-time license fee paid by a Perpetual License Customer for a Perpetual License.
 - o. “Services” means Uila’s service known as “Uila Cloud”, which consists of activities including network traffic analysis, system administration, system management and system monitoring that Uila performs using Access Software installed on Customer’s computer server(s) along with any optional add-on services, and as ordered by Customer in one or more Grant Letters.

- p. "Services" means Uila's service known as "Uila Cloud", which consists of activities including network traffic analysis, system administration, system management and system monitoring that Uila performs using Access Software installed on Customer's computer server(s) along with any optional add-on services, and as ordered by Customer in one or more Grant Letters.
- q. "Subscription" means a subscription purchased by Customer as described in the Grant Letter for the use of, or access to, the Services or On Premises Software, as applicable, during the Term.
- r. "Subsidiary" refers to any entity controlled by Customer through greater than fifty percent (50%) ownership of the voting securities.
- s. "Support" means technical support provided as described in the then-current Uila Technical Support and Maintenance Terms, which are posted on Uila's website at: <http://www.uila.com>.
- t. "Term" means the time period during which Customer has the right to use or access the Services or On-Premises Software, as specified in the Grant Letter. With respect to a Perpetual License, the Term shall be perpetual.
- u. "Uila" means Uila, Inc., a Delaware corporation, with offices located at 710 Lakeway Drive, Suite 210, Sunnyvale, California 94085, USA.
- v. "Updates" are related to content of the Licensed Products and include without limitation signature sets, policy updates, database updates for the Licensed Products which are made generally available to Uila's customer base as a part of purchased Support and which are not separately priced or marketed by Uila.
- w. "Upgrade" means any and all improvements in the Licensed Products which are made generally available to Uila's customer base as a part of purchased Support and which are not separately priced or marketed by Uila.
- x. "User" means a unique individual within a company or other legally recognized entity ("Entity") where (1) Entity has purchased a valid subscription to use the Licensed Products, and (2) Entity has authorized the individual to use the Licensed Products.

2. RIGHT OF USE AND RESTRICTIONS.

- a. Right to Access and Use Services or On-Premises Software. Subject to the terms of this Agreement and payment of all applicable Subscription fees or Perpetual License Fees (as applicable), Uila grants Customer a royalty-free, nonexclusive, nontransferable, worldwide limited term right to access and use the Services described in the Grant Letter, for up to the number of populated CPU Sockets identified on the Grant Letter, solely for Customer's internal business use during the Term. To the extent Customer has purchased a Subscription or Perpetual License to use On-Premises Software, subject to the terms of this Agreement and payment of all applicable Subscription fees, Uila grants Customer a royalty-free, nonexclusive, nontransferable, worldwide limited term right to install and use the On-Premises Software described in the Grant Letter, for up to the number of populated CPU Sockets identified on the Grant Letter, solely for Customer's internal business use during the Term.
- b. Right to Install and Use Access Software. Subject to the terms of this Agreement and payment of all applicable Subscription fees or Perpetual License Fees (as applicable), Uila grants Customer a royalty-free, nonexclusive, nontransferable, worldwide limited term license to install Access Software on equipment owned or operated by or on behalf of Customer, as needed to deliver the Licensed Products or functionality described in the relevant Grant Letter. Copies of the Access Software may be made as required for disaster recovery purposes. The Access Software must be uninstalled and destroyed at the end of the Term. If Customer enters into a contract in which a third party manages Customer's information technology resources ("Managing Party"), Customer may transfer all its rights to use the Access Software to such Managing Party, provided that (a) the Managing Party only uses the Services for Customer's internal operations; (b) the Managing Party agrees to comply with this Agreement, and (c) Customer provides Uila with written notice that a Managing Party will be using the Access Software on Customer's behalf.

