## Agreement Between You And EDX Wireless ("EDX")

("EDX") BINDING EFFECT. PLEASE READ CAREFULLY: This EULA applies to each software program or other proprietary product (each, a "Product") licensed to you by EDX, and limits your rights regarding the use of all computer software, firmware, fontware, typefaces and/or data (and all accompanying documentation) licensed to you as an integral part of the Product (whether embedded in the Product, provided separately at the same time as the Product or provided subsequent to your initial purchase of a license to the Product), including without limitation, any add on software modules provided for use with the Product (collectively, the "Program Materials"). As of the earlier of accepting the Goods as defined in the Order Acknowledgement, or installing Program Materials, as applicable, you are agreeing to be bound by the terms of this EULA, including, without limitation, that you will not use, copy, modify, rent, sell, or transfer the Program Materials, or any portion thereof, except as expressly provided for in this EULA. If you do not agree to be bound by the terms of this EULA DO NOT accept or install the Program Materials; instead promptly return the Product, the Program Materials and all accompanying items to EDX.

**LIMITED LICENSE GRANT:** You are not the owner of the Products or Program Materials. The Products and Program Materials are protected by the copyright laws of the United States and International Treaties. EDX does, however, grant you a personal, non-exclusive, limited license (or sublicense in the case of any portion of the Program Materials which EDX has licensed from a third party) to use the Program Materials and install the Product on, and ONLY on, either: (1) one or more singleuser computers; or (2) on a server of a multi-user computer system accessed over a local area network located at a facility maintained and operated by you. You MAY **NOT** allow more than one user to access the Product or Program Materials at any one time and you MAY NOT run more than one instance of the Product at any one time. You MAY NOT allow users not employed by, under contract to, or otherwise directly affiliated with you to access or use the Product or Program Materials. You MAY NOT copy or make an adaptation of any Program Materials which are copy protected or which are imbedded in any Product. You MAY NOT remove or alter or obstruct in any way any copyright or other intellectual property notice on or in the Program Materials and you must faithfully reproduce such notice on any copy of the Program Materials you are authorized to make under this Agreement. You MAY make a single back up copy of and make a single adaptation of any Program Materials which are not copy protected and not imbedded in a Product ONLY for archival purposes, or as an essential step in the utilization of the Program Material. You MAY copy, print and create derivative works of any or all of the documentation for your reference, but ONLY for internal training or operational purposes. You MAY NOT lend, rent, lease or otherwise transfer the Product or any of the Program Materials. You  $\textit{MAY}\ \textit{NOT}$ resell or distribute the Product or the Program Materials. You MAY NOT reverse engineer, decompile, or disassemble any of the Program Materials. You may permanently transfer your license to a Product and all related Program Materials to one other person *ONLY* if: (1) you transfer the Product and *ALL* associated Program Materials to that one person, and transfer or destroy all copies thereof previously made; (2) you provide EDX with written notice of the transfer; (3) BEFORE the transfer, the transferee has read this Agreement and has agreed in writing to be bound by ALL the terms and conditions hereof; and (4) an original copy of the transferee's agreement to be bound has been provided to EDX. Immediately upon such transfer: (1) your license granted hereunder shall automatically terminate; and (2) any and all contracts between you and EDX relating to service, maintenance or support of or for such Program Materials and such Product shall automatically terminate. EXCEPT AS EXPRESSLY PERMITTED ABOVE, ANY TRANSFER OF A PRODUCT AND ALL ASSOCIATED PROGRAM MATERIALS (OR ANY PORTION THEREOF) OR ANY COPY THEREOF IS NULL AND VOID AND AUTOMATICALLY TERMINATES YOUR LICENSE HEREUNDER AND REQUIRES YOU TO IMMEDIATELY RETURN THE KEY AND DESTROY THE MEDIA, PRODUCT, PROGRAM MATERIALS AND ALL COPIES THEREOF.

<u>TERM LICENSES:</u> EDX's default licensing term is perpetual unless otherwise specifically identified for the Software licensed. If you have licensed the Software subject to this EULA for a term shorter than a perpetual license, you acknowledge that the Software may be delivered to you with embedded security devices which may deactivate the Software after expiration of the license term. You agree that these security devices are not considered a defect of the Software and you release EDX from any and all claims, however characterized, arising from or related to these security devices or their operation.

**DATA CAPTURE AND USE:** You agree that EDX may collect and utilize technical information gathered as part of Software services that may be provided to you. Data capture in this form will only be used to improve EDX's products and/or provide customized services to you and will not be disclosed or disseminated to third parties except in an anonymized, aggregated form or for performing services on behalf of EDX

