

EMTP[®]

END-USER LICENSE AGREEMENT

This **EMTP[®] End User License Agreement** (“**Agreement**”) sets forth a legally binding agreement between Licensee and 9327-6806 Québec inc., a corporation duly constituted and organized under the laws of Quebec, with its principal place of business located at 2120 Sherbrooke Street E, Suite 800, Montreal, Quebec H2K 1C3 Canada (“**PGSTech**”).

Please read this Agreement carefully before you download, install, or use the Licensed Product (as defined below) and its associated documentation, as your use of the Licensed Product constitutes your acceptance of these terms. If you do not agree to the terms of this Agreement, then you may not use, download, or install the Licensed Product. Your use of the Licensed Product confirms your legal capacity and authority to bind yourself and any party you represent to the terms of this Agreement. You hereby agree to be bound by this Agreement and agree to comply with all applicable laws, regulations and rules with regard to your use of the Licensed Product.

INTENDING TO BE LEGALLY BOUND, the Parties agree as follows:

1. DEFINITIONS

Throughout this Agreement the following words and expressions shall have the following meanings:

- (a) “**Affiliates**” of a Person means any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person. The term “Control” (including the terms “Controlled by” and “under common Control with”) means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.
- (b) “**Confidential Information**” means all confidential or proprietary information of the Licensor Parties disclosed to Licensee, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes the Licensed Product, its source code, the Documentation, the Maintenance Releases, the terms of this Agreement (but not its existence) and any information of the Licensor Parties’ information systems, electricity transport networks, electrical systems and all associated documentation. Confidential Information does not include information that is or becomes publicly available without breach of any obligation owed to PGSTech.
- (c) “**Documentation**” means any and all manuals, handbooks, operating manuals, technical manuals, and any other instructions, specifications and other documents and materials that PGSTech provides or makes available to Licensee in any form or medium which describe the functionality, components, features, or requirements of the Licensed Product, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof; provided, however, that Documentation specifically excludes any “community moderated” forums as provided or accessible through such knowledge bases.

- (d) **“Intellectual Property”** or **“IP”** means anything that is the object of an Intellectual Property Right;
- (e) **“Intellectual Property Rights”** means all rights, title and interests provided under intellectual property laws anywhere in the world, including all rights pursuant to patent, copyright, industrial design, integrated circuit topography, trademarks, and all other similar rights recognized under statutory or civil law;
- (f) **“Licensed Product”** means the version of the Electromagnetic Transients Program, also known as EMTP®, which includes EMTPWorks, ScopeView, and other modules, toolboxes and utilities, which Licensee licenses from PGSTech as set out in the applicable Order Form. The Licensed Product also includes the installer that automatically installs the EMTP® software on Windows-based computers into an installation folder. For greater certainty, EMTP-RV refers to an earlier version of EMTP® (EMTP® and EMTP-RV are the same products, RV was used for the initial version release of EMTP®).
- (g) **“Licensee”** means the entity identified on the applicable Order Form that licenses the Licensed Product from PGSTech or purchases Software Maintenance Service from PGSTech.
- (h) **“License Fee”** means the amount paid by Licensee to PGSTech to purchase the License, as set out in the applicable Order Form.
- (i) **“Licensor Parties”** means the Owners, PGSTech and its service providers.
- (j) **“Maintenance Release”** means any update, upgrade, release, toolboxes, supplements, add-on components, Internet-based service components or other adaptation or modification of the Licensed Product, including any updated Documentation, that PGSTech may provide to Licensee from time to time during the Software Maintenance Service Term and which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of the Licensed Product to ensure that it performs in accordance with the Documentation.
- (k) **“Order Form”** means a written document signed by both Parties confirming the purchased products and services, price, payment terms, duration and any other additional terms.
- (l) **“Owners”** means Hydro-Québec, Électricité de France (EDF) and Réseau de transport d’électricité (RTE).
- (m) **“Party”** means either PGSTech or the Licensee individually, and ‘Parties’ means both collectively.
- (n) **“Person”** means an individual, corporation, unlimited liability company, partnership, joint venture, governmental authority, unincorporated organization, trust, association, or other entity.
- (o) **“Software Maintenance Service”** has the meaning set out in Section 4.1;
- (p) **“Software Maintenance Service Term”** has the meaning set out in Section 4.1;

