

End User License Agreement (EULA)

This End User License Agreement (the "EULA") is between Boomi, LP with offices at Boomi LP, 1 W Elm Street, Suite 200, Conshohocken, PA 19428 and the individual or entity signing or electronically accepting this EULA, or any Order Form that references this EULA ("Customer"). This EULA contains required "flow-down" provisions from Boomi, LP., and applies to Boomi Services that Customer procures directly from an Authorized Partner of Boomi. By accessing the Boomi Services, you are accepting the terms of this EULA. If you are purchasing this license from an Authorized Partner, payment terms shall be as determined between you and the Authorized Partner; Boomi reserves the right to terminate or suspend service if Boomi, LP (or its Affiliates) is not timely paid for the Boomi Services.

1. **Definitions.** Capitalized terms not defined in context will have the meanings assigned to them below:

1.1 "Authorized Partner" means: a partner that is enabled and authorized to resell Boomi Services.

1.2 "Affiliate" means: For Customer any legal entity controlling, controlled by or under common control with a party to this EULA, for so long as such control relationship exists. With regard to Boomi, LP, Affiliate includes Boomi TopCo, LP and its direct and indirect subsidiaries.

1.3 "Boomi Services" means one or more of the software services Boomi provides under this EULA and the Software to which Customer is given access in connection with such service (the "Software"), and exclude hardware, software, or services that are not "Boomi" branded or that are listed as third party products in an Order ("Third-Party Products").

1.4 "Order" means the document by which Customer orders Boomi Services via an Authorized Partner. Orders for Boomi Services that both Customer and Authorized Partner sign are governed solely by the terms of this EULA and the applicable Order. Any conflicting or additional terms in or accompanying an Order are not binding on Boomi unless Boomi accepts such terms in writing. For the avoidance of doubt, in the event Customer purchases from an Authorized Partner, Boomi shall have no obligations to Customer with respect to any terms and conditions outside of this EULA unless otherwise agreed to in writing between Customer and Boomi.

1.5 "Services Order" or "SO" means the document by which Customer orders consulting and/or training services, such as a Services Order Form or Statement of Work, which is governed by the *Professional Service Addendum*. Boomi, through its employees, agents and contractors, will perform the consulting and/or training services stated in the SO. Any conflicting or additional terms in or accompanying a SO are not binding on Boomi unless Boomi accepts such terms in writing. Each SO is subject to Boomi's approval.

1.6 "Documentation" means the user manuals and documentation that Boomi makes available for the Boomi Services.

1.7 "Professional Services" means the Activities or Project Deliverables identified in a Services Order and defined in the *Professional Service Addendum* (the "Addendum" or "Professional Service Addendum"), at www.boomi.com/psaddendum. Customer's purchase of Professional Services, if any, is governed by this EULA and the Addendum.

1.8 "Support Services" means Boomi's maintenance and support for the Boomi Services as stated at www.boomi.com/legal/service.

2. **License.**

2.1 General. Subject to the terms of this EULA and any specific additional product terms as set out at www.boomi.com/PST, Boomi grants to Customer, and Customer accepts, a nonexclusive, nontransferable (except as otherwise set forth herein) and non-sublicensable license to access and use the quantities of the Boomi Services identified in the applicable Order solely to support the internal business operations of itself and its Affiliates for the term stated on the applicable Order. Boomi reserves all rights it does not specifically grant hereunder.

2.2 Evaluation Use. If an Order or SO indicates that the Boomi Services are to be used by Customer for evaluation purposes, or if access to the Boomi Services is otherwise obtained from Boomi for evaluation purposes, such as a free trial or a no-cost proof of concept, Customer will be granted a right to use the Boomi Services solely for Customer's own non-production, internal evaluation purposes (an "Evaluation Right"). Each Evaluation Right shall be for a period of 30 days from the date of delivery of the credentials needed to access the applicable Boomi Services, or such other period as described in applicable Order or SO (the "Evaluation Period"). Provided Customer's use does not exceed the permitted scope of the Evaluation Right, there is no fee for an Evaluation Right during the Evaluation Period. Notwithstanding anything otherwise set forth in this EULA, Customer understands and agrees that Evaluation Rights are provided "AS IS," Boomi may terminate the Evaluation Right at any time, and that Boomi does not provide warranties or Support Services for Evaluation Rights

2.3 Use by Third Parties. Customer may allow its services vendors and contractors (each, a "Third Party User") to access and use the Boomi Services made available to Customer hereunder solely for purposes of providing services to support the internal business operations of Customer, provided that Customer ensures that (a) the Third Party User's access to or use of the Boomi Services is subject to the restrictions and limitations contained in this EULA and the applicable Order(s), (b) the Third Party User cooperates with Boomi during any compliance review, and (c) the Third Party User promptly removes any Software installed on its computer equipment, environment and/or any integrated system(s) upon completion of its need for access or use permitted by this section. Customer shall be liable to Boomi for any acts and omissions of its Third Party Users as if they were done or omitted by Customer itself.