- c. Updates and Upgrades. Customer must have an active Subscription and be current in payment to receive Updates or Upgrades. With respect to a Perpetual License, Updates and Upgrades will only be provided to Perpetual Customers that have subscribed separately for maintenance and support services from Uila.
- d. Subsidiary Liability. Customer's Subsidiaries may use the Services but Customer remains directly and fully liable for each Subsidiary's compliance with and breach of this Agreement.
- e. Restrictions. Customer may not access or use the Licensed Products if Customer is a direct competitor of Uila or access or use the Licensed Products for any benchmarking or competitive purposes without Uila's express written permission. Customer will not: (i) license, sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make the Licensed Products available to any third party other than as expressly permitted by this Agreement; (ii) modify, decompile, reverse engineer, or copy the Licensed Products, or any of their components other than as expressly permitted by this Agreement; (iii) use the Licensed Products to conduct fraudulent activities; (iv) attempt to gain unauthorized access to the Licensed Products, engage in any denial of service attacks, or otherwise cause immediate, material or ongoing harm to Uila, its provision of the Licensed Products, or others; (v) impersonate or misrepresent an affiliation with a person or entity; (vi) use the Licensed Products to initiate or propagate Malware; (vii) use the Licensed Products for any purpose that violates applicable law or regulation, infringes on the rights of any person or entity, or violates this Agreement; (each of (i) to (vii), a "Prohibited Use"). All rights not expressly granted to Customer are reserved by Uila and its licensors.
- f. Right to Use Customer Data. Customer hereby grants Uila a limited, non-exclusive, royalty-free, license to access and use the Customer Data solely as necessary for Uila to provide the Licensed Products and technical support to Customer during the Term.

3. EVALUATION. If Customer has signed up for a free evaluation trial period to use and evaluate the Licensed Products, then the provisions of this paragraph shall apply and shall supersede any other conflicting term of this Agreement. Customer's use of the Licensed Products for evaluation is limited to 30 days unless otherwise agreed to in writing by Uila. During the evaluation period, Uila grants Customer a limited, non-exclusive, worldwide, fully-paid up license to access the Services and install and use the Access Software solely for internal business purposes to evaluate the Licensed Products. Customer acknowledges that the evaluation may contain errors or other problems that could cause system or other failures and data loss. Consequently, any Licensed Products provided to Customer for evaluation purposes are provided solely on an "AS-IS" basis, and Uila disclaims any warranty or liability obligations to Customer of any kind. Customer is not eligible for any Support for Licensed Products during the evaluation period. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, THE LIABILITY OF UILA AND ITS SUPPLIERS AND AUTHORIZED PARTNERS WITH RESPECT TO LICENSED PRODUCTS PROVIDED DURING THE EVALUATION PERIOD SHALL BE LIMITED TO THE SUM OF FIFTY (50) DOLLARS (OR THE THEN CURRENT VALUE IN THE RELEVANT LOCAL CURRENCY) IN TOTAL.

4. FREE USE LICENSE. Subject to the terms and conditions of this Agreement, Uila grants Customer a non-exclusive, worldwide, fully-paid up license to access and use Uila Cloud free of charge subject to the following conditions: (i) the maximum period of performance metrics data retention is thirty (30) days, (ii) application servers (VMs) in one host (ESXi), (iii) infrastructure resource used by ten hosts, and (iv) such use is only for Customer's internal business use. Customer acknowledges that such free use of Uila Cloud is provided to Customer solely on an "AS-IS" basis, and Uila disclaims any warranty or liability obligations to Customer of any kind. Furthermore, Uila will not be obligated to provide Support to Customer with respect to any such free use of Uila Cloud. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, UILA'S LIABILITY AND THAT OF ITS SUPPLIERS AND AUTHORIZED PARTNERS WITH RESPECT TO CUSTOMER'S FREE USE OF UILA CLOUD UNDER THIS SECTION 4 SHALL BE LIMITED TO THE SUM OF FIFTY (50) DOLLARS (OR THE THEN CURRENT VALUE IN THE RELEVANT LOCAL CURRENCY) IN TOTAL.