2. APPLICABILITY

2.1. **Order Forms.** To purchase the License and the Maintenance Software Service (as further detailed in Section 4.1), Licensee and PGSTech will execute Order Forms. Each Order Form constitutes a separate contract, incorporating the terms and conditions of this Agreement, but entered into (including with respect to the terms of this Agreement) as of the date of each applicable Order Form. Each Order Form will be governed exclusively by the terms of this Agreement. For purposes herein, the term “Agreement” includes the Order Forms, unless the context suggests otherwise. The Trial License type, as described in <https://emtp.com/products/license-types>, does not require an Order Form. The Trial License type incorporates the terms and conditions of this Agreement.

3. LICENSE

3.1. **Grant.** Subject to the terms and conditions of this Agreement and the applicable Order Form, and conditional on Licensee’s continuous compliance therewith and payment of the License Fee, PGSTech hereby grants to Licensee a revocable (in accordance with the terms of Sections 11.2 and 11.3 herein), non-exclusive, non-sublicensable, non-transferable and perpetual license (unless otherwise set forth in the applicable Order Form) to install and use the Licensed Product and Documentation solely for internal business use (the “License”). PGSTech reserves all rights not expressly granted to Licensee in this Agreement.

3.2. **Third-Party Beneficiaries.** The Owners are third-party beneficiaries to this Agreement. Licensee acknowledges that, as of the effective date of each Order Form entered into between PGSTech and Licensee, PGSTech is an authorized distributor of the Licensed Product and the Maintenance Releases. Order Forms are assignable by PGSTech to the Owners or its nominee (the “Assignee”) upon written notice to Licensee. Licensee agrees that upon such assignment, only the Assignee will be liable towards the Licensee for PGSTech’s obligations under the assigned Order Forms and will be bound thereby in lieu of PGSTech. Licensee agrees that any subsequent claim or request shall be made directly to the Assignee and hereby waives any right to make claims directly against PGSTech.

3.3. **Delivery.** To start the Licensed Product for the first time, Licensee must submit a written request to PGSTech (with Licensee’s contact information) to obtain a license Activation Key as defined in <https://emtp.com/products/license-types>. Upon receipt of all necessary information from Licensee, PGSTech will provide the specific instructions to start the Licensed Product. Licensee acknowledges that no license Activation Key will be provided if: (i) PGSTech has not received payment of the License Fee, (ii) the License has terminated or (iii) Licensee is asking for an old version of the Licensed Product.

3.4. **Types.** The various License types available are described at: <https://emtp.com/products/license-types>. The License type selected by Licensee will be indicated in the applicable Order Form and Licensee shall comply with the terms applicable to it, which are set out at <https://emtp.com/products/license-types> and which are incorporated by reference in this Agreement. The Trial License described in <https://emtp.com/products/license-types> is provided for testing purposes only and cannot be used for any other activity. Should PGSTech determine that the Trial License has been utilized for consulting, commercial, other remunerated purposes or teaching activity by the Licensee, PGSTech may revoke the License without notice and seek reimbursement of a \$15,000 fee. The Educational License is strictly for non-commercial usage as described in <https://emtp.com/products/license-types>. If PGSTech determines

that an Educational License has been used by the Licensee for consulting, commercial, or other remunerated purposes, PGSTech reserves the right to revoke the License without prior notice and pursue reimbursement of a fee of \$15,000.

