



End User Licensing Agreement

CURRENT AS OF OCTOBER 01, 2024

BY DOWNLOADING, INSTALLING, ACCESSING, OR USING THIS SOFTWARE, YOU AGREE TO THE TERMS OF THIS END USER LICENSE AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON OR 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.

1) Definitions.

- a) **“Authorized Entity”** means any of Stash Global Inc’s direct customers, distributors, resellers or other business partners.
- b) **“Cloud Storage/Storage”** means the storage location(s), in the cloud or on-site servers that an Authorized Entity provides as specified in one or more Purchase Agreements. Access to the Cloud Services requires either an active support agreement or an active subscription, as required by the specific offering.
- c) **“Documentation”** means explanatory materials in printed, electronic, or online form accompanying the Software in English and other languages, if available.
- d) **“DATs”** means data security, governance, access, quantum-resistant definition files, also referred to as signature files, that contain the code(s) software used to secure data, control access, and resist infiltration of quantum computing (the keys).
- e) **“Purchase Agreement”** means a confirmation notice letter issued by STASH GLOBAL INC. to you, confirming the Software and Support purchased by you, including the applicable product entitlement, as defined in the Product Entitlement Definitions (further described at Section 3(a)below).
- f) **“High Risk System”** means a device or system that requires extra safety functionalities such as fail-safe or fault- tolerant performance features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage. A device or system with a fail-safe feature in the event of failure may revert to a safe condition rather than break down, may include a secondary system that comes into operation to prevent a malfunction, or may operate as a backup in the event of a malfunction. A device or system with a fault-tolerant feature in the event of failure may continue its intended operation, possibly at a reduced level, rather than failing completely. Without limitation, High Risk Systems may be required in critical infrastructure, industrial plants, manufacturing facilities, direct life support devices, aircraft, train, boat or vehicle navigation or communication systems, air traffic control, weapons systems, nuclear facilities, power plants, medical systems and facilities, and transportation facilities.
- g) **“CUSTOMER”** means CUSTOMER, with offices located at CUSTOMER ADDRESS.
- h) **“Software”** means the STASH GLOBAL INC. software program/products (i) licensed from STASH GLOBAL INC. and/or its Authorized Partners, or (ii) embedded in or pre-loaded on CUSTOMER hardware equipment. in each case including Upgrades and Updates during the applicable Support period. Software may also include additional features or functionality that can be accessed with either a current subscription or active support contract to certain Cloud Services as required by the specific offering and subject to the Cloud Terms of Service.
- i) **“Standard”** means a technology specification created by a government sponsored group, an industry sponsored group, or any similar group or entity that creates technology specifications to be used by others. Examples of Standards include GSM, LTE, 5G, Wi-Fi, CDMA, MPEG, and HTML. Examples of groups that create Standards include IEEE, ITU, 3GPP, and ETSI.
- j) **“Subsidiary”** means any entity controlled by you through greater than fifty-one per cent (51%) ownership of the voting securities.
- k) **“Support” or “Technical Support”** means the support services offered by STASH GLOBAL INC. for the support and maintenance of the Software.
- l) **“Updates”** are related to content of the Software, including not limited to, all DATs, signature sets, policy updates, and database updates for the Software, as a part of purchased Support and which are not separately priced or marketed.



m) “Upgrade” means any and all improvements in the Software that are made generally available as part of purchased Support and which are not separately priced or marketed.

n) SGI means STASH GLOBAL INC.

2) License Grant; Proprietary Rights.

a) Subject to the terms and conditions of this Agreement, SGI hereby grants to you a non-exclusive, non-transferable right to use the Software (for the purpose of this Agreement, to use the Software includes to download, install, access, and provide the Software) listed in the Purchase Agreement solely. You are not granted rights to Updates and Upgrades unless you have purchased Support (or a service subscription granting rights to Updates and Upgrades).

