

## **END USER LICENSE AGREEMENT**

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This End User License Agreement (“**EULA**”) is a legal contract between you (either individually or on behalf of a legal entity) and **eAgile, Inc.** (“**Licensor**”) for the Licensor’s IoT and RFID software that accompanies this EULA, which may also include associated media, printed materials, and “online” or electronic documentation (collectively the “**Software**”). The Software also includes all related documentation, updates, and upgrades that replace or supplement the Software and are not distributed with a separate license.

**You are bound by this EULA either by your (a) use of the Software in a beneficial or production capacity after installation at your facility; or (b) assent to Licensor’s proposal for Software-related services that references this EULA and includes the Software license fees and payment terms. “Beneficial use” means that you are using the Software to derive economic benefit or advantage even though the Software is not being used in a production capacity.**

**Capitalized terms have the meanings stated in the section in which they first appear in this EULA.**

**1. License Grant.** Licensor grants you the following rights on the condition that you comply with this EULA:

- a. Grant.** To the extent permitted by your payment of applicable license fees, Licensor hereby grants you a non-exclusive, non-transferable license, without rights to sublicense, to use the object code of the Software solely for your internal business purposes and for the purpose for which the Software was designed as stated in the applicable Software documentation. You shall use the Software and the documentation only for permitted uses of the Software as stated in this EULA.
- b. Use.** You shall use, access, display, and run one copy of the Software on a single computer, such as a workstation, terminal, or other device (“**Workstation Computer**”). The Software must not be used by more than one processor at any one time on any single Workstation Computer.
- c. Copies.** You must use only one copy of the Software on a single computer at any given time. You shall not make a copy of the Software available on a network where it could be used by multiple users at the same time. You shall not make the Software available over a network where it could be downloaded by multiple users. You may make a single copy of the Software for back-up purposes, provided such copy is not installed or used on any computer.

**2. Reservation of Rights and Ownership.** The Software is licensed, and not sold, to you for use only under the terms of this EULA. The Software is protected by patent, copyright, and other intellectual property laws and treaties. Licensor or its suppliers own all Intellectual Property Rights in the Software. **“Intellectual Property Rights”** means all (a) patents, patent disclosures, and inventions (whether patentable or not); (b) trademarks, service marks, trade dress, trade names, logos, corporate names, and domain names, together with all their associated goodwill; (c) copyrights and copyrightable works (including computer programs), mask works, and rights in data and databases; (d) trade secrets, know-how, and other confidential information; and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection provided by applicable law, regulations, or rules in any jurisdiction throughout the world.

**3. Limitations on Reverse Engineering, Decompilation, and Disassembly.** You shall not reverse engineer, decompile, or disassemble the Software by any means, or alter, modify, enhance, or create a derivative work of the Software. You shall not remove, alter, or obscure any product identification, patent, copyright, or other intellectual property notices in the software.

**4. No Rental or Hosting.** You shall not rent, lease, lend, or provide hosting services with the Software for third parties. You shall not use the Software to provide commercial services to third parties.

**5. Consent to Data Use; Feedback.**

**a. Collection of Technical Information.** You agree that Licensor and its affiliates may collect and use technical information gathered or as part of the product support services provided to you, if any, related to the Software. Licensor may use this information to improve its products or to provide customized services or technologies to you and will not disclose this information in a form that personally identifies you.

**b. Feedback.** You hereby waive all Intellectual Property Rights that you may have in the Feedback and assign to Licensor all Intellectual Property Rights in the Feedback. You shall promptly execute all additional agreements as requested by Licensor to give effect to these Feedback waiver and assignment provisions. **“Feedback”** means all suggestions, comments, and other feedback, in any form or format, that you provide to Licensor related to the Software or any Licensor-provided services, including Software customization, improvement, enhancement, or modification.

**6. Transfer.** During the Term, you may move the Software to a different Workstation Computer; such transfer may require you to contact Licensor to effectuate such transfer. After the transfer, you must completely remove the Software from the former Workstation Computer. **You shall not sublicense, rent, or lease your rights in the Software or authorize any portion of the Software to be copied except as expressly permitted in this EULA.**

**7. Term; Termination.** This EULA is effective commencing on the Software installation date (**“Software Installation Date”**) and ending one year after that date unless consecutive renewal terms

are agreed before the EULA expires. This one-year period and any consecutive renewal period is referred to as the “**Term.**” You acknowledge that the Software contains a digital rights management component that will automatically prevent your use of or access to the Software upon expiration of the Term. In addition to EULA termination by expiration, this EULA will terminate immediately and automatically if you fail to comply with any of the terms and conditions of this EULA. Immediately on termination, you must cease all use of the Software, destroy all copies of the Software in your possession or control, and, on Licensor’s request, certify that destruction. Licensor’s termination of this EULA will not limit Licensor’s other rights or remedies at law or in equity.