3.5. Use Restrictions. Except as this Agreement expressly permits, Licensee shall not, and shall not permit any other Person to, or attempt to:

- (a) copy the Licensed Product, in whole or in part, except for one copy of the Licensed Product installer or installation folder as a backup copy, which copy must include the same copyright and proprietary notices as the original version;
- (b) modify, correct, adapt, translate, enhance, or otherwise prepare derivative works or improvements of the Licensed Product;
- (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Licensed Product to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, hosting, cloud, or other technology or service;
- (d) reverse engineer, disassemble, decompile, decode, reproduce, remodel or adapt the Licensed Product or otherwise attempt to derive or gain access to its source code, in whole or in part;
- (e) copy, reproduce, transmit or adapt models, tools or components from the Licensed Product into any other product or software environment;
- (f) bypass or breach any security measure or protection used for or contained in the Licensed Product or Documentation;
- (g) remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any copyright, trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights, symbols, certification marking, notices, marks, or serial numbers on, embedded in, or relating to, any copy of the Licensed Product or Documentation;
- (h) use the Licensed Product in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right, privacy right, or other right of any Person, or that violates applicable law;
- (i) use the Licensed Product for purposes of: (i) benchmarking or competitive analysis of the Licensed Product; (ii) developing, using, or providing a competing software product or service; or (iii) any other purpose that is to the Licensor Parties' detriment or commercial disadvantage;
- (j) publicly disclose or discuss issues, problems, or perceived deficiencies regarding the Licensed Product, publish scientific documents or research results involving the Licensed Product, or make public communications, including public presentations or social media posts regarding the Licensor Parties, the Licensed Product, PGSTech's products and services or their performance, without prior written consent from PGSTech;

- (k) use the Licensed Product in, or in connection with, the design, construction, maintenance, operation, or use of any hazardous environments, systems or applications, any safety response systems or other safety-critical applications or any other use or application in which the use or failure of the Licensed Product could lead to personal injury or severe physical or property damage; or
- (l) use the Licensed Software or Documentation in any manner or for any purpose or application not expressly permitted by this Agreement.

3.6. **Security Measures.** The Licensed Product may contain technological measures designed to prevent unauthorized or illegal use of the Licensed Product. Licensee acknowledges and agrees that: (a) PGSTech may use these and other lawful measures to verify Licensee's compliance with the terms of this Agreement and enforce its and the Licensor Parties' rights, including all Intellectual Property Rights, in and to the Licensed Product; (b) PGSTech may deny Licensee access to, or use of, the Licensed Product on written notice to Licensee if PGSTech, in its reasonable discretion, believes that Licensee's use of the Licensed Product would violate any provision of this Agreement or applicable law.

3.7. **Export Controls.** Licensee shall not, and shall not permit any other Person to, export, re-export, or release, directly or indirectly any software, documentation, technology, or other technical data, or any products that include or use any of the foregoing, the export, re-export, or release of which to certain jurisdictions or countries is prohibited or requires an export license or other governmental approval to any country, jurisdiction or Person to which the export, re-export or release (a) is prohibited by applicable law, or (b) without first completing all required undertakings (including obtaining any necessary export license or other governmental approval).

4. MAINTENANCE AND SUPPORT

4.1. **Software Maintenance Service.** PGSTech may provide, and Licensee may purchase, Licensed Product software maintenance and support services, which include the right to have access to Maintenance Releases (the "**Software Maintenance Service**"). The Software Maintenance Service shall be purchased in one-year increments (each a "**Software Maintenance Service Term**") and shall be documented in an Order Form, initially and for each renewal. If Licensee has elected not to purchase the Software Maintenance Service for a given year (or longer) and wishes to benefit again from the Software Maintenance Service, Licensee will, prior to being granted the right to purchase the Software Maintenance Service again, be required to pay for the Software Maintenance Service fees for all prior years for which Software Maintenance Service was not purchased and to install all Maintenance Releases and perform all actions that PGSTech would have required Licensee to perform during those years where the Software Maintenance Service was not purchased.