2.4 Authorized Partner. Boomi is providing the Boomi Services in reliance on its status as a third-party beneficiary to the Customer, and Boomi shall be entitled to enforce this EULA directly against the Customer. Boomi is not responsible for any acts, omissions, products or services provided by the Authorized Partner.

3. **Proprietary Rights.** Each party reserves for itself all proprietary rights that it has not expressly granted to the other. Customer agrees that (a) the Boomi Services are protected by copyright and other intellectual property laws and treaties, (b) Boomi, its Affiliates and/or its licensors own the copyright and other intellectual property rights in the Boomi Services, (c) this EULA does not grant Customer any rights to Boomi's trademarks or service marks, (d) Boomi owns, and retains all rights in, any statistical data and information related to the provision, performance, operation and use of the Boomi Services, including information generated by Customer's use of Boomi Services, and Boomi may use such data in aggregated or deidentified form to: improve or develop its products and services, perform security and operations management, protect against fraudulent or illegal activity, create statistical and other analyses; provided that any Personal Data or Customer Confidential Information used for any other Customer does not identify Customer or any individual.

4. **Termination.**

4.1 Upon termination or expiration of this EULA, an Order or Services Order for any reason, all rights granted to Customer for the applicable Boomi Services or Materials provided under the Professional Services Addendum, if any, will immediately cease and Customer will immediately: (a) cease using such services or Materials, (b) remove all copies, installations and instances of any Software from any device on which the Software was installed, and ensure that all applicable Third Party Users do the same, and (c) pay Boomi all amounts due and payable but not yet paid.

4.2 Any provision of this EULA that requires or contemplates execution after termination or expiration of this EULA, an Order or Services Order is enforceable against the other party and their respective successors and assignees notwithstanding such termination or expiration including, without limitation, the Conduct, Payment, Proprietary Rights, Taxes, Termination, Warranty Disclaimer, Infringement Indemnity, Limitation of Liability, Confidential Information and General sections of this EULA. Termination of this EULA or a license will be without prejudice to any other remedies that the terminating party may have under law, subject to the limitations and exclusions set forth in this EULA.

4.3 If required by law enforcement or the legal process, or in the event of an imminent security risk to Boomi or its customers, Boomi may suspend Customer's use of the Boomi Services. Boomi will make commercially reasonable efforts under the circumstances to provide prior notice of any such suspension.

4.4 Upon termination or expiration of this EULA, or an Order for any reason, all rights granted to Customer for the applicable Boomi Services or Materials provided under the Professional Services Addendum, if any, will immediately cease and Customer will immediately: (a) cease using such services or Materials, (b) remove all copies, installations and instances of any Software from any device on which the Software was installed, and ensure that all applicable Third Party Users do the same, and (c) pay Boomi all amounts due and payable but not yet paid.

5. **Trade Compliance.** Customer's purchases hereunder are for its own use, not for resale, export, re-export or transfer. Customer is subject to and responsible for compliance with the export control and economic sanctions laws of the United States and other applicable jurisdictions. The Boomi Services may not be used, sold, leased, exported, imported, re-exported or transferred except in compliance with such laws including, without limitation, export licensing requirements, end user, end use and end-destination restrictions, and prohibitions on dealings with sanctioned individuals and entities including, but not limited to, persons on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List or the U.S. Department of Commerce Denied Persons List. Customer represents and warrants that it is not the subject or target of, and that Customer is not located in a country or territory (including without limitation, North Korea, Cuba, Iran, Syria and Crimea) that is the subject or target of, economic sanctions of the United States or other applicable jurisdictions.