b) The Software, including, without limitation, its object code and source code, whether or not provided to you, is strictly confidential to SGI. SGI owns exclusively and reserves all – and you may not exercise any – right, title, and interest in and to the Software, including, without limitation, all intellectual property rights in and to the Software, except to the extent of the limited Software use license granted to you in this Agreement. This Agreement is not an agreement of sale, and no title, intellectual property rights, or ownership rights to the Software are transferred to you pursuant to this Agreement. You acknowledge and agree that the Software and all ideas, methods, algorithms, formulae, processes, and concepts used in developing or incorporated into the Software, all future Updates and Upgrades, and all other improvements, revisions, corrections, bug-fixes, hot-fixes, patches, modifications, enhancements, releases, DATs, signature sets, upgrades, and policy and database updates and other updates in, of, or to the Software, all derivative works based upon any of the foregoing, and all copies of the foregoing are trade secrets and proprietary property of SGI, having great commercial value to SGI.

c) All Products, Services, and any Software are subject to the SGI Terms of Service Agreement.

3) Copy and Use Terms.

a) Product Entitlement: The use of the Software depends on the terms of the products, subscriptions or licenses purchased.

b) Multiple Platforms/Bundles: If the Software supports multiple platforms or if you receive the Software bundled with other software, the total number of devices on which all versions of the Software is installed may not exceed your product entitlement which may be defined as unlimited or with a specific number of devices. Certain Software licensed as part of a suite-based SGI product may also require the purchase of a separate SGI server license to use the Software on certain types of servers, in each case as specified in the Documentation.

c) Term: The license is effective for a limited period (“Term”) when such Term is set forth in the Purchase Agreement, otherwise the licenses shall be perpetual.

d) Copies: You may not make copies of the software.

e) Subsidiaries; Managing Parties: You may permit use of the Software in accordance with the terms of this Agreement by a Subsidiary only for so long as such entity remains your Subsidiary. You also may permit a third party with which you enter into a contract to manage your information technology resources (“Managing Party”), provided that (i) the Managing Party only uses the Software for your internal operations and not for the benefit of another third party or the Managing Party, (ii) the Managing Party agrees to comply with the terms and conditions of this Agreement and (iii) you provide SGI with written notice that a Managing Party will be using the Software on your behalf. You shall be responsible and fully liable for each Subsidiary’s and Managing Party’s compliance with or breach of the terms of this Agreement.

f) General Restrictions: You may not, and you may not cause or allow any third party to: (i) decompile, disassemble or reverse-engineer the Software; or create or recreate the source code for the Software; (ii) remove, erase, obscure, or tamper with any copyright or any other product identification or proprietary rights notices, seal, or instructional label printed or stamped on, affixed to, or encoded or recorded in or on any Software or Documentation; or fail to preserve all copyright and other proprietary notices in all copies of the Software and Documentation made by you; (iii) lease, lend or use the Software for timesharing or service bureau purposes; sell, market, license, sublicense, distribute, or otherwise grant to any person or entity any right to use the Software except to the extent expressly permitted in this Agreement; or use the Software to provide, alone or in combination with any other product or service, any product or service to any



person or entity, whether on a fee basis or otherwise; (iv) modify, adapt, tamper with, translate, or create derivative works of the Software or the Documentation; combine or merge any part of the Software or Documentation with or into any other software or documentation; or refer to or otherwise use the Software as part of any effort to develop software (including, without limitation, any routine, script, code, or program) having any functional attributes, visual expressions, or other features similar to those of the Software or to compete with SGI; (v) except with SGI's prior written permission, publish any performance or benchmark test unless your Purchase Agreement specifically provides such.

4) Technical Support and Maintenance.

The SGI Technical Support and Maintenance Terms and Conditions apply if you have purchased Support. After the support or service subscription period specified in a Purchase Agreement has expired, you have no further rights to receive any Support including Upgrades, Updates, and telephone support. SGI may change the Support offered at any time, effective as of the commencement of any renewal period. You will secure all privacy-related rights and permissions from individual persons as may be required by regulation, statute, or other law or your internal policies or guidelines to disclose to SGI, in connection with SGI's performance of Support or otherwise under this Agreement, applicable personally identifiable information, data, and material.