**LIMITED WARRANTY:** EDX warrants to you that: (1) the media on which the Program Materials are recorded ("the Media") and (2) the software license protection device required for use of the Product ("Key"), are free from defects in materials and workmanship under normal use and service for a period of ninety (90) days from the date of shipment as evidenced by a copy of the invoice. There is no warranty after the expiration of this ninety (90) day period. EDX's entire liability and responsibility, and your exclusive remedy, for breach of the above warranty shall be replacement of the defective Media or Key, as applicable, within a reasonable period of time after you return such Media or Key, as applicable, to EDX with a copy of

your invoice within the ninety (90) day warranty period. The replacement will either be a new or reconditioned Media or Key, as applicable, at EDX's sole discretion and option. EDX shall have no liability or responsibility, and you shall have no remedy: (1) for a defective Media or Key, as applicable, where the actual defective Media or Key, as applicable, is not returned to EDX; (2) for a defective Media or Key returned to EDX without a copy of your invoice; (3) for a defective Media or Key, as applicable, returned to EDX after the expiration of the ninety (90) day warranty period; or (4) for failure of a Media or Key, as applicable, resulting from accident, abuse, misapplication or any other non-normal use. Any replacement Media or Key furnished to you by EDX shall be warranted for ninety (90) days from the date of invoice by you under the same terms and conditions as the returned Media or Key, as applicable. If you ship a Media or Key, as applicable, you must assume the risk of damage or loss in transit; and you must use the original container (or the equivalent) and pay the shipping charge.

WARRANTY DISCLAIMERS: EXCEPT FOR THE EXPRESS WARRANTY PROVIDED ABOVE, THE MEDIA, KEYS, PRODUCTS AND PROGRAM MATERIALS (AND ALL PARTS THEREOF) ARE PROVIDED "AS IS." EDX MAKES NO OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE MEDIA, KEYS, PRODUCTS, THE PROGRAM MATERIALS OR ANY PART THEREOF, OR AS TO THEIR QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. EDX'S SUPPLIERS AND LICENSORS MAKE NO WARRANTIES OF ANY KIND.

<u>LIMITATIONS ON LIABILITY</u>: EDX'S ONLY LIABILITY AND RESPONSIBILITY, AND YOUR EXCLUSIVE REMEDY, WITH RESPECT TO WARRANTY CLAIMS IS AS SET OUT ABOVE. YOU AGREE THAT EDX SHALL HAVE NO OTHER LIABILITY OF ANY KIND (AND EDX'S SUPPLIERS AND LICENSORS SHALL HAVE NO LIABILITY OF ANY KIND), AND EXPRESSLY AGREE THAT EDX (AND IT'S SUPPLIERS AND LICENSORS) WILL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, OR LOST PROFITS, OR LOSS OF USE OR INTERRUPTION OF BUSINESS, REGARDLESS OF THE FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, ACTIONS IN CONTRACT, WARRANTY, NEGLIGENCE, OR PRODUCTS LIABILITY), EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY LOSSES, DAMAGES, COSTS OR EXPENSES ARISING FROM A BREACH OF THIS AGREEMENT BY EDX SHALL BE LIMITED TO DIRECT DAMAGES; PROVIDED, HOWEVER, IN NO EVENT SHALL EDX'S, OR ITS SUPPLIERS OR LICENSORS, LIABILITY EXCEED THE GREATER OF THE AMOUNT PAID TO EDX FOR THE SPECIFIC PRODUCT AND/OR PROGRAM MATERIALS TO WHICH THE CLAIM RELATES OR TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

<u>RESTRICTIONS IN CERTAIN STATES</u>: SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF IMPLIED WARRANTIES OR OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

<u>U.S. GOVERNMENT RESTRICTED RIGHTS:</u> The Program Materials are provided with Restricted Rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in FAR 52.227-14 and DFAR 252.227-7013 *et seq.* or their successor.

**TERMINATION OF THIS LICENSE:** This Agreement and the licenses granted hereunder may be terminated by you at any time, and by either party at any time if the other party is in breach of any of the terms or conditions of this Agreement. Upon termination, you will immediately uninstall the Program Materials from all computers and computer systems, destroy the Media, Product, Program Materials and all copies thereof and return the Key to EDX.

**<u>DISPUTE RESOLUTION</u>**: Any action or other proceeding for relief based or relating in whole or in part to this Agreement or the Program Materials or Products shall be filed in, and the parties consent to personal jurisdiction and venue in, the Federal and State Courts in Lane County, Oregon, having jurisdiction over the subject matter of such action. In any such action or proceeding the prevailing party shall be entitled to recover (in addition to any other relief awarded or granted) its reasonable costs and expenses (including attorneys' fees) incurred in the action or proceeding.

GENERAL PROVISIONS: This Agreement is governed by the substantive laws of the State of Oregon, USA, without regard to conflict of law rules. This Agreement is not governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. If any part of this Agreement is found invalid, void or unenforceable, it will not affect the validity of the balance of the Agreement, which shall remain valid and enforceable according to its terms. You agree not to ship, transfer or export the Product or Program Materials (or any part thereof or any product thereof) into any country or use the Product or Program Materials in any manner prohibited by the United States Export Administration Act or any other export laws, restrictions or regulations. Assignment of this Agreement by you is expressly prohibited, including without limitation, any assignment by way of merger, consolidation, change of control, operation of law or otherwise. Any attempt by you to assign this Agreement shall be null and void. This Agreement may only be modified in writing signed by an authorized officer of EDX. EDX has the right to conduct or have conducted audits to verify your compliance with this Agreement.