5. CUSTOMER OBLIGATIONS

- a. Customer is responsible for all activity occurring under Customer's subscription accounts. Customer will provide Uila with all information and assistance required to supply the License Products or enable Customer's use of the same. Customer will immediately notify Uila of any: (i) unauthorized account use or other suspected security breach; (ii) unauthorized use, copying or distribution of Licensed Products, accompanying documentation or Customer Data; and (iii) unusual performance of the Licensed Products observed by Customer.
 - b. Customer will provide Uila contact information for Customer's system administrator, who is authorized to provide the information required to configure and manage the Services ("System Administrator"). Uila will provide Customer with a confidential access code to the administration tool, which may only be accessed by the System Administrator.
6. **TERM AND RENEWAL** The Initial Term of this Agreement is specified in the Grant Letter (the "Initial Term"). Except as otherwise set forth in the Grant Letter, this Agreement will automatically renew for successive terms of equal length as the Initial Term (each a "Renewal Term") unless either Customer or Channel Partner provides Uila notice of non-renewal at least five (5) days prior to the end of the then current Term. Any User subscriptions added during a Term will co-terminate with the then current Term.
7. **FEES; INVOICE; AUDIT.** Unless Customer is purchasing the Subscription through a Channel Partner, in which case payment obligations shall flow exclusively between Channel Partner and Customer, Customer will pay Uila the fees set forth in the Grant Letter in full within thirty (30) days of the invoice date. Late payments are subject to interest of 1.5% per month or the highest rate permitted by law, whichever is lower. All payment obligations are non-cancelable and non-refundable. If Customer believes an invoice is incorrect, Customer must contact Uila in writing within thirty (30) days of the date of invoice to be eligible to receive an adjustment or credit. The fees for a Renewal Term will be equal to the fee in effect during the Initial Term unless Uila has given Customer at least thirty (30) days prior written notice of a fee increase. Fees are exclusive of all taxes and Customer is responsible for payment of all such taxes, excluding only U.S. taxes based solely on Uila's income. Uila has the right, at its expense, to audit Customer's compliance with the terms of this Agreement. If any audit reveals that Customer owes fees to Uila, or the Channel Partner, Customer will promptly remit such underpaid amounts, including any interest owed for overdue payments. Customer consents to Uila's disclosure of such audit results to the Channel Partner, as needed. If technically available, Customer will provide a system generated report verifying Customer's License Product deployment, such request to occur no more than two (2) times per year.
8. **SUSPENSION OF SUBSCRIPTION.** Uila may suspend the Subscription or Customer's use of the Services or On-Premises Software: (a) if Uila deems it necessary to prevent or terminate any Prohibited Use; or (b) upon notice to Customer if: (i) Customer commits a material breach of this Agreement; or (ii) if Uila receives notice from Channel Partner that Customer is in material breach of the Agreement. Suspension of Services shall be without prejudice to any rights or liabilities accruing prior to or during the suspension, including Customer's obligation to pay fees. Uila may temporarily suspend the Services for maintenance purposes. Uila will use commercially reasonable efforts to minimize any such disruption of Services. Upon suspension for any reason, Uila will provide Customer with written notice specifying the reason for the suspension.
9. **TERMINATION.** Uila may terminate this Agreement for cause immediately upon notice to Customer if: (a) Customer commits a material breach of this Agreement and fails to cure such breach within five (5) business days after Customer's receipt of the written notice specifying the breach; (b) Customer becomes insolvent; or (c) Customer makes an unauthorized assignment of this Agreement. Upon termination of this Agreement, Customer agrees that Uila has no obligation to retain Customer Data, which may be irretrievably deleted. Customer is solely responsible for retrieving Customer Data in its account.
10. **TECHNICAL SUPPORT SERVICE.** The then-current Uila Technical Support and Maintenance Terms apply to the License Products. The Uila Technical Support and Maintenance Terms are incorporated by reference and can be found at: <http://www.uila.com>. After the support or Services subscription period expires, Customer has no further rights to receive any Updates or Upgrades.