**8. Additional Software or Services.** This EULA applies to Software updates, supplements, and add-on components that Licensor may provide to you during the Term, unless Licensor provides other license terms along with the update, supplement, or add-on component.

**9. Installation, Implementation, and Support Services Not Included.** Licensor will not provide you with any Software installation, implementation, and support services under this EULA. Instead, these services will be provided to you under a separate agreement based on your acceptance of Licensor’s proposal for these services. This EULA does not give you any rights to any updates or upgrades to the Software or to any extensions or enhancements to the Software developed by Licensor at any time in the future. Any supplemental software code or related materials that Licensor provides to you as part of any installation, implementation, or support services are part of the Software and are subject to this EULA.

**10. Export Restrictions.** You acknowledge that the Software is subject to U.S. export jurisdiction. You shall comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Act and associated regulations, as well as end-user, end-use, and destination restrictions issued by the U.S. and other governments.

**11. Warranties.**

**a. Title.** Licensor warrants that it owns or has the right to license the Software.

**b. Limited Software Warranty; Conditions; Remedy** Subject to the limitations stated below, Licensor warrants that for 30 days after the Software Installation Date (the “**Warranty Period**”) the Software shall substantially conform in all material respects to the specifications stated in the accompanying documentation, when installed, operated, and used as recommended in the documentation and in accordance with this EULA. This limited warranty will only apply if you are not in breach of this EULA and you have notified Licensor of the Software non-conformity in writing before Warranty Period expiration and will not apply to your (i) negligence, abuse, misapplication, or misuse of the Software; (ii) use of the Software other than as specified in the documentation or expressly authorized by Licensor in writing. Your remedy for Licensor’s breach of this limited warranty is for Licensor to repair the Software or replace the Software with functionally equivalent Software that conforms to the documentation. **This section states your sole remedy and Licensor’s entire liability for breach of this limited Software warranty.**

**12. Disclaimer of Warranties.** The express warranties in section 11 are in lieu of all other warranties, express, implied, or statutory, regarding the Software and its documentation, including any warranties of merchantability and fitness for a particular purpose. You acknowledge that you have not relied on any warranties other than those stated in section 11. Licensors do not warrant that: (a) your use or operation of the Software will be uninterrupted or error-free; or (b) that the Software will meet your business needs; or (c) the Software will be compatible or work with Third-Party Products (except as expressly stated in the documentation). "Third-Party Products" means application software and hardware products provided by third-party vendors, including operating system and application software with which the Software interfaces that may provide functionality essential to the Software operation.

**13. Intellectual Property Infringement Claims.**

**a. Indemnification Against Liability for Infringement.** Licensor shall indemnify you against all liabilities, claims, and legal costs (including reasonable attorney fees) paid to or for the benefit of a third party arising from any third-party claim or suit alleging that the Software infringes: (i) any U.S. copyright; (ii) the trade secret or U.S. trademark rights of any third party; or (iii) any U.S. patent existing on the date the Software in question is delivered to you. You shall promptly notify Licensor in writing of a third-party claim. Licensor shall have sole control over the defense and settlement of the claim, but you may participate in the defense of the claim and employ counsel at your own expense to assist in the handling of the claim, and Licensor must obtain your written approval before entering into any settlement of the claim or ceasing to defend against the claim if that settlement or cessation would cause injunctive or other equitable relief to be imposed against you.

**b. Limitations on Indemnification.** Licensor shall have no liability for, and shall not indemnify you against, any infringement claim resulting from your: (i) modification of any Software; (ii) combination of any Software with hardware, software, or other intellectual property provided by anyone other than Licensor; (iii) use of a superseded or altered release of some or all of the Software or any modification thereof furnished under this EULA, including your failure to use corrections, fixes, or enhancements made available by Licensor; or (iv) use of any Software in any manner not expressly contemplated by this EULA.

**c. Repair or Replacement of Infringing Software.** In the event of a third-party infringement claim, Licensor shall, at its sole election and expense: (i) procure for you the right to continue to use the Software under this EULA; (ii) replace or modify the Software to make it non-infringing while still complying with this EULA; or (iii) if none of the above options is reasonably available, refund the license fees attributable to the infringing portion of the Software, minus depreciation based on a three-year useful life.

**d. Applicability to Third-Party Products.** Licensor makes no representations or warranties and provides no indemnification or replacement covenants of any kind with respect to Third-Party Products. Licensor's sole responsibility for Third-Party Products is to

pass through any intellectual property warranties, indemnification, and replacement provisions that Licensor receives from the vendors or suppliers of the Third-Party Products that Licensor can pass on.