5) Limited Warranty and Disclaimer.

a) Limited Warranty: SGI warrants that the Software licensed hereunder will perform substantially in accordance with the Documentation if utilized in accord of the User's Agreement. SGI is not responsible for performance anomalies that may be or are a result of use with legacy or other technologies previously installed or new technologies installed after the SGI software is deployed.

b) Exclusive Remedy: In case of any breach of the above Limited Warranty, as your exclusive remedy and SGI's entire obligation and liability SGI will (i) repair or replace the Software or (ii) if such repair or replacement would in SGI's opinion be commercially unreasonable, upon SGI's receipt of your written representation and promise that you have removed all instances of the Software and will not use the Software, refund the price paid by you for the applicable Software.

c) Exclusion of Warranty: THE ABOVE LIMITED WARRANTY WILL NOT APPLY IF: (i) THE SOFTWARE IS NOT USED IN ACCORDANCE WITH THIS AGREEMENT OR THE DOCUMENTATION, (ii) THE SOFTWARE OR ANY PART THEREOF HAS BEEN MODIFIED BY ANY ENTITY OTHER THAN SGI OR (iii) A MALFUNCTION IN THE SOFTWARE HAS BEEN CAUSED BY ANY EQUIPMENT OR SOFTWARE NOT SUPPLIED BY SGI

d) Disclaimer: EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, THE SOFTWARE IS PROVIDED "AS IS" AND SGI MAKES NO REPRESENTATIONS OR WARRANTIES, AND SGI DISCLAIMS ALL REPRESENTATIONS, WARRANTIES, AND CONDITIONS, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, OR SYSTEMS INTEGRATION. WITHOUT LIMITING THE FOREGOING, SGI MAKES NO WARRANTY, REPRESENTATION, OR GUARANTEE AS TO THE SOFTWARE'S USE OR PERFORMANCE AND DOES NOT WARRANT, REPRESENT, OR GUARANTEE THAT THE OPERATION OF THE SOFTWARE WILL BE FAIL-SAFE, UNINTERRUPTED, OR FREE FROM ERRORS OR DEFECTS OR THAT THE SOFTWARE WILL PROTECT AGAINST ALL POSSIBLE THREATS.

e) High Risk Systems Terms: THE SOFTWARE MAY FAIL AND IS NOT DESIGNED, DEVELOPED, TESTED, OR INTENDED TO BE RELIABLE IN THE CONTEXT OF HIGH-RISK SYSTEMS. WITHOUT LIMITING ANYTHING ELSE, SGI HAS NO RESPONSIBILITY FOR, AND YOU WILL INDEMNIFY AND HOLD HARMLESS SGI FROM, ALL CLAIMS, SUITS, DEMANDS, AND PROCEEDINGS ALLEGING, CLAIMING, SEEKING, OR ASSERTING, ANY LIABILITY, LOSS, OBLIGATION, RISK, COST, DAMAGE, AWARD, PENALTY, SETTLEMENT, JUDGMENT, FINE, OR EXPENSES (INCLUDING ATTORNEYS FEES) ARISING FROM OR IN CONNECTION WITH YOUR USE OF THE SOFTWARE ON OR IN A HIGH RISK SYSTEM, INCLUDING, WITHOUT LIMITATION, THOSE THAT (i) COULD HAVE BEEN PREVENTED BY DEPLOYMENT OF FAIL-SAFE OR FAULT-TOLERANT FEATURES TO THE HIGH RISK SYSTEM, (ii) ARE BASED ON A CLAIM, ALLEGATION, OR ASSERTION THAT THE FUNCTIONING OF THE HIGH RISK SYSTEM DEPENDS OR DEPENDED ON THE FUNCTIONING OF THE SOFTWARE OR THAT THE FAILURE OF THE SOFTWARE CAUSED A HIGH RISK SYSTEM TO FAIL



6) Limitation of Remedies and Damages.

a) UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, NEGLIGENCE, CONTRACT OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR EXTRA-CONTRACTUAL DAMAGES OF ANY KIND, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, LOST PROFITS OR REVENUE, DAMAGES DUE TO WORK STOPPAGE AND/OR COMPUTER FAILURE OR MALFUNCTION, AND/OR COSTS OF PROCURING SUBSTITUTE SOFTWARE OR SERVICES, WHETHER OR NOT FORESEEABLE, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED BY THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.

b) REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, TORT AND/OR ANY OTHER LEGAL THEORY, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER EXCEED THE AMOUNT OF TOTAL FEES PAID OR PAYABLE BY YOU FOR THE SOFTWARE GIVING RISE TO SUCH CLAIM DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

c) No provision of this Agreement shall exclude or limit in any way (i) the liability of either party for death or personal injury caused by negligence or (ii) your liability for excess usage of and/or any breach of SGI's intellectual property rights in the Software.

d) THE LIMITATION OF LIABILITY IN THIS SECTION IS BASED ON THE FACT THAT END USERS USE THEIR COMPUTERS FOR DIFFERENT PURPOSES. THEREFORE, ONLY YOU CAN IMPLEMENT BACK-UP PLANS AND SAFEGUARDS APPROPRIATE TO YOUR NEEDS IN THE EVENT THAT AN ERROR IN ANY SOFTWARE CAUSES COMPUTER PROBLEMS AND RELATED DATA LOSSES. FOR THESE BUSINESS REASONS, YOU AGREE TO THE LIMITATIONS OF LIABILITY IN THIS SECTION AND ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THIS PROVISION, THE FEE CHARGED FOR THE SOFTWARE WOULD BE HIGHER.

7) Intellectual Property Indemnity.

a) Indemnity: SGI will indemnify, and, at its election, defend, you against claims asserted against you in a suit or action if: (i) the claim is for direct patent infringement or direct copyright infringement, or for SGI's trade secret misappropriation and (ii) the claim is (A) asserted against the Software, alone and not in combination with anything or (B) a combination of the Software.

b) Exclusions: Notwithstanding anything else in this Agreement, SGI has no obligation to indemnify or defend you for claims asserted, in whole or in part, against:

- (i) technology or designs that you gave to SGI;
- (ii) modifications or programming to Software that were made by anyone other than SGI; or
- (iii) the Software's alleged implementation of some or all a Standard.

c) Conditions: As a condition of SGI's obligations under this Section 7, you must provide to SGI: (i) prompt written notice of the claim and your agreement to give SGI sole control over the defense and settlement of the claim; and (ii) your full and timely cooperation.

d) SGI's Consent: SGI will not be responsible for any cost, expense, or compromise that you make or incur without SGI's prior written consent.

e) Remedies: SGI may, at its sole discretion and at its expense: (i) procure for you the right to continue using the Software; (ii) replace the Software with a non-infringing Software; (iii) modify the Software so that it becomes non-infringing; or (iv) upon your return of the Software to SGI, and/or removal of the Software from your systems, refund the residual value of the purchase price paid by you for the infringing Software, depreciated using a straight-line method of depreciation over a three (3) year period from the date of delivery of the Software to you.



f) Personal Indemnity: The foregoing indemnity is personal to you. You may not transfer or to anyone, including your customers.

g) Exclusive Remedy: The indemnity section states SGI's entire obligation and your exclusive remedy for claims of patent or copyright infringement, or trade secret misappropriation, made in whole or part against the Software.

8) Termination.

Without prejudice to your payment obligations, you may terminate your license at any time by uninstalling the Software. SGI may terminate your license if you materially breach the terms of this Agreement, and you fail to cure such breach within thirty (30) days of receiving notice of such breach. Upon such termination, you shall promptly return or destroy all copies of the Software and Documentation.

9) Additional Terms.

a) Evaluation or FREE Trial Software: If the Software has been identified by SGI as "Evaluation" Software, then the provisions of this section apply and shall supersede any other conflicting term of this Agreement. Your royalty-free, non-transferable, limited license to use the Evaluation Software, for evaluation purposes only, is limited to fourteen (14) days unless otherwise agreed to in writing by SGI. The Evaluation Software may contain errors or other problems that could cause system or other failures and data loss. Consequently, Evaluation Software is provided to you "AS IS" and SGI disclaims any warranty or liability obligations to you of any kind. Support is not available for Evaluation Software. Any information about the Evaluation Software gathered from its use shall be used solely for evaluation purposes and shall not be provided to any third parties. The restrictions described in Section 3(g) apply. If you fail to destroy the Evaluation Software after the evaluation period has expired, SGI may, at its discretion, invoice you in an amount equal to the SGI List Price for the Software and you shall pay such invoice upon receipt. WHERE LEGAL LIABILITY CANNOT BE EXCLUDED, BUT MAY BE LIMITED, SGI'S LIABILITY AND THAT OF ITS SUPPLIERS AND AUTHORIZED PARTNERS UNDER THIS AGREEMENT RELATED TO EVALUATION SOFTWARE, OR IN CONNECTION WITH EVALUATION SOFTWARE, SHALL BE LIMITED TO THE SUM OF FIFTY (50) U.S. DOLLARS OR THE EQUIVALENT IN LOCAL CURRENCY IN TOTAL.