11. **CONFIDENTIALITY.** “Confidential Information” means any business materials, data, or information of a party to this Agreement that is disclosed to the other, except for information that is: (a) publicly available or later becomes publicly available other than through breach of this Agreement; (b) previously known to or independently developed by the Receiving Party; or (c) subsequently obtained by the Receiving Party through a third party without obligations of confidentiality. Customer acknowledges that Uila's pricing, services access codes and Intellectual Property are Uila's Confidential Information. The party receiving Confidential Information (“Receiving Party”) will exercise the same degree of care and protection for the Confidential Information of the party that has disclosed Confidential Information (“Disclosing Party”) that it exercises with its own Confidential Information but no less than a reasonable degree of care. The Receiving Party may not directly or indirectly disclose, copy, distribute, republish, sell, license or otherwise allow any third party access to such Confidential Information. The Parties agree to maintain the confidentiality as described herein for three (3) years after the termination of this Agreement. Notwithstanding the above, either party may disclose Confidential Information: (1) to its affiliates, employees, contractors, directors, shareholders, members or agents (Representatives”) who have a need to know and are subject to substantially similar obligations of confidentiality herein; and (2) if required by law (including a court order or subpoena), provided, the Receiving Party, where lawfully permitted, promptly notifies the Disclosing Party in time to review and challenge the potential disclosure.
12. **INTELLECTUAL PROPERTY.** The Licensed Products (including any associated, documentation, hardware, websites, passwords, components and tools) (“Uila Property”) are the sole and exclusive property of Uila or its licensors, who retain sole ownership of all right, title and interest in Uila Property, as well as any derivative works thereof. These ownership rights include copyrights, patent rights, trademark and service mark rights, trade secret rights, moral rights, and all other intellectual property and proprietary rights (“Intellectual Property”). Customer agrees, on behalf of itself and its Users, that it will take no action inconsistent with Uila's Intellectual Property rights. Customer agrees that Uila has the unrestricted right to use feedback or recommendations provided by Customer in Uila's sole discretion, without notice to, payment to or consent from Customer and that such feedback is not subject to the Confidential Information provisions of this Agreement. Customer agrees not to disclose such feedback to any third party without the express written consent of Uila. Customer retains all right, title and interest in and to Customer Data.
13. **LIMITED WARRANTIES, DATA COVENANTS, REMEDIES AND DISCLAIMER.**
- a. LIMITED WARRANTIES AND DATA COVENANTS.
- i. Performance Warranty. Uila warrants that the Licensed Products will substantially conform with the Documentation and be provided in a manner consistent with generally accepted industry standards. Uila will use commercially reasonable efforts to ensure that the Licensed Products do not contain viruses, malware or other unauthorized code that is intended to destroy, modify or cause the destruction or modification, in whole or in part, of any of data, devices, networks, or software of Customer. The foregoing warranties set forth in this Section 13.a.i. are referred to collectively as the “Performance Warranty.”
- ii. Data Warranties and Covenants. Each of the parties will comply with all applicable consumer protection, data security, data destruction, privacy, and other similar laws, rules, and regulations of the United States (Federal or state) and international jurisdiction applicable to the such party, whether in effect now or in the future, including but not limited to the General Data Protection Regulation (GDPR) (collectively, the “Privacy and Security Laws”). Each party acknowledges that it alone is responsible for identifying, understanding, and complying with its obligations under the Privacy and Security Laws as applicable in connection with this Agreement. Notwithstanding the foregoing, the parties acknowledge that Uila is not a “data processor” or “data controller” (as such terms are defined in the GDPR) in connection with the Licensed Products. To the extent that Customer has subscribed to use the Services, Customer shall not use the Services to transmit, process or store any “personal data” (as defined in the GDPR) of any natural person residing in the European Union. The foregoing warranties and covenants set forth in this Section 13.a.ii. are referred to collectively as the “Data Warranties and Covenants.”