Boomi Services are not designed to process, store, or be used in connection with (i) data classified or used on the U.S. Munitions list (including software and technical data); (ii) articles, services, and related technical data designated as defense articles and defense services; and (iii) ITAR (International Traffic in Arms Regulations) related data (collectively "Excluded Data"). Customer is solely responsible for reviewing data provided to or accessible by Boomi to ensure that it does not contain Excluded Data.

6. **Warranties and Remedies.**

6.1 Warranties and Remedies. Boomi warrants that, during the term of an Order, the applicable Boomi Services will (a) substantially conform to the applicable Documentation (the "Operational Warranty"); and (b) be available subject to the description in Boomi's SLA at www.boomi.com/sla (the "SLA") 24 hours a day, seven days a week except for scheduled maintenance, the installation of updates and factors beyond the reasonable control of Boomi (the "Availability Warranty"). Customer's exclusive remedy for any breach of the Operational Warranty or Availability Warranty will be for Boomi to provide a fix or reasonably accepted workaround for the Boomi Services and for Boomi to provide Service Level Credits as defined at the SLA.

6.2 No Further Warranties. Except as expressly stated in this EULA, and to the maximum extent permitted by applicable law, with regard to Boomi Services, Boomi makes no other express warranties, written or oral, and disclaims all implied warranties. Insofar as permitted under applicable law, all other warranties are specifically excluded, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and any warranty arising by statute, operation of law, course of dealing or performance or usage of trade. Boomi does not warrant that the Software will operate uninterrupted or that it will be free from defects or that it will meet Customer's requirements.

6.3 High Risk Disclaimer. Customer understands and agrees that Boomi Services are not fault-tolerant and are not designed or intended for use in any high-risk or hazardous environment, including any application where failure or malfunction can reasonably be expected to result in death, personal injury, severe property damage or severe environmental harm (a "High Risk

Environment"). Any use of the Boomi Services by Customer in a High Risk Environment is at Customer's own risk, and Boomi makes no warranties or assurances, express or implied, regarding use of the Boomi Services in a High Risk Environment.

7. Infringement Indemnity.

7.1 Boomi will defend Customer from and against any claim, suit, action, or proceeding brought against Customer by a third-party to the extent it is based on an allegation that the Boomi Services infringe any patent, copyright, trademark, or other proprietary right enforceable in a country that is a signatory to the Berne Convention, in which Boomi has authorized Customer to use the Boomi Services, including, but not limited to the country to which the Boomi Services is delivered to Customer, or misappropriates a trade secret in such country (a "Claim"). Boomi will indemnify the Customer by paying (a) the resulting costs and damages finally awarded against Customer by a court of competent jurisdiction to the extent that such are the result of the third-party Claim, or (b) the amounts stated in a written settlement negotiated and approved by Boomi.

7.2 Boomi's obligations under this Infringement Indemnity Section are conditioned upon Customer (i) giving prompt written notice of the Claim to Boomi, (ii) permitting Boomi to retain sole control of the investigation, defense or settlement of the Claim, and (iii) using all reasonable efforts to mitigate any actual or anticipated claims and providing Boomi with cooperation and assistance as Boomi may reasonably request in connection with the Claim. Boomi will have no obligation hereunder to defend Customer against any Claim (a) resulting from use of the Boomi Services other than as authorized by this EULA, (b) resulting from a modification of the Boomi Services other than by Boomi, (c) to the extent the Claim arises from or is based on the use of the Boomi Services with other products, services, data, code or other materials not supplied by Boomi and not Boomi-branded if the infringement would not have occurred but for such use, (d) based on Customer's use of a superseded or altered release of any code, document, service, product, or deliverable after Boomi has recommended discontinuation, if the infringement would have been avoided by use of a current or unaltered release made available to Customer, or (e) if Customer is in material breach of this EULA.

7.3 If, as a result of a Claim or an injunction, Customer must stop using any portion of the Boomi Services ("Infringing Services"), Boomi may at its expense and option either (a) obtain for Customer the right to continue using the Infringing Services, (b) replace the Infringing Services with functionally equivalent non-infringing services, (c) modify the Infringing Services so that they are non-infringing, or (d) terminate the availability of the Infringing Services and refund the unused pro-rated portion of any fees pre-paid by Customer allocable to such Infringing Services. To the extent that Boomi delivers any Materials to Customer under the Professional Services Addendum (as Materials are defined therein), such items will be treated as Boomi Services within the scope of, and subject to the limits of, this Section 7. This Section states Boomi's entire liability and its sole and exclusive obligations for a Claim.