4.2. **Maintenance Releases.** Subject to the payment of the applicable Software Maintenance Service fees, PGSTech will, during the applicable Software Maintenance Service Term, provide Licensee with the necessary Maintenance Releases to fix programming errors or problems in the functioning of the Licensed Product and with other Maintenance Releases (including updated Documentation) that PGSTech may, in its sole discretion, make generally available to its licensees. All Maintenance Releases being provided by PGSTech to Licensee shall be subject to the applicable terms and conditions of this Agreement, unless

PGSTech provides additional terms along with the Maintenance Releases. Licensee shall install all Maintenance Releases without delay after receipt.

4.3. Technical Support. Subject to the payment of the applicable Software Maintenance Service fees, Licensee shall be entitled, during the Software Maintenance Service Term, to receive technical support by telephone or electronic mail (support@emtp.com). PGSTech will attempt to provide a first answer within one business day after the reception of a technical support request. Technical support will be available Monday to Friday from 8:00 a.m. to 5:00 p.m. (local time in Quebec, Canada), excluding statutory holidays. Technical support is limited to Licensed Product-related questions and does not cover engineering-related, analysis means or system study-related questions. Each technical support request will be compiled and detailed in PGSTech's customer database.

5. LIMITED WARRANTY

5.1. Limited Warranty. Subject to the limitations and conditions set forth in Section 5.2 and Section 5.3, PGSTech warrants to Licensee that (i) for a period of 90 days from delivery as set forth in Section 3.3, the Licensed Product will be free from computer worm or virus and (ii) provided Licensee has purchased and paid for the Software Maintenance Service, the Licensed Product will, during the Software Maintenance Service Term, substantially conform to the Documentation, when installed, operated, and used as recommended in the Documentation, PGSTech's written instructions and the terms of this Agreement.

5.2. Licensee Requirements. The limited warranty set forth in Section 5.1 applies only if Licensee: (a) notifies PGSTech in writing of the warranty breach within the 90-day period set forth in Section 5.1(i); (b) has promptly installed all Maintenance Releases made available to Licensee; and (c) as of the date of the notification, is in compliance with all terms and conditions of this Agreement (including the payment of all fees then due and owing).

5.3. Exceptions. Notwithstanding any provisions to the contrary in this Agreement, the limited warranty set forth in Section 5.1 does not apply to problems arising out of or relating to:

- (a) Licensed Product that is modified or damaged by Licensee;
- (b) any operation or use of, or other activity relating to, the Licensed Product other than as specified in the Documentation or in this Agreement, including any incorporation in the Licensed Product of, or combination, operation or use of the Licensed Product in or with, any technology (including any software, hardware, firmware, system, or network) or service not specified for Licensee's use in the Documentation, unless otherwise expressly permitted by PGSTech in writing;
- (c) Licensee's negligence, abuse, misapplication, or misuse of the Licensed Product, including any use of the Licensed Product other than as specified in the Documentation, this Agreement or expressly authorized by PGSTech in writing;
- (d) Licensee's failure to promptly install all Maintenance Releases that PGSTech has made available to Licensee;
- (e) the operation of, or access to, Licensee's or a third party's system or network;

- (f) Licensee's breach of any provision of this Agreement; or
- (g) any other circumstances or causes outside of the reasonable control of PGSTech.

5.4. **Remedies.** If PGSTech breaches the warranty set forth in Section 5.1, PGSTech will provide Licensee, within a reasonable timeframe, with a Maintenance Release to fix the error or issue.

If PGSTech does not cure the warranty breach within a reasonable timeframe after PGSTech's receipt of written notice of such breach, Licensee shall have the right to terminate this Agreement and the applicable Order Forms as provided in Section 11.2. Provided that Licensee fully complies with its post-termination obligations as set forth in Section 11.4, PGSTech will promptly refund to Licensee, on a pro rata basis, the share of the Software Maintenance Service fee prepaid by Licensee for the future portion of the Software Maintenance Service Term that would have remained but for such termination. THIS SECTION 5.4 SETS FORTH THE LICENSEE'S SOLE REMEDY AND THE LICENSOR PARTIES' ENTIRE OBLIGATION AND LIABILITY FOR ANY BREACH OF ANY CONDITION, WARRANTY, OR REPRESENTATION OF THE LICENSED PRODUCT OR DOCUMENTATION SET FORTH IN THIS AGREEMENT OR IN ANY ORDER FORM.