- b. LIMITATION OF REMEDY. The sole and exclusive remedy for any claim for breach of the warranties set forth in Section 13(a)(i) under this Agreement is for Uila to modify the Services to conform with the Documentation. If Uila is unable to do so, Uila may, in its own discretion: (1) allow monthly-paying Customers to terminate the Agreement; or (2) for annually-paying Customers, provide a service credit to extend the then current Term by thirty (30) days upon the Customer's election to renew the Term.
 - c. DISCLAIMER. WITH THE EXCEPTION OF UILA'S OBLIGATIONS UNDER THE DATA WARRANTIES AND COVENANTS, ANY USE BY CUSTOMER AND USERS OF THE LICENSED PRODUCTS IS AT CUSTOMER'S OWN RISK. THE LICENSED PRODUCTS ARE PROVIDED "AS IS" TO THE FULLEST EXTENT PERMITTED BY LAW. UILA AND ITS LICENSORS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, AND CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION. UILA AND ITS LICENSORS DO NOT WARRANT THAT THE LICENSED PRODUCTS: (1) ARE ERROR-FREE; (2) WILL PERFORM UNINTERRUPTED; (3) WILL MEET CUSTOMER'S REQUIREMENTS.
 - d. The Licensed Products may include programs or code that are licensed under an Open Source Software ("OSS") license model. OSS programs and code are subject to the terms, conditions and obligations of the applicable OSS license, and are SPECIFICALLY EXCLUDED FROM ALL WARRANTY AND SUPPORT OBLIGATIONS DESCRIBED ELSEWHERE IN THIS AGREEMENT.
- 14. THIRD PARTIES.** THE LICENSED PRODUCTS MAY CONTAIN INDEPENDENT THIRD PARTY PRODUCTS AND RELY UPON THEM TO PERFORM CERTAIN FUNCTIONALITY. UILA MAKES NO WARRANTY AS TO THE ACCURACY OF ANY SUCH THIRD PARTY INFORMATION.
- 15. INTERNET DELAYS.** SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAY AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. UILA IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR DAMAGES RESULTING FROM SUCH PROBLEMS.
- 16. SECURITY.** No data transmission over the Internet can be guaranteed to be secure. Uila is not responsible for any interception or interruption of any communications through the Internet or networks or systems outside Uila's control. Customer is responsible for maintaining the security of its networks, servers, applications and access codes.
- 17. LIMITATIONS OF LIABILITY.** EXCEPT FOR INDEMNIFICATION, TO THE EXTENT PERMITTED BY APPLICABLE LAW, UILA'S AND ITS LICENSORS' AGGREGATE LIABILITY UNDER THIS AGREEMENT, WHETHER FOR BREACH OR IN TORT, IS LIMITED: (1) FOR MONTHLY CUSTOMERS, TO THE FEES PAID UNDER THIS AGREEMENT FOR THE TWO MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY; (2) FOR ANNUAL CUSTOMERS, TO THE FEES PAID UNDER THIS AGREEMENT FOR THE TWELVE MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY AND (3) FOR PERPETUAL CUSTOMERS, TO AN AMOUNT EQUAL TO THE PERPETUAL LICENSE FEE. THE FOREGOING LIMITATION IS THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY UNDER THIS AGREEMENT. EXCEPT AS TO THE INDEMNIFICATION ARISING FROM THE DATA WARRANTIES AND COVENANTS, IN NO EVENT WILL UILA OR ITS LICENSORS BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING DAMAGES ARISING FROM LOSS OR DELAYED USE OF EMAIL, WEB TRAFFIC OR DATA; LOST PROFITS, SAVINGS OR REVENUE; DAMAGE TO EQUIPMENT; FALSE POSITIVES OR FALSE NEGATIVES; LOSS OF OR DAMAGE TO RECORDS OR DATA; RE-PROCUREMENT COSTS; AND THIRD PARTY CLAIMS AGAINST CUSTOMER) HOWEVER CAUSED AND REGARDLESS OF THE LEGAL THEORY OF LIABILITY, EVEN IF UILA HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND EVEN IF ANY EXCLUSIVE REMEDY PROVIDED FOR HEREIN FAILS OF ITS