8. Limitation of Liability.

8.1 In no event will Customer or Boomi or its Affiliates be liable for (a) any indirect, incidental, punitive, exemplary, special or consequential loss or damage of any kind, or (b) loss of revenue, loss of actual or anticipated profits, loss of business, loss of contracts, loss of goodwill or reputation, loss of anticipated savings, loss of, damage to, or corruption of data, howsoever arising, whether such loss or damage was foreseeable or in the contemplation of the parties and whether arising in or for breach of contract, tort (including negligence), breach of statutory duty or otherwise except for: any breach of the Conduct section of this EULA and any amount which Boomi is liable to pay to a third party under the Infringement Indemnity section of this EULA, or any liability to the extent liability may not be excluded or limited as a matter of applicable law.

8.2 The maximum aggregate and cumulative liability of Customer and Boomi and each of their Affiliates, for damages under this EULA, whether arising in or for breach of contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed the fees paid or payable for the Boomi Services during the immediately preceding twelve-month period, except for:

- A. Boomi's express obligations under the Infringement Indemnity section of this EULA;
- B. Breach of the Conduct Section of this EULA; or
- C. Boomi's costs of collecting delinquent amounts that are not subject to a good faith dispute; or
- D. Any liability to the extent liability may not be excluded or limited as a matter of applicable law.

8.3 Nothing herein waives or limits any claim of either party for violating the intellectual property rights of the other, including use of intellectual property outside of the applicable license scope.

8.4 Limitations on Damages. The limitations, exclusions and disclaimers stated apply to all Disputes. The terms of this section are agreed allocations of risk constituting part of the consideration for Boomi's and/or its Affiliates' sale of products and services to Customer and will apply even if there is a failure of the essential purpose of any limited remedy, and regardless of whether a party has been advised of the possibility of the liabilities. In no event may Customer bring any claim against a contractor, licensor or supplier to Boomi for a matter associated with performance of this contract, beyond the amounts and theories of liabilities permitted if asserted against Boomi itself. Customer is solely responsible for backing up its data.

8.5 Limitation Period. Except as stated in this section, all claims must be made within the period specified by applicable law. If the law allows the parties to specify a shorter period for bringing claims, or the law does not provide a time at all, then claims must be made within 18 months after the cause of action accrues.

9. Confidential Information.

9.1 Definition. "Confidential Information" means information or materials disclosed by one party (the "Disclosing Party") for specific review by or discussion with the other party (the "Recipient") that are not generally available to the public and which, due to their character and nature, a reasonable person under like circumstances would treat as confidential, including without limitation, financial, marketing and pricing information, trade secrets, know-how, proprietary tools, knowledge and methodologies, the Boomi Services, the Software (in source code and/or object code form), information or benchmark test results regarding the functionality and performance of the Software, any Software license keys provided to Customer and the terms and conditions of this EULA.

9.2 This EULA imposes no obligation upon a Recipient with respect to information designated as confidential which: (a) the Recipient can demonstrate was already in its possession before receipt from the Disclosing Party; (b) is or becomes publicly available through no fault of the Recipient or its Representatives (defined below); or (c) is rightfully received by the Recipient from a third party who has no duty of confidentiality or is independently developed by the Recipient without a breach of this EULA.

9.3 Obligations: Recipient will use Confidential Information only for the purpose of and in connection with the evaluation of a potential, or continuation of, a business transaction or relationship between the parties. If a Recipient is required by a government body or court of law to disclose Confidential Information, to the extent permitted by law, the recipient agrees to give the discloser reasonable notice so that the discloser may contest the disclosure or seek a protective order. Recipient may disclose Confidential Information to its directors, officers, employees and employees of its Affiliates, as well as its and its Affiliates' contractors, advisors and agents, so long as those individuals have a need to know in their work for recipient in furtherance of the potential or continued business transaction or relationship and are bound by obligations of confidentiality at least as restrictive as those imposed on recipient in this EULA (collectively, "Representatives"). Recipient will use the same degree of care, but no less than reasonable care, as the recipient uses with respect to its own similar information to protect the Confidential Information. Recipient may only disclose Confidential Information as authorized herein. Unless the parties otherwise agree in writing, a recipient's duty to protect Confidential Information expires 3 years from the date of disclosure. Upon the Disclosing Party's written request, Recipient will promptly return or destroy all Confidential Information received from the discloser, together with all copies. Notwithstanding the above, Recipient's professional advisors (e.g., lawyers and accountants) may retain in confidence one file copy of their respective work papers and final reports in accordance with their professional and ethical obligations. The Recipient will be liable to the Disclosing Party for the acts or omissions of any Representatives to which it discloses Confidential Information which, if done by the Recipient, would breach this EULA.

