

## **On-Premise End User License Agreement (EULA)**

PLEASE READ THIS DOCUMENT CAREFULLY BEFORE INSTALLING THE SOFTWARE. BY INSTALLING AND USING THE SOFTWARE, YOU AGREE ON BEHALF OF THE ENTITY LICENSING THE SOFTWARE AND WHO IS BECOMING A PARTY TO THIS LICENSE AGREEMENT (“THE COMPANY”) TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND THAT YOU HAVE THE NECESSARY AUTHORITY TO BIND THE COMPANY TO THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THE AGREEMENT, DO NOT INSTALL OR USE THE SOFTWARE.

This agreement was last updated on November 20, 2013. This is an agreement entered into by and between you (the “Company”) and Ragic, Inc. and its subsidiaries. This Agreement states the terms and conditions upon which Ragic offers to license the Ragic On-Premise Plan software provided in this package together with all related documentation and accompanying items including, but not limited to, the executable programs, drivers, libraries and data files associated with such programs (collectively, the “Software”).

### **DEFINITIONS**

Accessible Code means source code contained within the Software that is accessible under this Agreement. Affiliate means a company which is controlled, under common control or controlling the Company during the period of such control. For the purposes of this Agreement, “control” shall mean ownership, directly or indirectly, of more than 50% of the shares in the Company (or other voting securities) which vote for the election of the board of directors or other managing body of the Company.

End User means an employee, contractor or agent of the Company and its Affiliates authorized by the Company to use the Software as per the terms of this Agreement.

OEM Distribution means distribution of the Software as either a bundled add-on to, or embedded component of, another application with such application being made available to its users as, but not limited to, an on-premise application, a hosted application, a Software-as-a-Service offering or a subscription service for which the distributor of the application receives a license fee or any form of direct or indirect compensation.

Protected Code means source code contained within the Software that is protected against access by Ragic and is not accessible under this Agreement. Distribution Archive means a software installer package or any other distribution medium commonly utilized to package and distribute software.

Customer Service Systems means any online system provided by Ragic or its service providers to provide Company with product support, access to the Software, or user licenses, though not limited to these services.

## **1. Grant of Rights**

For the term of this Agreement and subject to the Company's payment of the license fees as defined below Ragic grants the Company a non-exclusive, non-transferable, non-sublicensable right to use and modify the Software only for the Company's own internal use and limited to the number of End Users for which the Company has paid the applicable license fee.

## **2. Company's Responsibility for End Users**

The Company shall be responsible for any act or omission of all End Users and for their compliance with all of the terms of this Agreement. Any action or breach by any of the Company's employees, contractors, agents or Affiliates shall be deemed an action or breach by the Company of this Agreement and the Company hereby indemnifies and holds Ragic harmless from any and all such breaches of this Agreement. The Company waives all of those defenses that the Company may have in law or otherwise which may be raised to avoid liability should the Company not be liable for its employees, contractors', agents' or Affiliates' acts, omissions and non-compliance with the terms of this Agreement.

## **3. Delivery and Acceptance of the Software**

The Software shall be deemed accepted once the Company has successfully downloaded and unpacked the Distribution Archive.

## **4. Restrictions**

The Company shall not, directly or indirectly: (i) remove or alter any copyright, trademark or proprietary notice in the Software; (ii) transfer, use or export the Software in violation of any laws or regulations of any government or governmental agency; (iii) reverse engineer, decompile or modify any protected code which forms part of the Software; (iv) distribute the Software via OEM Distribution without entering into a separate OEM Distribution Agreement with Ragic; (v) redistribute the Accessible or Protected Code; (vi) use and or modify the Software to develop a competitive product; and (vii) commit any act or omission the likely result of which is that Ragic's reputation will be brought into disrepute or which act or omission could reasonably be expected to have or does have a material and adverse effect on Ragic's interests.

The Software includes license protection mechanisms that are designed to manage and protect the intellectual property rights of Ragic. The Company must not modify or alter those features to try to defeat the Software use rules that the license protection mechanisms are designed to enforce.

Notwithstanding anything to the contrary in this Agreement, during the period of this Agreement the Company may continue to use the Software initially provided under this Agreement with the source code and license key and use differing databases, web servers or operating systems than the database, web server or

operating system initially selected by the Company on installation of the Software at no charge.

Proprietary Rights; Ragic and its licensors shall own all right, title, and interest to the Software, technology, information, code or software provided to Company, including all portions, copies or modifications thereof. Except as expressly provided herein, no licenses of any kind are granted hereunder, whether by implication, estoppel, or otherwise.