ESSENTIAL PURPOSE. NOTWITHSTANDING THE FOREGOING, NOTHING IN THIS AGREEMENT WILL LIMIT UILA'S LIABILITY FOR DEATH AND PERSONAL INJURY.

17. **INDEMNIFICATION.** Customer agrees to indemnify, defend, and hold Uila harmless from all claims, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorneys' fees) arising out of or relating to any: (i) breach by Customer of any provision of this Agreement (including the Data Warranties and Covenants); (ii) title to Customer Data passing to or from Customer through the Services or Uila's network; (iii) taxes arising from the Licensed Products whether now in effect or imposed in the future (excluding taxes based on Uila's income); (iv) claims by third parties arising from Customer's use of the Licensed Products (excluding claims that the Licensed Products, as provided by Uila, infringe third party intellectual property rights, or claims arising from Uila's failure to perform the Data Warranties and Covenants); and (v) any reasonable costs and attorneys' fees required for Uila to respond to a subpoena, court order or other official government inquiry regarding Customer Data or Customer's use of the Licensed Products. Uila shall indemnify, defend and hold Customer harmless from any claim by a third party that Customer's use of the Licensed Products infringes any U.S. patent or any copyright or trade secret of that third party and any claim arising out of or relating to any failure by Uila to perform the Data Warranties and Covenants. The foregoing obligation of Uila does not apply with respect to Licensed Products or portions or components thereof: (i) not supplied by Uila; (ii) used in a manner not expressly authorized by this Agreement or the accompanying Documentation; (iii) made in accordance with Customer's specifications; (iv) modified by anyone other than Uila, if the alleged infringement relates to such modification; (v) combined with other products, processes or materials where the alleged infringement would not exist but for such combination; or (vi) where Customer continues the allegedly infringing activity after being notified thereof and provided with modifications that would have avoided the alleged infringement. In the event the Licensed Products are held by a court of competent jurisdiction to constitute an infringement or use of the Licensed Products is enjoined, Uila shall, at its sole option, do one of the following: (i) procure the right to continued use; (ii) modify the Licensed Products so that their use becomes non-infringing; (iii) replace the Licensed Products with substantially similar products in functionality and performance; or (iv) if none of the foregoing alternatives is reasonably available to Uila, Uila may terminate the Subscription and refund the pro-rata unused portion of any fees paid by Customer with respect to the remainder of the then current Term. The Parties may request indemnification under this provision, provided they: (a) promptly give written notice of the claim to the indemnifying party; (b) give sole control of the defense and settlement to the indemnifying party (provided any settlement relieves the indemnified party of all liability in the matter); (c) provide all available information and reasonable assistance; and (d) have not previously compromised or settled such claim. THIS SECTION STATES UILA'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT AND MISAPPROPRIATION CLAIMS.
18. **WAIVER.** Any waiver of rights under this Agreement must be in writing. Failure to exercise or enforce any right under this Agreement will not be deemed a waiver of that Party's right nor bar the exercise or enforcement of it at any time thereafter.
19. **JURISDICTION/GOVERNING LAW; COSTS; LIMITATION PERIOD.** This Agreement will be governed by and construed in accordance with the substantive laws in force: (a) in the State of California, if you purchased the Software or Services in the United States, Mexico, Central America, South America, or the Caribbean; (b) in the Republic of Ireland, if you purchased the Software or Services in Canada, Europe, Middle East, Africa, Asia (other than Japan), or the region commonly referred to as Oceania; and (c) in Japan if you purchased the Software or Services in Japan. If you purchased the Subscription in any other country, then the substantive laws of the Republic of Ireland shall apply. This Agreement will not be governed by the conflict of laws rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The United States District Court for the Northern District of California, when California law applies, the courts of the Republic of Ireland, when the law of Ireland applies, the courts of Japan when Japanese law applies, shall each have non-exclusive jurisdiction over all disputes relating to this Agreement.
20. **NOTICE AND ACCURACY OF INFORMATION.** All legal notices to Uila under this Agreement must be addressed to "Attention: Legal Department" 710 Lakeway Drive, Suite 210, Sunnyvale, CA 94085 USA. Notices shall be deemed effective upon receipt.