**e. Except as otherwise provided, sections 13(a) through 13(d) state Licensor's and its third-party suppliers' entire liability and your exclusive remedy for claims of intellectual property rights infringement.**

**14. Exclusion of Incidental, Consequential, and Certain Other Damages.** To the maximum extent permitted by law, Licensor and its suppliers are not liable for any special, incidental, punitive, indirect, or consequential damages, including for any of the following that arise out of or are any related to the use of the Software or any related services, regardless of the liability theory and even if Licensor or any supplier was advised of the possibility of these damages: (a) loss of profits; (b) loss of confidential or other information; (c) business interruption; (d) personal injury or death; (e) loss of privacy; (f) failure to meet any duty, including of good faith or reasonable care; (g) negligence; or (h) any other pecuniary loss.

**15. Liability Limitation and Remedies.** Notwithstanding any damages that you might incur for any reason (including all damages in contract, tort, or to any third-party), Licensor's and its suppliers' entire liability under this EULA and your exclusive remedy (except for any repair or replacement elected by Licensor) is limited to your actual, direct damages up to the amount that you paid for the Software. The foregoing limitations, exclusions, and disclaimers (including sections 12, 13, 14, and 15) apply to the maximum extent permitted by law, even if any remedy fails of its essential purpose.

**16. U.S. Government License Rights.** All Software provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described elsewhere herein. All Software provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227 -14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable.

**17. Publicity.** You hereby grant Licensor the right to publish your name, tradename, and trademark in a press release announcing the parties' business relationship or in a public list of Licensor's customers, and Licensor may post the press release or list on its website or elsewhere.

**18. Applicable Law.** This EULA is governed by Michigan (U.S.A.) law, without regard to its choice of law principles, as applied to agreements entered into and performed entirely in the State of Michigan. Unless expressly waived by Licensor in writing for the particular instance, the state and federal courts located in Kent County, Michigan, U.S.A., have sole and exclusive jurisdiction and venue for actions related to the subject matter of this EULA. You consent to the jurisdiction of these courts, and you also agree that the U.N. Convention on Contracts for the International Sale of Goods will not apply to this EULA or to any dispute or transaction arising out of this EULA.

**19. Entire Agreement; Amendment; Severability.** This EULA states Licensor's entire liability and your exclusive remedy with respect to the Software and supersedes any communications or advertising. In no event will the pre-printed provisions of any purchase order or any associated documentation used by you constitute a binding agreement between the parties or serve to modify the provisions of this EULA, regardless of Licensor's failure to object to that purchase order or associated documentation. You acknowledge that this EULA is a complete statement of the agreement between you and Licensor for the Software, and that there are no other prior or contemporaneous understandings, promises, representations, or descriptions concerning the Software. No amendment to or modification of this EULA is binding unless made in writing and signed by Licensor's authorized officer. No failure to exercise or delay in exercising any right or any power in this EULA will operate as a waiver. If any provision of this EULA is held void, invalid, unenforceable, or illegal, the other provisions will continue in full force and effect, and the invalid, unenforceable, or illegal provision will be amended to achieve as closely as possible the effect of the original term. If there is any conflict or contradiction between this EULA and any accepted service proposal or service agreement between the parties, this EULA will control.

**20. Injunctive Relief.** You agree that a breach of this EULA adversely affecting Licensor's proprietary rights in the Software will cause irreparable injury to Licensor for which monetary damages will not be an adequate remedy, so Licensor will be entitled to equitable relief in any court in addition to any remedies that Licensor may have under this EULA.

**21. Confidential Information.** You acknowledge and agree that the Software and all non-public information emanating from the Software and Licensor's business in any form are valuable trade secrets of Licensor and its "**Confidential Information.**" You shall not, during or after the Term of this EULA, permit the duplication, use, or disclosure of any Confidential Information to any person (other than your employees, agents or representatives), unless Licensor specifically authorizes that duplication, use, or disclosure in writing before any disclosure. To the extent that eAgile authorizes the duplication of Confidential Information, all such copies will bear the same confidentiality notices, legends, and Intellectual Property Rights' designations that appear in the original versions, and you shall keep detailed records of the location of all Confidential Information.

You shall use reasonable diligence, and in no event less than that degree of care that you use for your own confidential information, to prevent the unauthorized disclosure or reproduction of the Confidential Information.

**22. Survival.** Expiration or earlier termination of this EULA for any reason will not release either party from any liabilities or obligations stated in this EULA that (a) the parties have expressly agreed will survive; or (b) remain to be performed or by their nature would be intended to be applicable following expiration or earlier termination. Specifically regarding section 21 (*Confidential Information*), the confidentiality obligations will survive the expiration or earlier termination of this EULA for a period of five years from the date of expiration or termination, except Confidential Information that constitutes a trade secret under applicable law will survive for as long as the Confidential Information remains a trade secret under that law.

(end)