## **5. Fees and Payment**

End User Accounts: The Company shall designate an Administrator and notify Ragic of the identity and contact information for said Administrator. The Administrator may add End Users to the Company's subscription for the Software by placing an order with Ragic. The Company is responsible for all activity occurring under the Company's End User's accounts. The Company shall notify Ragic immediately of any unauthorized use of any password or account that provides Company access to the Customer Service Systems, or unauthorized copying or distribution of the Software or related proprietary material. End User accounts cannot be shared or used by more than one individual End User but may be reassigned to new End Users replacing former End Users.

## **6. License Fee**

The Company shall pay to Ragic an amount specified on the Ragic website for the number of End Users that Company selects. Payment of the license fee shall be due and payable as set forth in the terms and conditions on the Ragic website. All fees paid to Ragic are non-refundable. The Company will also pay all applicable taxes, including sales, use, personal property, value-added, excise, customs fees, import duties, stamp duties and any other similar taxes and duties, including penalties and interest, imposed by any federal, state, provincial or other government entity on the transactions contemplated by this Agreement.

## **7. Records Retention**

Unless the company has purchased an Unlimited Use License, the Company shall maintain accurate records necessary to verify the number of End Users. Upon Ragic's written request, the Company shall provide Ragic with such records within ten (10) days. If the Company has more End Users than the Company has paid for, the Company shall immediately pay Ragic an additional license fee in addition to any costs incurred by Ragic associated with reviewing such records.

## **COPYRIGHT**

Ragic reserves all rights not expressly granted to you in this EULA. The Software is protected by copyright and other intellectual property laws and treaties. Ragic and/or its licensors own the title, copyright, and other intellectual property rights in the Software. The Software is licensed, not sold. The Company may not

remove the copyright notice from any copy of the Software or any copy of the written materials, if any, accompanying the Software.

## **MERGER OR INTEGRATION**

Should the Company merge any portion of the Software or accessible code into, or integrate any portion of the Software or accessible code with, any other program or code, any portion of the Software or accessible code merged into or integrated with another program, if any, will continue to be subject to the terms and conditions of this Agreement, and the Company must reproduce on the merged or integrated portion all copyright and other proprietary rights notices included in the originals of the Software or accessible code.

## **TRANSFER OF LICENSE**

The Company may not transfer its license in terms of this Agreement to any external third parties.

## **LIMITATIONS ON USING, COPYING, AND MODIFYING THE SOFTWARE**

Except to the extent expressly permitted by this Agreement or by the laws of the jurisdiction where the Company acquired the Software, it may not use, copy or modify the Software. Nor may the Company sub-license any of its rights under this Agreement.

## **DECOMPILING, DISASSEMBLING, OR REVERSE ENGINEERING**

The Company acknowledges that the Software contains trade secrets and other proprietary information of Ragic and its licensors. Except to the extent expressly permitted by this Agreement or by the laws of the jurisdiction where the Company is located, it may not decompile, disassemble or otherwise reverse engineer the Software, or engage in any other activities to obtain underlying information that is not visible to the user in connection with the normal use of the Software.

In particular, the Company agrees not for any purpose to transmit the Software or display the Software's object code on any computer screen or to make any hardcopy memory dumps of the Software's object code. If the Company believes that it requires information related to the interoperability of the Software with other programs, it shall not decompile or disassemble the Software to obtain such information, and it agrees to request such information from Ragic at the address listed below. Upon receiving such a request, Ragic shall determine whether the Company requires such information for a legitimate purpose and, if so, Ragic will provide such information to the Company within a reasonable time and on reasonable conditions.

In any event, the Company will notify Ragic of any information derived from reverse engineering or such other activities, and the results thereof will

constitute the confidential information of Ragic that may be used only in connection with the Software.

## **DURATION AND TERMINATION**

The license granted to the Company is effective immediately and permanently. The license will also terminate automatically without any notice from Ragic if the Company fails to comply with any term or condition of this Agreement. Upon termination, Ragic may also enforce any rights provided by law. The provisions of this Agreement that protect the proprietary rights of Ragic will continue in force after termination.

## **SOFTWARE MAINTENANCE**

Software Maintenance includes Ragic's providing to the Company of updates and/or enhancements of the Software made generally available to customers from time to time, and online technical support (and where applicable, phone support) to one Company-designated technical contact for the sole purpose of addressing technical issues relating to the use of the Software (excluding any form of on-site visits by Ragic personnel or contractors). Company will have free Software Maintenance effective for the duration of 1 (one) year from the start of the subscription period. Company will have the right to purchase additional Software Maintenance after this free Software Maintenance ends. The fee for additional purchased Software Maintenance is in accordance with article 6 (Fees and Payment for Purchased Services) under the Subscription Agreement.