21. **MODIFICATION TO TERMS.** Uila reserves the right to modify the terms and conditions of this Agreement at any time, effective upon the posting of an updated version at <http://www.uila.com>. Customer is responsible for regularly reviewing this Agreement. Continued use of the Software or Services after any such change shall constitute Customer's consent to the changes.
22. **BINDING EFFECT AND ASSIGNMENT.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Uila retains the right to assign this Agreement in its sole discretion. Customer may not assign this Agreement without the prior written permission of Uila.
23. **SURVIVAL.** Rights and obligations in paragraphs 1, 2.e., 5, 7, 8, and 10 through 30, inclusive, shall survive the termination or expiration of this Agreement.
24. **EXPORT.** Customer acknowledges that the Services and Software provided by Uila are subject to U.S. and when applicable non US export regulations. Customer shall comply with applicable export and import laws and regulations for the jurisdiction in which the Services will be imported, exported and/or provided. Customer shall not export the Services or Software to any individual, entity or country prohibited by applicable law or regulation. Customer is responsible, at Customer's own expense, for any local government permits, licenses or approvals required for importing and/or exporting the Services and/or Software provided by Uila. Customer agrees to notify Uila if any customer data is or has been specifically designed, developed, configured, adapted, or modified for a military application listed on the United States Munitions List or USML, which would subject the service to the International Traffic in Arms Regulations (ITAR), Title 22 Code of Federal Regulations (CFR) Parts 120-130. For additional information regarding exporting and importing Uila Software, see <http://www.uila.com>. Uila reserves the right to update this website from time to time at its sole discretion.
25. **NOTICE TO U.S. GOVERNMENT END USERS:** The Software or Services are deemed to be "commercial computer software" and "commercial computer software documentation," pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software or Services by the United States Government shall be governed solely by the terms of this Agreement.
26. **FORCE MAJEURE.** Uila is not liable under this Agreement for delays, failures to perform, damages, losses or destruction, or malfunction of any equipment, or any consequence thereof, caused by forces of nature or any other cause beyond its reasonable control.
27. **ENTIRE AGREEMENT AND SEVERABILITY.** This Agreement represents the entire agreement between the parties and expressly supersedes and cancels any other communication, representation or advertising whether oral or written, on the subjects herein. This Agreement supersedes and controls over any conflicting terms contained in any Customer purchase order. In the event of a conflict between the Grant Letter and this Subscription Agreement, the Grant Letter shall control, but solely as to the relevant Service. If any provision of this Agreement is declared invalid or unenforceable by a court or administrative agency of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and this Agreement shall be construed and performed as if it did not contain the invalid or unenforceable provision.
28. **RELATIONSHIP.** The parties to this Agreement are independent contractors. Neither party will be deemed to be or hold itself out as a partner, joint venturer or agent of the other party. This is a non-exclusive arrangement.
29. **ASSIGNMENT.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety, without the other party's consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
30. **THIRD PARTIES.** No term of this Agreement shall be enforceable by a person who is not a party to the Agreement, other than Uila's licensors.