5.5. **Disclaimer of Warranties.** EXCEPT FOR THE EXPRESS LIMITED WARRANTY SET FORTH IN SECTION 5.1, ALL LICENSED PRODUCT, MAINTENANCE RELEASES, DOCUMENTATION, AND OTHER PRODUCTS, INFORMATION, MATERIALS AND SERVICES PROVIDED BY THE LICENSOR PARTIES ARE PROVIDED "AS IS" AND THE LICENSOR PARTIES MAKE NO OTHER WARRANTIES REGARDING THE USE OR AVAILABILITY OF SUCH ELEMENTS. THE LICENSOR PARTIES HEREBY DISCLAIM ALL OTHER CONDITIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHER (INCLUDING ALL CONDITIONS AND WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE), AND SPECIFICALLY DISCLAIMS ANY AND ALL IMPLIED OR LEGAL CONDITIONS AND WARRANTIES (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

WITHOUT LIMITING THE FOREGOING, THE LICENSOR PARTIES MAKE NO WARRANTY OF ANY KIND THAT THE LICENSED PRODUCT WILL (a) MEET LICENSEE'S REQUIREMENTS, (b) OPERATE WITHOUT INTERRUPTION, (c) ACHIEVE ANY INTENDED RESULT OR PURPOSE, (d) BE COMPATIBLE, OR WORK WITH ANY OTHER GOODS, SERVICES, TECHNOLOGIES, OR MATERIALS (INCLUDING ANY SOFTWARE, HARDWARE, SYSTEM, OR NETWORK) EXCEPT EXPRESSLY SET FORTH IN THE DOCUMENTATION, OR (e) BE SECURE, ACCURATE, COMPLETE OR ERROR FREE OR THAT ALL ERRORS DISCOVERED WILL BE CORRECTED, OR (f) BE FREE FROM VIRUSES OR MALWARE.

IN ADDITION, THE LICENSOR PARTIES MAKE NO WARRANTY OF ANY KIND REGARDING THE RESULTS OF ANY SIMULATION GENERATED AS A RESULT OF THE LICENSED PRODUCT, INCLUDING THE ACCURACY OF SIMULATION OR ANALYSIS RESULTS OR THAT THE LICENSED PRODUCT WILL BE MAINTAINED, UPDATED OR CORRECTED OR THAT MAINTENANCE RELEASES, TOOLBOXES, SUPPLEMENTS, ADD-ON COMPONENTS, INTERNET-BASED SERVICE COMPONENTS OR OTHER ADAPTATION OR MODIFICATION OF THE LICENSED PRODUCT WILL BECOME AVAILABLE BEYOND THE APPLICABLE SOFTWARE MAINTENANCE SERVICE TERM.

6. FEES AND PAYMENT

6.1. **License Fees and Software Maintenance Service fees.** In consideration of the rights granted to Licensee under this Agreement, Licensee shall pay to PGSTech the License Fees and Software Maintenance Service fees described in the applicable Order Forms. Unless otherwise set out in the applicable Order

Form, Licensee agrees to pay the fees annually in advance, no later than 30 days from the date of each invoice. Fees are payable without setoff or counterclaim, and without any deduction or withholding. All fees already paid are non-refundable. Overdue payments shall bear interest at a monthly rate of 1.5% (19.56% annually).

6.2. **Additional Fees and Expenses.** PGSTech may agree to perform certain professional services for Licensee. Such services shall be agreed to by the Parties in an Order Form. In consideration for PGSTech performing such services, Licensee agrees to pay for the fees agreed upon in the Order Form and to reimburse the out-of-pocket expenses incurred by PGSTech in connection with performing these services.