b) Beta Software: If the Software that you have received has been identified by SGI as "Beta" Software, then the provisions of Section 9(a) above shall apply accordingly. SGI has no obligation to you to further develop or publicly release the Beta Software. Support is not available for Beta Software. If requested by SGI, you will provide feedback to SGI regarding testing and use of the Beta Software, including error or bug reports. You agree to grant SGI a perpetual, non-exclusive, royalty-free, worldwide license to use, copy, distribute and make derivative works and incorporate the feedback into any SGI product at SGI's sole discretion. Upon receipt of a later unreleased version of the Beta Software or release by SGI of a publicly released commercial version of the Beta Software, you agree to return or destroy all earlier Beta Software received from SGI.

10) Notice to U.S. Government End Users.

The Software and accompanying Documentation are deemed to be "commercial computer software" and "commercial computer software documentation", respectively, 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 and accompanying Documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

11) Privacy and Collection of Personal or System Information.

a) The Software, Support or Service subscription may employ applications and tools to collect personally identifiable, sensitive or other information (e.g., including, without limitation, your and users' name, address, e-mail address and payment details), their computers, files stored on their computers, or their computers' interactions with other computers (e.g., including, without limitation, information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, 32 or 64 bit architecture, operating system types, versions, locale, BIOS version, BIOS model, total scanners deployed, database size, system telemetry, device ID, IP address, location, content, SGI products installed, SGI components, processes and services information, frequency and details of update of SGI components, information about third party products installed, extracts of logs



created by SGI, usage patterns of SGI products and specific features, etc.) (collectively, “Data”).

b) The collection of this Data may be necessary to provide you and users with the relevant Software, Support or service subscription functionalities as ordered (e.g., including, without limitation, detecting and reporting threats and vulnerabilities on your and users’ computer network), to enable SGI to improve our Software, Support or service subscription (e.g., including, without limitation, content synchronization, device tracking, troubleshooting, etc.), and to further or improve overall security for you and users. You may be required to uninstall the Software or disable Support or its service subscription to stop further Data collection that supports these functions.

c) By entering into this Agreement, or using the Software, Support or service subscription, you and users agree to the SGI Privacy Policy and to the collection, processing, copying, backup, storage, transfer and use of this Data by SGI and its service providers, in, from and to the United States, Europe, or other countries or jurisdictions potentially outside of your or user’s own as part of the Software, Support or service subscription. SGI will only collect, process, copy, backup, store, transfer and use personally identifiable information in accordance with the SGI privacy policy on the SGI web site (www.stash.global)

12) Audit.

Upon thirty (30) days’ prior notice SGI may request, and you must provide, a Software-facilitated system-generated report (the “System Report”) verifying your Software deployment. You acknowledge that the System Report is based on technological features of the Software that provide Software deployment verification. If the Software does not contain technological features that provide Software deployment verification, you will prepare and provide to SGI within the thirty (30)-day period an accurate Software deployment verification report for the Software. SGI will only request the System Report (or your prepared Software deployment verification report) at most one-time per year and will not unreasonably interfere with the conduct of your business. However, if a System Report or your prepared Software deployment verification report identifies that you are out of compliance with the license terms of this Agreement, you will be required to purchase the additional licenses and pay any reinstatement fees associated with the licenses and/or support and an out-of-compliance fee may also be assessed.

13) Export Controls.

