



## SOFTWARE LICENSE AND SERVICES AGREEMENT

This Software License and Services Agreement (the “Agreement”) is entered into and effective the \_\_\_ day of \_\_\_\_\_ 20\_\_ (the “Effective Date”) between Tamr Government Solutions, Inc., a Delaware corporation with offices at 1000 Massachusetts Avenue, Cambridge, MA 02138 (“Tamr”), and \_\_\_\_\_ a \_\_\_\_\_ corporation with a principal place of business at \_\_\_\_\_ (“Licensee” or “Customer”)

### **SOFTWARE LICENSE**

1.1 *License.* Subject to the terms and conditions of this Agreement and applicable order schedule attached hereto as Exhibit A or as otherwise agreed by the parties (“Order Schedule”), Tamr hereby grants to Licensee a non-exclusive, non-sublicensable and non-transferable object code license to (i) access and use the Software on a hosted basis where Licensee has elected for Tamr to host the Software on Licensee’s behalf or (ii) install, execute and use the Software at Licensee’s site or Licensee’s hosting provider, as indicated on the Order Schedule, and to use the accompanying product documentation (“Documentation”) for the term set forth in the Order Schedule (“Subscription Term”). Other restrictions on the scope of the license and use of the Software may be set forth in the applicable Order Schedule. Licensee may make a reasonable number of copies of the Software for the sole purpose of backing-up and archiving the Software. Each copy of the Software is subject to all of the terms and conditions of this Agreement and Licensee must retain all titles, trademarks, and copyrights as delivered in the original.

1.2 *Restrictions.* Licensee’s use of the Software is limited to the equipment and operating system configurations specified in the Documentation and/or Order Schedule. Tamr retains all rights, title, interest and ownership in and to the Software and any modifications, updates, upgrades, inventions and derivatives related thereto. Licensee shall not modify, adapt, resell, rent, lease, loan, or create or prepare derivative works based upon, the Software or any part thereof. Licensee may not use the Software as a service bureau, as an application service provider, to perform consulting or training services for a third party or in any commercial time share arrangement. Licensee may not use the Software in contravention to any applicable laws or government regulations. Licensee shall not decompile, disassemble or otherwise reverse engineer the Software. Licensee shall take all reasonable precautions to prevent unauthorized or improper use, access or disclosure of the Software.

### **SERVICES**

2.1 *Maintenance and Support Services.* During the Subscription Term, Tamr will provide Licensee with maintenance and support services as set forth in the Order Schedule in accordance with Tamr’s then-current Maintenance and Support program, the current version of which is attached hereto as Exhibit B (“Support”). Support is provided only for the latest revision of the current and the one prior major release of the Software, and does not apply to any deliverables that may be provided by Tamr to Licensee as part of other professional services. If Tamr provides support for earlier versions of the Software, such support will be treated, billed, and paid for, as other professional services in accordance with Tamr’s then current rates for such professional services. Software that is provided on a hosted basis by Tamr will be supported by Tamr remotely in accordance with Exhibit B.

2.2 *Professional Services and Training.* In the event Licensee requests Tamr to provide any professional services or training related to the Software, a description of the services and applicable terms shall be set forth in an Order Schedule or a mutually agreed statement of work signed by both parties (“SOW”). Unless otherwise agreed by the parties in a SOW, Customer shall own all rights, title and interest in any deliverable created by Tamr specifically for Customer under a SOW (“Deliverable”); provided, however, that (i) Tamr shall retain ownership of its pre-existing intellectual property included in a Deliverable (“Tamr IP”), and (ii) Tamr hereby grants Customer a perpetual license to use the Tamr IP as incorporated in the Deliverable for the sole purpose of using the Deliverable. Software, Support, professional services and training are collectively referred to as “Services”.