6.3. **Suspension.** Licensee acknowledges that if any amounts owed by Licensee to PGSTech are 15 or more days overdue, PGSTech may, without limiting its other rights and remedies, suspend or revoke Licensee's access to the Maintenance Releases or certain features (including internet-based components) until such amounts are paid in full.

6.4. **Taxes.** The amounts specified in the Order Forms are exclusive of all taxes, assessments, tariffs, duties or other fees imposed, assessed or collected by or under the authority of any governmental body (collectively, "**Taxes**") and Licensee is solely responsible for the payment of all such Taxes, except any taxes assessed on PGSTech's income. If PGSTech is legally required to collect from Licensee and remit Taxes related to Licensee's use of the Licensed Product and Maintenance Releases hereunder, Licensee hereby agrees to promptly reimburse PGSTech for any such amounts paid by PGSTech.

7. AUDITS

7.1. **Audit Procedure.** PGSTech or its nominee may, with 5 days' prior written notice, inspect and audit Licensee's use of the Licensed Product and compliance under this Agreement at any time during the term and for 3 years following the termination of this Agreement. All such audits shall be conducted during business hours and in a manner that does not unreasonably interfere with Licensee's business operations. Licensee shall make available all such books, records, equipment, information, and personnel, and provide all such cooperation and assistance, as may be requested by or on behalf of PGSTech with respect to such audit.

7.2. **Cost and Results of Audit.** If the audit determines that Licensee's use of the Licensed Product exceeded the License type terms, the number of users or any other License parameters, Licensee shall pay to PGSTech all amounts due for such excess use, plus 10% annual interest on such amounts. If the audit determines that such excess use equals or exceeds 5% of Licensee's permitted level of use, Licensee shall also pay for PGSTech's costs incurred to conduct the audit. Licensee shall make all payments required under this Section within 15 days of receipt of PGSTech's invoice.

8. INTELLECTUAL PROPERTY

8.1. **IP Ownership.** Licensee acknowledges and agrees that:

- (a) the Licensed Product and Documentation are licensed, not sold, to Licensee by PGSTech and Licensee does not and will not have or acquire under or in connection with this Agreement any ownership interest in the Licensed Product or Documentation, or in any related Intellectual Property Rights; and

- (b) the Licensor Parties are and will remain the sole and exclusive owners of all rights, title, and interests in and to the Licensed Product and Documentation, including all Intellectual Property Rights relating thereto.

8.2. **Licensee Co-operation and Notice of Infringement.** Licensee shall, for as long as the License is in force:

- (a) take all reasonable measures to safeguard the Licensed Product and Documentation (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access;
- (b) promptly notify PGSTech in writing if Licensee becomes aware of: (i) any actual or suspected infringement, misappropriation, or other violation of the Licensor Parties' Intellectual Property Rights in or relating to the Licensed Product or Documentation; or (ii) any claim that the Licensed Product or Documentation, including any production, use, marketing, sale, or other disposition of the Licensed Product or Documentation, in whole or in part, infringes, misappropriates, or otherwise violates the Intellectual Property Rights or other rights of any Person; and
- (c) not contest or challenge the ownership of the Licensor Parties' Intellectual Property Rights.

8.3. **Copyright Notice.** The Licensed Product is protected by copyright and other intellectual property laws and treaties, as follows:

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NEITHER HYDRO-QUÉBEC, EDF AND RTE, NOR ANY PERSON OR ORGANIZATION ACTING ON BEHALF OF HYDRO-QUÉBEC, EDF AND RTE:

1. MAKES ANY WARRANTY OR REPRESENTATION WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF ANY PURPOSE WITH RESPECT TO THE EMTP[®] SOFTWARE; OR

2. ASSUMES ANY LIABILITY WHATSOEVER WITH RESPECT TO ANY USE OF EMTP[®] SOFTWARE OR ANY PORTION THEREOF OR WITH RESPECT TO ANY DAMAGES, WHICH MAY RESULT FROM SUCH USE.