You acknowledge that the Software is subject to U.S. and when applicable, European Union export regulations. You shall comply with applicable export and import laws and regulations for the jurisdiction in which the Software will be imported and/or exported. You shall not export the Software to any individual, entity or country prohibited by applicable law or regulation. You are responsible, at your own expense, for any local government permits, licenses or approvals required for importing and/or exporting the Software. SGI reserves the right to update its website, products, and services from time to time at its sole discretion. If SGI receives notice that you are or you become identified as a sanctioned or restricted party under applicable law, then SGI will not be obligated to perform any of its obligations under this license if such performance would result in violation of the sanctions or restrictions.

You represent and warrant that (i) you are not located in a country that is subject to the United States government embargo, or that has been designated by the United States government as a "terrorist supporting" country, and (ii) you are not listed on any United States government list of prohibited or restricted parties.

14) Governing Law.

All disputes arising out of or relating to this Agreement, or its subject matter will be governed by the substantive laws: (a) of the State of Delaware, U.S.A. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The Uniform Computer Information Transactions Act as enacted shall not apply. The United States District Court for the District of Delaware shall have exclusive jurisdiction over all disputes arising out of or relating to this Agreement or its subject matter.

15) Confidentiality

Each party hereto acknowledges that by reason of its relationship with the other party hereunder, it may have access to confidential information and materials concerning the other party’s business, technology, and/or products that is confidential to the other party (“Confidential Information”). Each party’s Confidential Information is of substantial value to the party, which value could be impaired if such information was disclosed to third parties or used in violation of this Agreement. Written or other tangible Confidential Information must at the time of disclosure be identified and labeled as Confidential Information belonging to the disclosing party. When disclosed



orally or visually, Confidential Information must be identified as confidential at the time of the disclosure, with subsequent confirmation in writing within fifteen (15) days after disclosure. Each party agrees that it will not use in any way for its own account or the account of any third party, such Confidential Information, except as authorized under this Agreement, and will protect Confidential Information at least to the same extent as it protects its own Confidential Information and to the same extent that a reasonable person would protect such Confidential Information. Neither party may use the other party's Confidential Information except to perform its duties or exercise its rights under this Agreement. The Confidential Information restrictions will not apply to Confidential Information that is (i) already known to the receiving party at the time of access hereunder, (ii) becomes publicly available through no wrongful act of the receiving party, (iii) independently developed by the receiving party without benefit of the disclosing party's Confidential Information, (iv) has been rightfully received from a third party not under obligation of confidentiality or (v) is required to be disclosed by law, provided the party compelled to disclose the Confidential Information provides the party owning the Confidential Information with prior written notice of disclosure adequate for the owning party to take reasonable action to prevent such disclosure, where reasonably possible. Unless otherwise agreed to by both parties, upon termination of this Agreement or an applicable Addendum, each party will return the other party's Confidential Information.

16) Miscellaneous.

- a) Except for actions for non-payment or breach of SGI's proprietary rights in the Software and Documentation, no action, regardless of form, arising out of this Agreement may be brought by either party more than two (2) years after a party knew or should have known of the claim.

- b) Any terms of this Agreement which by their nature should survive the termination of this Agreement shall survive such termination.

- c) SGI may assign this Agreement, in whole, at any time subject to your prior written consent; provided, however, any assignment resulting from or as part of a merger, consolidation, acquisition of all or substantially all the assets of SGI, or internal restructuring or reorganization does not require your consent.

- d) This Agreement, including all documents incorporated by reference, 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. If you issue an order to an Authorized Partner or to SGI and the terms and conditions of the order conflict with the terms and conditions of (i) this Agreement or (ii) the Purchase Agreement, then the terms and conditions specified in this Agreement and in the Purchase Agreement shall control. No terms or conditions of any pre-printed or boilerplate purchase order of yours or other document of yours will govern the transactions contemplated by this Agreement. This Agreement may not be modified except by a written addendum issued by a duly authorized representative of SGI. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by SGI. If any provision of this Agreement is held invalid, unenforceable, invalid, or prohibited under law, then such provision will be deemed restated to reflect the original intention of the parties as nearly as possible in accordance with applicable law and the remainder of this Agreement shall continue in full force and effect.

- e) All notices, requests, demands and determinations for SGI under this Agreement (other than routine operational communications) shall be sent to the applicable entity address in Section 1(g) of this Agreement addressed to "Attention: Legal Department".