### **FEES AND PAYMENT TERMS**

Licensee shall pay Tamr the fees specified in an Order Schedule within thirty (30) days of the date of receipt of invoice. Tamr is expressly authorized by Licensee to invoice in advance for Software and Services unless otherwise set forth in the applicable Order Schedule. In addition to paying the applicable fees, Licensee shall also pay all reasonable pre-approved travel and out-of-pocket expenses incurred by Tamr in connection with any professional services rendered if mutually agreed in a SOW. Licensee shall provide a purchase order or notice that a purchase order is not required for purchase or payment prior to the shipment of any Software or the provision of any Services. Overdue balances are subject to a service charge equal to the lesser of 1.5% per month or the maximum legal interest rate allowed by law. Licensee shall be responsible for taxes levied on any transaction under this Agreement, including all federal, state, and local taxes, levies and assessments,



excluding any tax based on Tamr's income.

#### **4. CONFIDENTIALITY**

4.1 *Confidential Information.* Each party will regard any information provided to it by the other party and designated in writing as proprietary or confidential to be confidential ("Confidential Information"). Confidential Information shall also include information which, to a reasonable person familiar with the disclosing party's business and the industry in which it operates, is of a confidential or proprietary nature. A party will not disclose the other party's Confidential Information to any third party without the prior written consent of the other party, nor make use of any of the other party's Confidential Information except in its performance under this Agreement. Each party accepts responsibility for the actions of its agents or employees and shall protect the other party's Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used. The parties expressly agree that the Software and the terms and pricing of this Agreement are the Confidential Information of Tamr. Licensee will not remove or destroy any proprietary markings or restrictive legends placed upon or contained in the Software. A receiving party shall promptly notify the disclosing party upon becoming aware of a breach or threatened breach hereunder, and shall cooperate with any reasonable request of the disclosing party in enforcing its rights.

4.2 *Exclusions.* Information will not be deemed Confidential Information hereunder if such information: (a) is known prior to receipt from the disclosing party, without any obligation of confidentiality; (b) becomes known to the receiving party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing party; (c) becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (d) is independently developed by the receiving party. The receiving party may disclose Confidential Information pursuant to the requirements of applicable law, legal process or government regulation, provided that it gives the disclosing party reasonable prior written notice to permit the disclosing party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

#### **5. LIMITED WARRANTY**

5.1 *Warranty.* Tamr warrants that: (a) it has the right to grant the license to use the Software as set out in this Agreement; and (b) during the Subscription Term, the Software will perform in substantial conformity with the Documentation.

5.2 *No Other Warranty.* THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, TITLE, QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE, AND TAMR MAKES NO, AND DISCLAIMS ALL OTHER WARRANTIES.

5.3 *Remedy.* If the above warranties are breached, Tamr will, at its option and at no cost to Licensee, (a) remedy the non-conformity in the Software, or (b) replace any the non-conforming Software with a conforming version, or (c) refund amounts paid in respect for the non-conforming Software on a pro rata basis. Licensee will notify Tamr promptly in writing of any breach of warranty. Licensee will provide Tamr with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedies set out in this subsection are Licensee's sole remedies for breach of the above warranties.

#### **6. LIMITATION OF LIABILITY.**

6.1 *Consequential Damage Waiver.* EXCEPT AS MAY ARISE OUT OF EITHER PARTY'S BREACH OF SECTION 4, NEITHER PARTY WILL BE LIABLE TO THE OTHER OR ANY THIRD PARTY FOR LOSS OF PROFITS, OR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING COSTS, IN CONNECTION WITH THE SUPPLY, USE OR PERFORMANCE OF THE SOFTWARE OR SERVICES, OR THE PERFORMANCE OF ITS OTHER OBLIGATIONS UNDER THIS AGREEMENT OR AN ORDER SCHEDULE, EVEN IF IT IS AWARE OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES OR IS NEGLIGENT.