For Scopeview: © Copyright 2010-2025 Hydro-Québec

Scopeview is licensed as an integral part of the Licensed Product."

9. CONFIDENTIALITY

9.1. **Treatment of Confidential Information.** Licensee shall use the same degree of care to protect the confidentiality of the Confidential Information that it uses to protect its own confidential information (but in no event less than reasonable care) and shall not disclose the Confidential Information to any third-party without PGSTech's prior written consent. In addition, Licensee shall not use the Confidential Information for any purpose outside the scope of this Agreement.

9.2. **Compelled Disclosure.** Licensee may disclose Confidential Information to the extent required by applicable law, regulation or legal process, but shall, however: (i) provide PGSTech with prompt written notice of the requirement to disclose, (ii) provide PGSTech with reasonable assistance in the event PGSTech wishes to oppose or contest such disclosure, and (iii) limit its disclosure to what is strictly required by law, regulation or legal process.

9.3. **Injunctive Relief.** Licensee acknowledges and agrees that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Licensor Parties and that, in the event of such breach, PGSTech will be entitled, in addition to any other available remedies, to seek immediate injunctive and other equitable relief.

9.4. **Return of Confidential Information.** Within 10 days following the termination of this Agreement or the receipt of a written request from PGSTech, Licensee shall return or destroy (at PGSTech's option) all documents, records and copies thereof containing Confidential Information fixed in any tangible medium of expression in whatever form or format.

9.5. This Section shall survive the termination of this Agreement.

10. LIMITATIONS OF LIABILITY.

10.1. **Exclusion of Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT WILL THE LICENSOR PARTIES BE LIABLE FOR ANY (a) INCREASED COSTS, DIMINUTION IN VALUE, OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS, (b) LOSS OF GOODWILL OR REPUTATION, (c) INABILITY TO USE, DELAY, OR RECOVERY OF THE LICENSED PRODUCT, (d) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY, (e) COST OF REPLACEMENT OF GOODS OR SERVICES, OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES, IN EACH CASE REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR WHETHER SUCH LOSSES OR DAMAGES COULD HAVE BEEN REASONABLY FORESEEN.

10.2. **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT WILL THE AGGREGATE LIABILITY OF THE LICENSOR PARTIES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO CONTRACTUAL, EXTRACTIONAL, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE AMOUNTS PAID TO PGSTech UNDER THE APPLICABLE ORDER FORM IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11. TERM AND TERMINATION

11.1. **Term.** This Agreement commences on the date of execution of the Order Form pursuant to which Licensee purchases the License and continues until: (i) the Agreement is terminated as set out in Sections 11.2 or 11.3 or (ii) for non-perpetual licenses, until the end of the term set out in the Order Form.

11.2. **Termination by Licensee.** This Agreement and any Order Form will automatically terminate if Licensee ceases using the Licensed Product. Licensee agrees that if the selected License type does not allow Licensee to remove and reinstall the Licensed Product from one computer or server to another, the Licensee will be deemed to have ceased using the Licensed Product and the License will be automatically terminated. To install a new Licensed Product, Licensee will have to enter into a new Order Form with PGSTech and pay for a new license.

11.3. **Termination by PGSTech.** This Agreement and any Order Form may be terminated at any time by PGSTech:

- (a) effective on written notice to Licensee, if Licensee fails to pay for the Licensee Fees;
- (b) effective on written notice to Licensee, if Licensee breaches this Agreement or any Order Form and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured 30 days after PGSTech provides Licensee with written notice of such breach;
- (c) effective immediately on written notice to Licensee, if Licensee: (i) is dissolved, liquidated, or wound-up or takes any corporate action for such purpose; (ii) becomes insolvent or is generally unable to pay its debts as they become due; (iii) becomes the subject of any voluntary or involuntary bankruptcy proceeding under any federal or foreign bankruptcy or insolvency law; (iv) makes or seeks to make a general assignment for the benefit of its creditors; or (v) applies for, or consents to, the appointment of a trustee, receiver, receiver-manager, or custodian for all or a substantial part of its property;
- (d) effective on written notice to Licensee if, without prior written consent of PGSTech, Licensee or a Person Controlling Licensee, is subject to a change of Control transaction or divests all or substantially all of its business or assets, including by merger, asset sale or otherwise, or winds up or liquidates all or substantially all its assets or is dissolved.