10. **Personal Data.**

10.1 Definitions. For this Section, "Personal Data" means any information relating to an identified or identifiable natural person that Boomi processes in the performance of the EULA as a Processor. "Privacy Laws" means any data protection and privacy laws and regulations applicable to Boomi's provision of the Services provided by under this EULA, including if applicable (a) the General Data Protection Regulation (EU) 2016/679 (GDPR), (b) in respect of the UK, the GDPR as saved into United Kingdom law by virtue of section 3 of the United Kingdom's European Union (Withdrawal) Act 2018 ("UK GDPR") and the Data Protection Act 2019 (together, "UK Data Protection Laws"), (c) the Swiss Federal Data Protection Act and its implementing regulations ("Swiss DPA"), (d) the California Consumer Privacy Act of 2018 or Cal. Civ. Code § 1798.100, et seq. ("CCPA"), each as may be amended, superseded or replaced.

10.2 To the extent that Boomi processes any Personal Data on Customer's behalf in the performance of this EULA, Boomi will only do so as required to fulfill its obligations hereunder, and in accordance with the Data Protection EULA set out at www.boomi.com/dpa ("DPA"). Each party will comply with its respective obligations under the Privacy Laws and the DPA.

10.3 Customer is solely responsible for ensuring that (a) all data subjects have consented to Customer's transmission or processing of the Personal Data by Boomi; (b) it is rightfully integrating data among connected systems, whether Customer transmits data outside of a particular cloud or system, outside of a particular geography or otherwise; and (c) its configuration of the Boomi Services, including applicable purge data and administrator access settings, best fits Customer's security needs. Boomi shall have no liability for breach of this Section or the DPA resulting from Boomi's compliance with Customer's system configurations or instructions with respect to Personal Data.

11. **Conduct.** Customer may not reverse engineer, decompile, disassemble or attempt to discover or modify in any way the underlying source code of the Software, or any part thereof unless and to the extent such restrictions are prohibited by applicable law. Customer may not: (a) modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Boomi Services or any part thereof; (b) resell, provide, make available to or permit use of or access to the Boomi Services or associated access credentials, in whole or in part, by any third party; (c) use the Boomi Services to create or enhance a competitive offering or for any purpose which is competitive to Boomi; or (d) perform or fail to perform any other act which would result in a misappropriation or infringement of Boomi's intellectual property rights in the Boomi Services. Each permitted copy of the Software made by Customer hereunder must contain all titles, trademarks, copyrights and restricted rights notices as in the original. In connection with the use of Boomi Services, Customer may not: (a) attempt to use or gain unauthorized access to Boomi's or to any third party's networks or equipment; (b) attempt to probe, scan or test the vulnerability of the Boomi Services, or a system, account or network of Boomi or any Boomi customers or suppliers; (c) engage in fraudulent, offensive or illegal activity or intentionally engage in any activity that infringes the intellectual property rights or privacy rights of any individual or third party or transmit through the Boomi Services any data or information without the legal right to do so; (d) transmit unsolicited bulk or commercial messages or intentionally distribute worms, Trojan horses, viruses, corrupted files or any similar items; (e) restrict, inhibit, interfere or attempt to interfere with the ability of any other person, regardless of purpose or intent, to use or enjoy the Boomi Services or a user's network, or cause a performance degradation to any facilities used to provide the Boomi Services. If Customer requests any managed services from Boomi, Customer will not cause Boomi to use anything for which Boomi would need to obtain a license from such third party to provide those services. Customer will obtain all necessary rights, permissions and consents associated with technology or data that Customer provides to Boomi, or with third party software or other items that Customer requests that Boomi work with, install, or integrate to or from. Customer will cooperate with Boomi's reasonable investigation of Boomi Services outages, security issues and any suspected breach of this section, and shall, at its expense, defend Boomi and its Affiliates from any claim, suit or action by a third party (a "Third Party Claim") alleging harm caused by Customer's breach of this section. Customer shall pay any judgments or settlements reached in connection with the Third Party Claim and Boomi's costs of responding to it.

12. **General.**

Governing Law; Disputes.