6.2 *Limitation of Liability* NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE TOTAL LIABILITY OF TAMR TO LICENSEE FOR ANY CLAIM UNDER THIS AGREEMENT AND ANY ORDER SCHEDULE, WHETHER IT ARISES BY STATUTE, TORT, CONTRACT OR OTHERWISE, WILL NOT EXCEED THE AMOUNTS PAID BY LICENSEE TO TAMR UNDER ANY ORDER SCHEDULE FOR THE SOFTWARE OR SERVICES IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT FIRST GIVING RISE TO THE CLAIM. THE FOREGOING LIMIT DOES NOT APPLY TO TAMR'S OBLIGATIONS UNDER SECTIONS 4 AND 7. THE PROVISIONS OF THIS AGREEMENT ALLOCATE RISKS BETWEEN THE PARTIES. THE PRICING SET FORTH IN THE ORDER SCHEDULES REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

#### **7. INTELLECTUAL PROPERTY INDEMNIFICATION**



7.1 ***Indemnity.*** Tamr shall defend Licensee (at Tamr's expense) against any claim or suit brought by a third party against Licensee alleging that the Software, or any part thereof, infringes upon a U.S. or European Union patent, or any copyright or misappropriates a trade secret of a third party. Tamr shall pay any damages finally awarded to such third party by a court of competent jurisdiction resulting from such claim or suit, or agreed to in a written settlement by Tamr. Tamr's obligations under this Section shall arise only if: (a) Licensee promptly notifies Tamr in writing of any such claim or suit in writing within seven (7) days of learning of any action, or any threatened action; (b) Tamr has sole control of the defense and settlement of such claim or suit; and (c) Licensee fully cooperates with Tamr. If the Software, or any part thereof, is held to infringe a copyright or misappropriate a trade secret, or in Tamr's sole discretion, is likely to infringe a copyright, Tamr (at Tamr's sole option) shall (i) procure for Licensee the right to continue using the Software; (ii) replace or modify the Software with products of equivalent functionality; or (iii) refund to Licensee the license fees paid by Licensee for the affected Software on a pro rata basis. Tamr shall have no responsibility under this Section if the claim arises from: (v) modification of the Software not carried out by Tamr; (w) Licensee's failure to install an update or upgrade that would have avoided the alleged infringement; (x) failure to use the Software in accordance with the Documentation; (y) Tamr's compliance with Licensee's designs or specifications; or (z) combination of the Software with products not provided by Tamr.

7.2 ***Sole Obligation.*** This Section 7 states Tamr's sole obligation and Licensee's sole remedy concerning any claim that the Software infringes or misappropriates any intellectual or proprietary rights of any third party.

## **8. USAGE VERIFICATION**

This Section 8 shall apply in cases where the Software is not being hosted by Tamr or its hosting provider. At Tamr's written request, and no more than once per year (unless Tamr reasonably suspects the license scope or restrictions have been violated), Licensee shall provide Tamr with a signed certification (a) verifying that the Software is being used pursuant to the provisions of this Agreement and (b) listing all copies and the respective locations of the Software. In addition to the foregoing, at Tamr's written request, and no more than annually, Licensee will permit Tamr to review and verify Licensee's deployment and use of the Software for compliance with the terms and conditions of this Agreement and the applicable Order Schedule, at Tamr's expense. Any such review shall be scheduled at least ten (10) days in advance, shall be conducted during normal business hours at Licensee's facilities, and shall not unreasonably interfere with Licensee's business activities. Licensee agrees to maintain all log files and provide Tamr access to such files during the review. If Licensee's use of the Software is found to be greater than contracted for, Licensee will be invoiced for the additional licenses and the unpaid license fees shall be payable in accordance with this Agreement.

## **9. TERMINATION**

This Agreement or an Order Schedule hereunder may be terminated only in the following circumstances: (a) by mutual agreement of Tamr and Licensee, (b) by either party if the other party is adjudicated as bankrupt, or if a petition in bankruptcy is filed against the other party and such petition is not discharged within sixty (60) days of such filing, or (c) by either party if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice thereof. Termination of the Agreement shall result in termination of all Order Schedules. Upon any termination of this Agreement or an Order Schedule, all applicable licenses are also terminated, and Licensee shall immediately cease use of the applicable Software and certify in writing to Tamr within thirty (30) days after termination that Licensee has destroyed or returned to Tamr such Software and all copies thereof. Termination of the this Agreement or an Order Schedule shall not limit either party from pursuing any remedies available to it, including injunctive relief, or relieve Licensee of its obligation to pay all license fees for the entire originally contracted Subscription Term and fees for Services performed through the effective date of termination; provided, however, that if Licensee terminates this Agreement or an Order Schedule for uncured breach by Tamr, Licensee will receive a pro rata refund of any prepaid Software license and Services fees. All provisions of this Agreement which by their nature are intended to survive the termination of this Agreement (including, without limitation, the provisions of Sections 1.3 and 3 through 10 inclusive shall survive such termination.