Ragic will make commercially reasonable best efforts to remedy defective code and to release these fixes as updates according to Ragic's product roadmap.

## **DISCLAIMER OF ANY WARRANTY**

Ragic does not warrant that the functions contained in the Software will meet the Company's requirements or that the operation of the Software will be correct, uninterrupted or error-free. Ragic provides evaluation copies of the Product so that customers can assess the Product.

**THE SOFTWARE IS PROVIDED AS-IS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NONINFRINGEMENT.**

The Company assumes responsibility for the support and fault-finding of any modifications made to the Software, or merger and integration undertaken with or between any other program or code.

The Company assumes full responsibility for the selection of the Software to achieve its intended results, and for the installation, use and results obtained from the Software. The Company also assumes the entire risk as it applies to the quality and performance of the Software. Should the Software prove defective,

the Company (and not Ragic, or its distributors or dealers) assumes the entire cost of any and all necessary servicing, repair or correction.

Some countries/states do not allow the exclusion of implied warranties, so the above exclusion may not apply to the Company. Ragic disclaims all warranties of any kind if the Software was customized, repackaged or altered in any way by any third party other than Ragic.

## **INFRINGEMENT**

During any term of this Agreement, if any portion of the Software is held by a court of competent jurisdiction to infringe any third party intellectual property rights and the Company incurs a liability or expense as a result of such holding, then the Company's sole remedy shall be, and Ragic will, at its option: (i) obtain the right for the Company to continue to use the Software consistent with this Agreement; (ii) modify the Software so that it is non-infringing; or (iii) replace the infringing component with a non-infringing component, or (iv) refund all money paid in the then-current calendar quarter under this Agreement and all of the Company's rights and licenses under this Agreement shall automatically terminate.

## **INDEMNIFICATION**

If the Company distributes the Software in violation of this Agreement, it hereby indemnifies, hold harmless and defends Ragic from and against any and all claims or lawsuits, including attorney's fees and costs that arise, result from or are connected with the use or distribution of the Software in violation of this Agreement.

## **LIMITATION OF REMEDIES AND DAMAGES**

In no event will Ragic or its licensors be liable for any indirect, incidental, special or consequential damages, or for any personal injury or bodily injury (including death) to any persons caused by Ragic's negligence, or for any lost profits, lost savings, loss of use, lost revenues or lost data arising from or relating to the Software or this Agreement, even if Ragic or its licensors have been advised of the possibility of such damages. In no event will Ragic's liability or damages to the Company or any other person ever exceed the amount paid by the Company to use the Software, regardless of the form of the claim.

Some countries/states do not allow the limitation or exclusion of liability for incidental or consequential damages, so the above limitation or exclusion may not apply to the Company.

## **GOVERNMENT RESTRICTED RIGHTS**

Programs delivered to the U.S. Defense Dept. are delivered with Restricted Rights and the following applies: "Restricted Rights Legend: Use, duplication or

disclosure by Government is subject to restrictions as currently set forth in subparagraph (c)(1)(ii) of DFARS 252-227-7013, Rights in Technical Data and Computer Software (October 1988). Software manufacturer is Ragic Inc., c/o 60 Duet, Irvine CA 92603, USA. Programs delivered to a U.S. Government Agency not within the Defense, Dept. are delivered with "Restricted Rights" as defined in FAR 52.227-14, Rights in Data - General, including Alternate III (June 1987).

## **CONTRACTOR/MANUFACTURER**

The Contractor/Manufacturer for the Software is:

Ragic, Inc.

60 Duet

Irvine CA 92603

USA

Phone: +1 888.666.8037

## **GENERAL**

This Agreement is binding on the Company as well as its employees, employers, contractors and agents, and on any successors and assignees. Neither the Software nor any information derived therefrom may be exported except in accordance with the laws of the State of Delaware or other applicable provisions. This Agreement is governed by the laws of the State of Delaware. This Agreement is the entire agreement between Ragic and the Company and the Company agrees that Ragic will not have any liability for any untrue statement or representation made by it, its agents or anyone else (whether innocently or negligently) upon which the Company relied upon entering this Agreement, unless such untrue statement or representation was made fraudulently. This Agreement supersedes any other understandings or agreements, including, but not limited to, advertising, with respect to the Software. If any provision of this Agreement is deemed invalid or unenforceable by any country or government agency having jurisdiction, that particular provision will be deemed modified to the extent necessary to make the provision valid and enforceable, and the remaining provisions will remain in full force and effect. The original of this Agreement has been written in English, and that version will govern.