11.4. **Effect of Termination.** The termination of this Agreement will automatically terminate all Order Forms. On termination of this Agreement (or of any Order Form that does not solely contemplate the purchase of Software Maintenance Service):

- (a) the License will be immediately terminated, without further notice, and all rights, licenses, and authorizations granted to Licensee hereunder will immediately terminate and Licensee shall: (i) immediately cease all use of and other activities with respect to the Licensed Product and Documentation; (ii) within 30 days deliver to PGSTech, or at PGSTech's written request destroy, and permanently erase from all devices and systems Licensee directly or indirectly controls, the Licensed Product, the Documentation and PGSTech's Confidential Information, including all documents, files, and tangible materials (and any partial and complete copies) containing, reflecting, incorporating, or based on any of the foregoing, whether or not modified or merged

into other materials; (iii) certify to PGSTech in a signed written instrument that it has complied with the requirements of this Section 11.4; and

- (b) all amounts payable by Licensee to PGSTech will become immediately payable and due as of the effective date of termination and for greater certainty, no fees already paid will be reimbursed.

11.5. Suspension by PGSTech. In addition to its rights under Section 6.3, PGSTech may, at any time, suspend the License immediately with notice to Licensee if one of the events in Section 11.3(a) to 11.3(d) occurs.

11.6. Surviving Terms. The provisions set forth in the following Sections will survive termination of this Agreement: Sections 5, 7, 8, 9, 10, 11.4, 11.5, 11.6, and 12.

12. MISCELLANEOUS.

12.1. Entire Agreement. This Agreement, together with the Order Forms, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, conditions, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the terms contained in this Agreement and the terms contained in an Order Form, the terms of the Order Form shall prevail. No amendment to or modification of this Agreement or an Order Form is effective unless it is in writing and signed by an authorized representative of each Party.

12.2. Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other party in any manner whatsoever.

12.3. Notices. Any notice, request, consent, claim, demand, waiver, or other communication under this Agreement will have legal effect only if sent in writing and addressed to the Party's address set out in the last Order Form executed between the Parties. Notices sent in accordance with this Section will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; or (b) when received, if sent by a nationally recognized overnight courier, with signed confirmation of receipt.

12.4. Assignment and Change of Control. Licensee shall not assign or otherwise transfer any of its rights, or delegate or otherwise transfer any of its obligations or performance, under this Agreement without PGSTech's prior written consent. In addition, Licensee, or a Person Controlling Licensee, shall not divest any part of its business, proceed to a change of Control transaction or sell all or substantially all of its business or assets, including by merger, asset sale or otherwise, without PGSTech's prior written consent.

12.5. Waiver. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach hereunder shall not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches. No waiver by any Party of any of the provisions hereof shall be effective unless explicitly set forth in writing by the Party so waiving.

12.6. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

12.7. **Governing Law.** This Agreement and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with, the laws of the Province of Québec and the federal laws of Canada applicable therein, without giving effect to any choice or conflict of law provision or rule that would cause the application of the laws of any jurisdiction other than those of the Province of Québec. The Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts in the Province of Québec, judicial district of Montréal.

12.8. **Language.** The Parties acknowledge that they have required that this Agreement, as well as all documents, notices and legal proceedings executed, given or instituted pursuant hereto or relating directly or indirectly hereto, be drawn up in English. *Les parties reconnaissent avoir exigé la rédaction en anglais de la présente convention, ainsi que de tous documents, avis et procédures judiciaires exécutés, donnés ou intentés, directement ou indirectement, à la suite de ou relativement à la présente convention.*