Except as set forth in the table below, this EULA and any dispute, whether in contract, tort or otherwise, related to it or any Order or SO ("Dispute") is governed by the laws of the state of Delaware and the federal laws of the United States, without regard to conflicts of laws provisions thereof, and the jurisdiction and venue for Disputes shall be the state and federal courts in New Castle County, Delaware. In all instances, the U.N. Convention on Contracts for the International Sale of Goods does not apply. Each party consents and submits to the personal and exclusive jurisdiction of such venue described in this Section and waives all objections thereto for the purposes of litigating any Dispute, except that each party shall have the right to pursue injunctive or other equitable relief from any court of competent jurisdiction. Should a Dispute arise, as a condition precedent to initiating litigation, a party must provide written notice to the other party including the details of any alleged claim and remedy sought. Thereafter, party representatives fully authorized to resolve the Dispute shall engage in good faith negotiations in an effort to resolve the matter. If the parties do not resolve the Dispute within 30 days (or longer if so agree), either party may proceed with a lawsuit.

For Orders placed in:	Governing Law is the law of:	Courts of Agreed and Exclusive Jurisdiction for Disputes:
Europe, Middle East or Africa	Ireland	Dublin, Ireland
UK	England and Wales	London, United Kingdom
Australia or New Zealand	State of New South Wales	Courts of New South Wales, Australia
Other Asia Pacific countries	Singapore	Courts of Singapore
Japan	Japan	Courts of Tokyo

12.1 **Assignment.** Except as otherwise set forth herein or agreed in an Order, Customer will not, in whole or part, assign or transfer any part of this EULA, whether licenses or any other rights, interests or obligations, whether voluntarily, by contract, by operation of law or by merger (whether that party is the surviving or disappearing entity), stock or asset sale, consolidation, dissolution, through government action or order or otherwise without Boomi's prior written consent. Any attempted transfer or assignment by Customer that this EULA does not permit will be null and void.

12.2 **Severability.** If any provision of this EULA including, but not limited to, those that limit, disclaim or exclude warranties, remedies or damages, will be held by a court of competent jurisdiction to be contrary to law, such provision will be enforced to the maximum extent permissible and the remaining provisions of this EULA will remain in full force and effect. The parties agree: (a) they have relied on the damage and warranty limitations and exclusions set forth in this EULA; (b) they acknowledge the terms represent the allocation of risk as set forth in the EULA; and (c) they would not enter into this EULA without such terms.

12.3 **Notices.** All notices provided hereunder will be in writing and addressed to the legal department of the respective party or to such other address as may be specified in an Order or in writing by either of the parties to the other in accordance with this section. Except as may be expressly permitted, notices may be delivered personally, and sent via a nationally recognized courier or overnight delivery service. Any legal notice to Boomi must be sent simultaneously to Boomi Legal by email to Legal-Notice@Boomi.com and mailed by first class mail, postage prepaid. All notices, requests, demands or communications will be deemed effective upon personal delivery or, if sent by mail, four days following deposit in the mail in accordance with this paragraph, or if sent by email, the following business day.

12.4 **Waiver.** Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver will be effective only with respect to the specific obligation described. Any waiver or failure to enforce any provision of this EULA on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.5 **Excused Performance.** Except for payment of amounts due and owing, neither Boomi nor Customer will be liable for failure to perform its obligations during any period if performance is delayed or rendered impracticable or impossible due to circumstances beyond that party's reasonable control.

12.6 **Headings.** Headings in this EULA are for convenience only and do not affect the meaning or interpretation of this EULA. This EULA will not be construed either in favor of or against one party or the other, but rather in accordance with its fair meaning. When the term "including" is used in this EULA it will be construed in each case to mean "including, but not limited to."

12.7 **Entire EULA.** This EULA is intended by the parties as a final expression of their EULA with respect to the subject matter thereof and may not be contradicted by evidence of any prior or contemporaneous EULA unless such EULA is signed by both parties. This EULA and the applicable Order and/or Service Order will constitute the complete and exclusive statement of the terms and conditions and no extrinsic evidence whatsoever may be introduced in any proceeding that may involve the EULA. Each party acknowledges that in entering into the EULA it has not relied on and will have no right or remedy in respect of, any statement, representation, assurance or warranty other than as expressly set out in the EULA. This EULA may not be modified or amended except by a writing executed by a duly authorized representative of each party.