## **10. GENERAL PROVISIONS**

10.1 ***Entire Agreement and Controlling Documents.*** This Agreement, including any Order Schedules, represents the entire agreement between the parties with respect to the subject matter hereof, and supersedes all proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the parties relating thereto and is binding upon the parties and their permitted successors and assigns. Only a written instrument that refers to this Agreement or the applicable Order Schedule and is duly signed by the authorized representatives of both parties may amend this Agreement or such Order Schedule. The terms and conditions contained in any purchase order issued by Licensee shall be of no force or effect, even if the purchase order is accepted by Tamr. In the event of a conflict in terms between the Agreement and an Order Schedule, the Agreement shall control unless the Order Schedule expressly states the provision that it intends to amend.



10.2 Assignment. This Agreement shall be binding upon and for the benefit of Tamr, Licensee and their permitted successors and assigns. Licensee may not assign its rights under this Agreement either in whole or in part without the prior written consent of Tamr. Tamr shall have the right to assign this Agreement in whole as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its business or assets. Any attempted assignment in violation of this Section 10.2 will be void.

10.3 Export. Licensee acknowledges that the export of and access to any Software is subject to applicable U.S. export control laws and regulations, and Licensee agrees that it will not export, re-export or provide access to the Software in violation of such laws and regulations.

10.4 US Government Rights. The Software is a "Commercial Item," as that term is defined in 48 C.F.R. 2.101 (Oct. 1995), and is comprised of "commercial computer software" and "commercial computer software documentation". If acquired by or on behalf of a civilian agency, the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this License as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data), as well as Part 27.405(b)(2) of the Federal Acquisition Regulation ("FAR") and its successors. If acquired by or on behalf of any agency within the Department of Defense ("DOD"), the U.S. Government acquires this commercial computer software and/or commercial computer software documentation subject to the terms of this License as specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFARS") and its successors. This U.S. Government Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in computer software or technical data under this License. Any restrictive markings or legends on the software shall not be removed by any party.

10.5 Governing Law; Jurisdiction. This Agreement and any dispute arising hereunder shall be governed by and construed in accordance with federal laws of the United States.

10.6 Headings; Counterparts. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement may be executed in multiple counterparts, and in tangible, electronic, scanned or faxed form, each of which shall be deemed to be an original and all of which shall be deemed to be an original instrument.

10.7 Relationship of the Parties. Tamr and Licensee are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, or principal and agent between them, for any purpose whatsoever. Neither party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other party's name or on its behalf.

10.8 Force Majeure. Except for the obligation to make payments, nonperformance of either party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing party.

10.9 Notices. Any demand, notice, consent, or other communication required by this Agreement must be given in writing and shall be deemed delivered upon receipt when delivered personally or upon confirmation of receipt following delivery by internationally recognized overnight courier service, in each case addressed to the receiving party at its address set forth on an Order Schedule, with a copy to the Legal Department at the address first listed above for each party. Either party may change its address by giving written notice of such change to the other party.

10.10 Waiver and Severability. Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this Agreement will not affect the validity or enforceability of any of the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.

10.11. Use of Name and Customer Reference. Licensee agrees that (a) Tamr may use Licensee's name and logo in Tamr's customer list, b) it will serve as a customer reference, and, (c) upon approval by Licensee, it will issue a press release and case study generally describing the parties' relationship under this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date first written above.

**Tamr Government Solutions, Inc.**

**Licensee:**

By:

By:



Name:

Title:

Date:

Name:

Title:

Date: