



## GENERAL TERMS

These general terms (“**General Terms**”) apply to all Stralto, Inc. products and services including orders made with Stralto, Inc. partner (as defined below). Terms identified as applicable to certain customer categories (i.e., Americas, Asia-Pacific, EMEA or Government Customers) shall apply only to those customers and shall prevail over any conflicting terms. Additional terms applicable based on the product type indicated in an Order Form (i.e. Software License, Subscription Services, SaaS, Maintenance, Professional Services “**Sectional Terms**”) shall apply only to those Products or Professional Services and shall prevail over conflicting terms in these General Terms. By accepting an Order Form for an expansion or addition of existing Products type(s) that references these terms, Customer agrees that existing Products of the same type shall become subject to these General Terms and the applicable Sectional Terms, superseding any prior agreement terms governing such Products. However, any product-specific license or subscription limitations, obligations, or restrictions that applied to a particular Product identified in a prior order form shall continue to apply to such Product under these terms, excluding payment terms.

**GT1. General Definitions.** Some of the following definitions may not be applicable, depending on the specific Products or Professional Services. See also the applicable Sectional Terms for any Product-specific definitions that may be applicable.

**GT1.1 “Affiliate”** means any entity that is controlled by Customer, or is under common control with Customer, through at least a fifty-one percent (51%) ownership (or through board of directors' control if a not-for-profit entity). For Government Customers, the "Affiliate" definition and provisions related to Affiliates shall not apply.

**GT1.2 “Agreement”** means each fully executed Order Form together with these General Terms and the applicable Sectional Terms.

**GT1.3 “Americas Customer”** means a party that has ordered Products from a Stralto, Inc. office or an authorized Stralto, Inc. Partner located in North or South America.

**GT1.4 “Asia-Pacific Customer”** means a party that has ordered Products from a Stralto, Inc. office or an authorized Stralto, Inc. Partner located in Australia or Asia (except for the Middle East).

**GT1.5 “Correction”** means, without limitation, workarounds, support releases, component replacements, patches and/or documentation changes made available by Stralto, Inc..



**GT1.6 “Custom” or “Customization”** means creation of instructions using a programming language that enhances, adds to, or modifies software functionality or behavior. This includes, but is not limited to (1) any modification to the core source code of the Product or reports that are not configurable, or (2) a change to or the development of (i) Interfaces (as defined below), (ii) Integrations (as defined below), (iii) enhancements, and/or (iv) extensions, or code that produces custom output from the Product.

**GT1.7 “Customer”** means a party that, by acquiring Licenses or subscriptions to Stralto, Inc. Products or Professional Services, is subject to the applicable terms of this Agreement.

**GT1.8 “Defect”** means (1) a failure of the Software to operate substantially in accordance with the Documentation as it exists at the time the Software is delivered, (2) defective media upon which the Software is delivered (if tangible delivery), or (3) a material fault in the Stralto, Inc. software used to provide the SaaS Services.

**GT1.9 “Dispute”** means any dispute or claim arising out of or related to this Agreement.

**GT1.10 “Documentation”** means the user instructions, user guides, training guides, manuals, or educational materials, on any medium, for the Products provided by Stralto, Inc. for Customer’s use. All Documentation is copyrighted by Stralto, Inc..

**GT1.11 “Effective Date”** means the date of the second signature of an Order Form unless or otherwise defined in an Order Form.

**GT1.12 “EMEA”** means Europe, Middle East (as currently designated by Stralto, Inc.), and Africa.

**GT1.13 “EMEA Customer”** means a party that has ordered Products from a Stralto, Inc. entity or an authorized Stralto, Inc. Partner located in EMEA.

**GT1.14 “Evaluation Services” or “Evaluation Licenses”** means Services or Software, respectively, made available to Customer on a trial basis for a period of time and for the fees (if any) specified in the Order Form.

**GT1.15 “Government Customer”** means the U.S. or other country, state, or local government, an agency, or entity of the U.S. or other country, state, or local government, or an authorized non-governmental organization acting on behalf of the U.S. or other country, state, or local government that has ordered Products. Unless otherwise specified, Americas Customer provisions shall apply to Government Customers.



**GT1.16 “Integration”** means the translation of data from the format of one application directly into the format of another, or a data and command conversion on an ongoing basis between two or more systems.

**GT1.17 “Intellectual Property Rights”** means all copyrights, moral rights, database rights, derivative works, patents, patentable ideas, inventions, patent applications, patent registrations, patent renewals, trade secrets, know-how, Marks, all rights in the nature of unfair competition rights, and rights to sue in passing off, and confidentiality or any other similar proprietary right arising or enforceable under applicable law.

**GT1.18 “Interface”** means any standard functionality for providing input and output to and from outside applications.

**GT1.19 “ISV Services”** means Third Party Services which an independent software vendor (ISV) partner supplies that may integrate with the Stralto, Inc. Services, and for which the ISV partner solely and directly provides the SaaS subscription (including warranty and liability limits) for ISV Services to the Customer.

**GT1.20 “ISV Software”** means Third Party Software which an independent software vendor partner (ISV) supplies that may integrate with the Stralto, Inc. Software, and for which the ISV partner solely and directly provides the license or software as a service subscription, maintenance and services terms (including warranty and liability limits) for ISV Software to the Customer.

**GT1.21 “License”** means a non-exclusive, non-transferable right to use On-Premise Software in a machine-readable form, together with the Documentation, solely for Customer's internal business purposes. Some Software may require equal numbers of Licenses for proper functionality and issuance of a License Key.

**GT1.22 “Marks”** means registered or unregistered trademarks, service marks, trade names, logos, service names, or other proprietary markings.

**GT1.23 “Misuse”** means any use of the Products in disregard of any Documentation other written instructions, warning messages, or known or reasonably anticipated adverse consequences.

**GT1.24 “Mobile Application”** means an application developed by Stralto, Inc. to provide Product functionality for use on mobile phones, tablets, and other portable devices.

**GT1.25 “Order Form”** means a document in either tangible or electronic form that specifies the Products, maintenance, Professional Services (including an SOW in any form), License term, or



Services period, as applicable, License/Services types and quantities, fees, and applicable order-specific terms and conditions, which will take precedence over any conflicting terms unless otherwise specified.

**GT1.26 “Partner”** means an entity with whom Stralto, Inc. has an independent contractor business relationship such as a reseller or supplier of Products and/or Professional Services. The parties acknowledge and agree that in this context, the term "partner" shall not imply any legal or statutory partnership concepts.

**GT1.27 “Personal Information”** means information provided to Stralto, Inc. by or at the direction of Customer, or to which access was provided to Stralto, Inc. by or at the direction of Customer, in the course of Stralto, Inc.’s performance under this Agreement that relates to an identified or reasonably identifiable natural person. Unless required by applicable law, Customer’s business contact information is not by itself deemed to be Personal Information.

**GT1.28 “Privacy Laws”** means legislation, statutory instruments and any other enforceable laws, codes, regulations, or guidelines regulating the collection, use, disclosure and/or free movement of Personal Information that applies to any of the parties or to this Agreement, including in particular any legislation implementing the General Data Protection Regulation (“GDPR”) (EU) 2016/679 and the Privacy and Electronic Communications Directive 2002/58/EC (as amended by Directive 2009/136/E) in the applicable EU member state.

**GT1.29 “Process” or “Processing”** means any operation or set of operations which is performed on Personal Information or on sets of Personal Information, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction.

**GT1.29(a) “Controller”** means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.

**GT1.29(b) “Processor”** means a natural or legal person, public authority, agency, or other body which processes personal data on behalf of the Controller.

**GT1.30 “Products”** means collectively, Stralto, Inc.’s Software and Services offered to Customers.

**GT1.31 “Product-Specific Terms”** means terms in this Agreement that apply only to a specific Product.



**GT1.32 “Professional Services”** means any set-up, configuration, training, research or consulting services, including, without limitation, Customer-specific user interface modeling, data interfaces or providing Customizations.

**GT1.33 “SaaS” or “SaaS Services”** means the Stralto, Inc. application or applications provided as a service by Stralto, Inc. that are ordered and purchased by Customer identified in the Order Form, including associated offline components but excluding any third-party technology or applications and Professional Services.

**GT1.34 “Services”** means, collectively, any Stralto, Inc. applications provided as Subscription or SaaS Services that are ordered by Customer identified in the Order Form for the specified period, including associated offline components, and including services provided under a maintenance plan, but excluding Professional Services. For clarity, in the case of SaaS Services, the Customer receives access to Stralto, Inc. software functionality and provides Customer Data (as defined in the SaaS Services terms), whereas in the case of Subscription Services, the Customer accesses Stralto, Inc.-provided content.

**GT1.35 “Software”** means the Stralto, Inc. software products and any Third-Party Software (except for ISV Software) listed on an Order Form and licensed to Customer by Stralto, Inc. on a perpetual or term basis installed on equipment that Customer or Customer’s Support Contractor owns, leases, or otherwise controls.

**GT1.36 “SOW”** means statement of work, work order or any other document authorizing Professional Services (excluding purchase orders) including training, executed by Customer or by both parties.

**GT1.37 “Subscription” or “Subscription Services”** means the right of a Customer and its Authorized Users to access subscribed-to content made available during the Subscription Period.

**GT1.38 “Subscription Period”** means the period during which Customer may use the Services, as specified in the Order Form. Unless otherwise specified in the applicable Order Form, the Subscription Period begins on the Effective Date of the Order Form.

**GT1.39 “Support Contractor”** means a third party with whom Customer has contracted to install, maintain, host, or operate the Software or to use, maintain, or operate Services exclusively for and on behalf of Customer subject to the terms and conditions of this Agreement. Customer must provide written notice to Stralto, Inc. identifying any Support Contractor that is given access to the Software or SaaS Services.



**GT1.40 “Term License”** means a License to use Software for a fixed period of time identified in an Order Form; the fixed period of time is the “Term.”

**GT1.41 “Third Party Software”** means any third party software listed in an Order Form or indicated in Product Specific Terms that is produced by a party other than Stralto, Inc.. Third party software is supported by Stralto, Inc. unless otherwise indicated on the Order Form.

**GT1.42 “Third Party Terms”** means terms issued by a third party that govern Customer’s use of the Products or Services. Stralto, Inc. may notify Customer of Third Party Terms by referencing them in this Agreement or future Order Forms, or by providing other written notice from time to time. All Third Party Terms are incorporated into this Agreement by this reference.

**GT1.43 “Trade Controls”** means export control and sanction requirements including without limitation the U.S. Export Administration Regulations, economic sanctions administered by the U.S. Department of the Treasury and export control and economic sanction requirements of other jurisdictions as applicable to the parties.

**GT1.44 “Updates”** means upgrades, modifications, improvements, enhancements, extensions, new releases, and other changes to the Software or Documentation that Stralto, Inc. makes available.

**GT1.45 “U.S. Government Customer”** means the U.S. government, a U.S. government agency or entity, or an authorized non-governmental organization acting on behalf of the U.S. Government or a U.S. government agency or entity.

**GT2. Invoicing; Payment; Taxes.** (SECTION GT2 APPLIES ONLY TO TRANSACTIONS BETWEEN STRALTO, INC. AND CUSTOMER AND DOES NOT APPLY TO TRANSACTIONS BETWEEN CUSTOMER AND STRALTO, INC. PARTNERS.)

**GT2.1 Payments and Payment terms.** All fees and other charges referred to in the Agreement will be paid in the currency specified in the Order Form. Unless otherwise specified, the currency is US Dollars. All payments made under this Agreement are non-refundable, except as specifically provided in this Agreement. Payment terms may differ by Product.

**GT2.2 Disputed Invoices.** Customer will notify Stralto, Inc. within fifteen (15) days after the date of an invoice if there is a dispute regarding that invoice. Stralto, Inc. will work in good faith with Customer to promptly correct errors or resolve disputes. Customer shall pay the undisputed portion of the invoice in full when due and notify Stralto, Inc. in writing as to the nature and substance of any disputed portion.



**GT2.3 Taxes.** Fees, costs and expenses described in this Agreement do not include any sales, use, personal property, duty, levy or similar government charge, value added or goods/services taxes. Stralto, Inc. may list applicable taxes as separate items on Customer's invoice, and Customer shall be responsible to pay and/or reimburse Stralto, Inc. for all taxes (other than taxes based on Stralto, Inc.'s income). If withholding taxes are imposed by any government, Customer shall remit such withholding taxes in accordance with applicable law, gross up the applicable payment amounts to ensure that Stralto, Inc. receives the full amount of fees invoiced, and provide Stralto, Inc. with applicable evidence of withholding. Stralto, Inc. may invoice taxes unless Customer has provided adequate evidence of exemption upon execution of this Agreement. (Note: Customer is not permitted to resell the Products, so a resale certificate does not qualify as a tax exemption certificate unless specifically agreed in this Agreement or unless Customer has a separate reseller agreement with Stralto, Inc..) Stralto, Inc. shall not issue credits for taxes billed before Customer provides evidence of a valid exemption. Customer shall be liable to Stralto, Inc. for any costs, fees and taxes that Stralto, Inc. incurs due to any invalid tax exemption claimed by Customer.

**GT2.4 Late Payments.** Stralto, Inc. may charge interest at the rate of one and one-half percent (1½%) per month, eighteen percent (18%) per annum, or at the highest rate allowed by law, whichever is less, from the date due until paid, whether before or after judgment. Stralto, Inc. may suspend licenses, maintenance, Services, Professional Services, or other performance if Customer fails to make full payment of any undisputed amount owed under this Agreement within ten (10) days after written notice from Stralto, Inc..

**GT2.5 Third Party Payments.** Customer may separately arrange with a third party to make some or all payments to Stralto, Inc. required by this Agreement. Customer must notify Stralto, Inc. and provide reasonable documentation to Stralto, Inc. of the arrangement requested before Stralto, Inc. will invoice a third party directly. If Stralto, Inc. has not received notice and documentation of a third party payment arrangement prior to invoicing, Stralto, Inc. will not re-issue invoices. If a third party fails to make any undisputed payment when due, Customer shall promptly pay Stralto, Inc. and Stralto, Inc. may invoice Customer directly for all amounts due and Customer shall remain liable for all such amounts.

**GT3. Confidential Information.**

**GT3.1** "Confidential Information" means any information which one party ("Discloser") provides, either directly or indirectly, to the other (Recipient) in connection with this Agreement, including the Products and Personal Information, the terms of this Agreement, or information related to the business of the Discloser that (1) if in tangible form, is clearly marked at the time of disclosure as being confidential, or (2) if disclosed orally or visually, is designated at the time of disclosure as



confidential, or (3) is reasonably understood to be confidential or proprietary information, whether or not marked.

**GT3.2** Confidential Information will be protected and held in confidence by the Recipient and will be used only for the purposes of this Agreement and related internal administrative purposes.

Disclosure of the Confidential Information will be restricted to the Recipient's affiliates, employees, contractors and business partners on a "need to know" basis, provided that they are bound by written confidentiality obligations no less stringent than those in this Agreement prior to any disclosure. Confidential Information does not include information that (1) is already known to Recipient at the time of disclosure, (2) is or becomes publicly known through no wrongful act or failure of the Recipient, (3) is independently developed by Recipient without benefit of Discloser's Confidential Information, or (4) is received from a third party which is not under and does not thereby breach an obligation of confidentiality.

**GT3.3** Recipient agrees to protect Discloser's Confidential Information at all times and in the same manner as each protects the confidentiality of its own proprietary and confidential materials of similar kind, but in no event with less than a reasonable standard of care. Recipient may disclose Confidential Information to the extent required by law, provided that the party required to disclose the Confidential Information provides the Discloser, to the extent permitted by law, with notice as soon as reasonably practicable to allow the Discloser an opportunity to respond to such requirement, and provided further that any required disclosure does not relieve Recipient of its confidentiality obligations with respect to any other party. These confidentiality restrictions and obligations will remain in effect until the information ceases to be Confidential Information. If Customer participates in a Stralto, Inc.-sponsored group event, this Confidential Information Section shall apply to Confidential Information disclosed by any group participant, and Stralto, Inc. may provide a copy of this Confidential Information Section to any Discloser seeking to enforce its provisions.

**GT3.4** Upon the request of Discloser, the Recipient shall promptly return to the Discloser all copies of the Confidential Information, and any documents derived from the Confidential Information, or at the Discloser's option, shall certify in writing that all copies of the Confidential Information and derivative documents have been destroyed. The Recipient may return any Confidential Information to the Discloser at any time. This obligation to return or destroy materials or copies thereof does not extend to automatically generated computer back-up or archival copies generated in the ordinary course of Recipient's information systems procedures, provided that Recipient shall make no further use of Confidential Information contained in those copies.





**GT3.5** Customer may provide Confidential Information to Stralto, Inc. in connection with a support request or a Professional Services engagement. Prior to disclosing or delivering any Confidential Information that is subject to restrictions under federal, state, or international data privacy/security or Trade Controls, including without limitation any restrictions, laws or regulations that will apply to the transfer by Stralto, Inc. of the Confidential Information to any of its affiliates, employees, contractors and alliance partners located anywhere in the world ("Restricted Data"), Customer shall provide advance written notice to Stralto, Inc.. For Confidential Information subject to Trade Controls, Customer will provide such Confidential Information via an agreed upon sharing system or by Customer-provided laptop. Stralto, Inc. may add a surcharge to cover additional costs of handling Restricted Data. If Customer fails to identify Restricted Data, Customer shall be responsible for any liability or claims related to Stralto, Inc.'s handling or export of any such Restricted Data in the normal course of Stralto, Inc.'s business. Stralto, Inc. may use Confidential Information for testing or development purposes, provided that Stralto, Inc. remains bound by the confidentiality obligations of any applicable license or nondisclosure agreement and applicable Restricted Data obligations. Notwithstanding the foregoing, and for EMEA Customers and for other Customers who provide written notice to Stralto, Inc. that their Personal Information is subject to the GDPR, Stralto, Inc. will treat the Personal Information of such Customers as Restricted Data, and agrees that the requirement for written identification of Personal Information as required by this Section GT3.5 shall not apply to such Personal Information.

**GT4. Compliance with Law.**

**GT4.1** Each party will be responsible for its own compliance with applicable law, as well as all legal requirements related to (a) use of the Products and Professional Services, (b) Trade Controls, and (c) disclosure of data. Customer warrants to Stralto, Inc. that it will collect, use, transfer and otherwise Process any Personal Information collected by or through the Products or that Customer discloses to Stralto, Inc. under this Agreement in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.

**GT4.2** Customer will remain the Controller of Personal Information it provides to Stralto, Inc. and it will not instruct Stralto, Inc. to Process any such Personal Information in any way that will violate any applicable laws.

**GT5. Limitation of Liability.**

**GT5.1** EXCEPT FOR CUSTOMER'S VIOLATION OF THE TERMS OF ITS LICENSE OR THE USE RESTRICTIONS TERMS, INFRINGEMENT OF STRALTO, INC.'S INTELLECTUAL PROPERTY RIGHTS, OR THIRD PARTY CLAIMS ARISING OUT OF CUSTOMER'S BREACH OF THE THIRD PARTY TERMS, IN NO



EVENT SHALL EITHER PARTY OR STRALTO, INC.'S LICENSORS BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, BUSINESS INTERRUPTIONS, LOSS OF REVENUE OR PROFITS, LOST MANAGEMENT TIME, SAVINGS, DATA OR GOODWILL, OR ANY PENALTIES, FINES OR EXPENSES.

**GT5.2** EXCEPT FOR STRALTO, INC.'S OBLIGATIONS REGARDING INFRINGEMENT OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS, STRALTO, INC.'S AND ITS LICENSORS' TOTAL LIABILITY ON ANY CLAIM FOR ANY LOSS OR DAMAGE ARISING OUT OF, RESULTING FROM OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE PRODUCTS OR THE PROFESSIONAL SERVICES PROVIDED HEREUNDER SHALL NOT EXCEED THE TOTAL AMOUNT PAID OR PAYABLE TO STRALTO, INC. IN THE TWELVE (12) MONTHS PRIOR TO THE ACTION GIVING RISE TO THE LIABILITY WITH RESPECT TO THE PRODUCTS OR PROFESSIONAL SERVICES, RESPECTIVELY, GIVING RISE TO THE LIABILITY.

**GT5.3** THE LIMITATIONS OF LIABILITY APPLY TO DAMAGES ARISING FROM ANY CAUSE OF ACTION WHATSOEVER, INCLUDING WITHOUT LIMITATION CONTRACT, WARRANTY, STRICT LIABILITY, TORT, OR NEGLIGENCE, EVEN IF SUCH LOSS OR DAMAGE WAS FORESEEABLE OR CONTEMPLATED BY THE PARTIES. NOTWITHSTANDING THE FOREGOING, WITH RESPECT TO EVALUATION SERVICES AND EVALUATION SOFTWARE PROVIDED TO CUSTOMER, STRALTO, INC.'S AND ITS LICENSORS' TOTAL LIABILITY ON ANY CLAIM OF ANY KIND FOR ANY LOSS OR DAMAGE ARISING OUT OF, RESULTING FROM OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE EVALUATION SERVICES OR EVALUATION SOFTWARE DURING THE EVALUATION PERIOD SHALL NOT EXCEED FIVE HUNDRED DOLLARS (\$500.00).

**GT5.4** EXCEPT FOR STRALTO, INC.'S LICENSORS, WHO ARE THIRD PARTY BENEFICIARIES ONLY WITH RESPECT TO THEIR PORTION(S) OF THE PRODUCT OR SERVICE, ANY PERSON WHO IS NOT A PARTY TO THIS AGREEMENT SHALL HAVE NO RIGHT TO ENFORCE ANY TERM OF THIS AGREEMENT.

**GT5.5** NOTHING IN THIS LIMITATION OF LIABILITY SECTION OR OTHERWISE IN THE AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT EITHER PARTY'S LIABILITY TO THE OTHER FOR (1) FRAUD, (2) DEATH OR PERSONAL INJURY CAUSED BY THAT PARTY'S NEGLIGENCE, OR (3) ANY LIABILITY TO THE EXTENT THAT IT MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF LAW.

**GT5.6 FOR EMEA CUSTOMERS**, IN ADDITION TO SECTION GT5.5 ABOVE, NOTHING IN THIS LIMITATION OF LIABILITY SECTION OR OTHERWISE IN THE AGREEMENT SHALL EXCLUDE OR IN ANY WAY LIMIT EITHER PARTY'S LIABILITY FOR (1) DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE (INCLUDING NEGLIGENCE AS DEFINED IN THE UK S. 1 UNFAIR CONTRACT TERMS ACT 1977), OR (2) BREACH OF TERMS REGARDING TITLE IMPLIED BY THE UK S. 12 SALE OF GOODS ACT 1979 AND/OR S. 2 SUPPLY OF GOODS AND SERVICES ACT 1982.

## GT6. Governing Law & Dispute Resolution.

### GT6.1 Governing Law.

- A. **For Americas Customers (except for U.S. Government Customers):** This Agreement shall be governed by the laws of the State of New York , U.S.A., without regard to any conflicts of laws provisions. The Uniform Computer Information Transactions Act (UCITA) shall not apply to this Agreement.
- B. **For U.S. Government Customers:** This Agreement shall be governed by the applicable U.S. federal law of government contracts, without regard to any conflicts of laws provisions.
- C. **For Asia-Pacific Customers:** This Agreement shall be governed by the laws of Australia and particularly the laws of South Australia, without regard to any conflicts of laws provisions.
- D. **For EMEA Customers:** This Agreement shall be governed by the laws of England, without regard to any conflicts of laws provisions.
- E. **For all Customers:** The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

### GT6.2 Dispute Resolution

- A. **Informal Dispute Resolution.** In the event of any Dispute arising from or relating to this Agreement or the breach thereof, the parties hereto shall endeavor to settle the Dispute. To this effect, the management-level representative from each party shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If the management-level representatives are unable to reach such solution within thirty (30) days of the commencement of such negotiations, then the Dispute will be referred to executive-level representatives of each party for an additional thirty (30) day period of negotiation.
- B. **For Americas Customers (except for U.S. Government Customers):** If a Dispute is not resolved at the end of the sixty (60) day period described in Subsection (A) above, then upon notice by either party to the other, the Dispute shall be settled by final and binding arbitration in accordance with the American Arbitration Association ("AAA") Commercial Arbitration Rules. A single arbitrator appointed as provided in the AAA Commercial Arbitration Rules will be an attorney experienced in computer software, licensing, and information technology disputes. The arbitrator will have exclusive authority to resolve any and all disputes relating to procedural and substantive questions concerning the arbitration, including choice of venue and choice of law issues, and the formation, interpretation, applicability, scope, and enforceability of this Agreement to arbitrate. The arbitration proceeding shall be conducted in the English language and shall occur in the New York City , NY metropolitan area, or, with the consent of the arbitrator and parties, another mutually agreeable metropolitan area. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1-16, and judgment upon the award rendered by the arbitrator may be entered by any court of competent jurisdiction.
- C. **For U.S. Government Customers:** Any Dispute that cannot be resolved by the parties will be subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this Agreement to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this Agreement shall be a dispute to be resolved in accordance with the FAR Disputes clause at 48 C.F.R. 52.233-1, which is incorporated by reference.
- D. **For Asia-Pacific and EMEA Customers:** If a Dispute is not resolved at the end of the sixty (60) day period described in Subsection (A) above, then upon notice by either party to the other, the Dispute shall be finally resolved by binding arbitration before a single arbitrator pursuant to the Rules of



Arbitration ("Rules") and under the auspices of the International Chamber of Commerce (ICC). In accordance with the Rules, the parties shall select the arbitrator, and if they do not, an arbitrator shall be selected by the ICC in accordance with the Rules. The arbitrator shall be a lawyer knowledgeable in the chosen law and information technology disputes. At either party's request, the arbitrator shall give a written opinion stating the factual basis and legal reasoning for his/her decision. The arbitrator will have exclusive authority to resolve any and all disputes relating to procedural and substantive questions concerning the arbitration, including choice of venue and choice of law issues, and the formation, interpretation, applicability, scope, and enforceability of this Agreement to arbitrate. The arbitration proceeding shall be conducted in the English language and shall occur in Adelaide, Australia (for Asia-Pacific Customers) or London, UK (for EMEA Customers), or, with consent by the arbitrator and parties, another mutually agreeable metropolitan area.

- E. **Arbitration.** The arbitrator shall award appropriate fees and costs to the prevailing party. If it becomes necessary for either party to compel arbitration or to enforce an arbitration award, that party may bring an action in any court of competent jurisdiction and the prevailing party shall recover from the other party its costs and expenses, including court costs and reasonable attorneys' fees (including allocable costs of in-house counsel). The arbitration and all related proceedings and discovery will take place pursuant to a protective order entered by the arbitrator that protects the confidential nature of the parties' proprietary and confidential information. No arbitration award may provide a remedy beyond those permitted under this Agreement, and any award providing a remedy not permitted under this Agreement will not be valid and will be vacated. No Dispute may be brought as a class action, and neither party may act as a class representative or participate as a member of a class of claimants with respect to any Dispute. BOTH PARTIES HEREBY WAIVE ALL RIGHT OR ENTITLEMENT TO TRIAL BY JURY IN CONNECTION WITH ANY DISPUTE THAT ARISES OUT OF OR RELATES IN ANY WAY TO THIS AGREEMENT.
- F. **Litigation Rights.** Either party may, without waiving any remedy under this Agreement, seek temporary or permanent injunctive relief including without limitation equitable relief from any court of competent jurisdiction to protect its Confidential Information, non-solicitation rights, License rights and Intellectual Property Rights, regardless of the arbitration requirements. Stralto, Inc. reserves the right to pursue collections activity or legal action in a court of competent jurisdiction to compel payment due hereunder and, in such a case, Stralto, Inc. shall be entitled to recover its costs and reasonable attorneys' fees, regardless of the arbitration requirements.

## **GT7. Limited Warranties.**

**GT7.1 Software Warranty.** Stralto, Inc. warrants that the Software will be free from Defects for a period of one year from the date of initial delivery of the Software specified in an Order Form, for the initial term only in the case of Term Licenses ("Software Warranty Period"), when the Software is used in accordance with the Documentation. The Software Warranty Period may differ for specific Software in the Product-Specific Terms or in an Order Form. Stralto, Inc. further warrants that it has not introduced into the Software any feature designed to damage or erase the Software or data. The Software may contain license protection features that limit access to the Software to the use permitted under this Agreement. Customer shall not circumvent or render inoperative any such protection features. To be valid, a warranty claim must be in writing and submitted to Stralto, Inc. within the Software Warranty Period. If, during the Software Warranty Period, Customer believes that the Software has Defects, Customer shall promptly notify Stralto, Inc. in writing, describe with



specificity any such Defect, and provide a listing of output and such other data as may be required by Stralto, Inc. to reproduce the Defect. Customer's exclusive remedy and Stralto, Inc.'s sole liability for Software performance under this software warranty will be (1) to use reasonable efforts to correct any such Defects and supply Customer with a Correction as soon as reasonably practicable, or (2) if Correction or replacement is not reasonably achievable by Stralto, Inc., to terminate Customer's License(s) for the affected Software and refund the License Fee paid upon Customer's certification that all copies of the Software have been returned or destroyed. The foregoing Software Warranty does not apply to Evaluation Licenses.

**GT7.2 Professional Services Warranty.** Services will be performed in a professional and workmanlike manner, and in accordance with applicable industry standards and practices. The sole and exclusive remedy under this warranty is the re-performance of the Professional Services that fail to comply with this warranty.

**GT7.3 Subscription Services Warranty.** Subscription Services are available strictly on an "as is," "as available" basis, and Customer's use of such Services is at Customer's sole risk. Certain information provided to Customer through such Services is obtained from third party or publicly available sources, the accuracy of which Stralto, Inc. does not verify, and Customer acknowledges that such information may contain inaccuracies or errors.

**GT7.4 SaaS Services Warranty.** Stralto, Inc. warrants that the SaaS Services (except Evaluation Services) will substantially conform to the Documentation under normal use and circumstances in compliance with this Agreement and with reasonable skill and care. During the Subscription Period, at no additional cost to Customer and as Customer's sole and exclusive remedy for Stralto, Inc.'s failure to meet this limited warranty, Stralto, Inc. will use reasonable efforts to provide a Correction for any Defect in accordance with the Support guidelines, provided that Customer promptly notifies Stralto, Inc. in writing upon discovery of any such Defect and Stralto, Inc.'s investigation discloses that such Defect exists. Customer shall provide a listing of output and other such data as may be required to reproduce the Defect. This limited warranty will be void if the Defect is caused by (i) the use or operation of the Services with an application or in an environment other than that described in the Documentation or recommended in writing by Stralto, Inc., (ii) modifications to the Services that were not made by Stralto, Inc., (iii) Misuse, or (iv) failure to implement Corrections or Updates. This warranty does not apply to Evaluation Services.

**GT7.5 Evaluation Services and Evaluation Software Warranty.** CUSTOMER'S USE OF EVALUATION SERVICES OR EVALUTION SOFTWARE, RESPECTIVELY, IS AT CUSTOMER'S SOLE RISK. THE EVALUATION SERVICES AND/OR EVALUATION SOFTWARE ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY INCLUDING THE WARRANTIES OF TITLE, NON-



INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. STRALTO, INC. SHALL HAVE NO RESPONSIBILITY TO PROVIDE ANY UPDATES, UPGRADES, MAINTENANCE OR SUPPORT WITH REGARD TO THE EVALUATION SERVICES OR EVALUATION SOFTWARE DURING THE PERIOD OF THE EVALUATION.

**GT7.6 Warranty Exceptions and Exclusions.** The express warranties set forth in this Limited Warranties Section do not apply to errors or malfunctions caused by (1) Customer's equipment, (2) software not licensed from or approved in writing by Stralto, Inc., (3) Misuse, (4) Customer's failure to use or implement Corrections or Updates, (5) use of the Products in combination with materials not provided, specified or approved in writing by Stralto, Inc., (6) improper installation by Customer, Support Contractor, or a third party not authorized in writing by Stralto, Inc., or (7) any other cause not directly attributable to Stralto, Inc.. Stralto, Inc. does not warrant that the functions contained in the Products will meet Customer's requirements or that the operation of the Products will be uninterrupted or error-free. These limited warranties shall be void if Customer or any third party modifies or changes the Products in any way beyond the scope of the configuration options contained in the Products. In order to receive and maintain these warranties, Customer must (A) use the Products in accordance with the Documentation, (B) use the Software on the hardware and with the operating system for which it was designed, and (C) use only qualified personnel to operate the Products. Stralto, Inc. will not be required to maintain compatibility between the Stralto, Inc. Products and any other software (other than Stralto, Inc.-supported Third Party Software) except as otherwise agreed in writing.

**GT7.7 Personal Warranties.** All warranties described above are personal to and intended solely for the benefit of the Customer and do not extend to any third party, including Affiliates.

**GT7.8 Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS LIMITED WARRANTIES SECTION AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER STRALTO, INC. NOR ITS LICENSORS MAKE ANY EXPRESS, IMPLIED OR STATUTORY WARRANTIES, TERMS, CONDITIONS, OR REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. STRALTO, INC. DOES NOT WARRANT OR REPRESENT THAT THE PRODUCTS OR PROFESSIONAL SERVICES WILL BE TIMELY, COMPLETE, RELIABLE, ADEQUATE, ACCURATE, USEFUL, SECURE OR ERROR-FREE. ALL MOBILE APPLICATIONS AND SOFTWARE DOWNLOADS ARE PROVIDED AS-IS WITH NO WARRANTY AND STRALTO, INC. ACCEPTS NO LIABILITY FOR ANY DAMAGES DIRECTLY OR INDIRECTLY CAUSED BY SUCH APPLICATIONS OR DOWNLOADS.

**A. For Australian Customers only:**



- i. In the event that supply of any Products or Professional Services under this Agreement constitutes a supply of goods or services to a consumer as defined in the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010 (Cth)) or relevant State or Territory legislation ("the Acts") nothing contained in this Agreement excludes restricts or modifies any condition, warranty, guarantee or other obligation in relation to this Agreement and any Products and Professional Services to be supplied hereunder which pursuant to the Acts or any of them may not be limited or excluded, in which event Stralto, Inc.'s sole liability for breach of any such guarantee, condition, warranty or other obligation shall be limited to: (1) in relation to Products: (A) the replacement of the Products or the supply of equivalent Products or payment of the cost of replacing the Products or acquiring equivalent Products; or (B) the repair of the Products or payment of the cost of having the Products repaired; and (2) in relation to Professional Services: (A) the supplying of the Professional Services again; or (B) the payment of the cost of having the Professional Services supplied again as in each case Stralto, Inc. may elect.
- ii. Mandatory statement under Regulation 90 of the *Competition and Consumer Regulations*: Products that we supply may come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Products repaired or replaced if the Products fail to be of acceptable quality and the failure does not amount to a major failure. These rights may be lawfully limited in respect of Products not ordinarily acquired for personal, domestic or household use or consumption. To request a replacement or a refund, please send your written request to Stralto, Inc. by letter or email to [info@stralto.com](mailto:info@stralto.com)
- iii. If Customer is an Australian business, Customer warrants that it has an ABN and has provided it to Stralto, Inc. Customer further warrants that it will maintain its ABN through the duration of this Agreement, list its ABN on any invoice, and advise Stralto, Inc. in writing immediately if its ABN is cancelled. Customer will indemnify and hold Stralto, Inc. harmless from and against any tax, charge, fine, penalty or other impost which Stralto, Inc. incurs or becomes liable to pay as a result of the Customer's failure to maintain its ABN.

## **GT8. Ownership.**

### **GT8.1 Products and Documentation.**

- A. Stralto, Inc., its licensors and ISV Partners retain ownership, title and all rights and interest, including, without limitation, Intellectual Property Rights in and to the Products, Documentation, and Marks, whether or not those rights are registered. To the extent permitted by applicable law, any copy, modification, revision, Correction, Update, enhancement, adaptation, translation, or derivative work of or created from the Products or Documentation ("Derivative") shall be owned solely and exclusively by Stralto, Inc. or its licensors or ISV Partners, as applicable. To the extent permitted by applicable law, Customer assigns title, ownership, and all rights to Stralto, Inc. in any Derivative. To the extent an assignment is not effective under applicable law, Customer grants Stralto, Inc. an exclusive, perpetual, fully-paid, transferable, irrevocable license to use, reproduce, distribute, and commercialize the Derivative to the fullest extent permissible and effective under applicable law.
- B. Customer may not modify the Documentation except to the extent necessary to reflect more closely Customer's operations, provided, however, that Stralto, Inc. shall retain all rights in any modified Documentation, which shall be considered Documentation with respect to Customer's rights, and each party shall retain its confidentiality obligations with respect to any Confidential Information in the modified Documentation. Customer retains all rights, title and interest in and to Customer's own information, including its Confidential Information and Customer Data.



**GT8.2 Professional Services/Developments.** Stralto, Inc. reserves ownership, title and all rights and interest in any software and documentation, including Customizations, developed and delivered in the course of providing Professional Services under this Agreement, including, without limitation, the Products and Documentation, subject to each party's confidentiality rights and obligations under this Agreement.

**GT8.3 Feedback.** Customer's comments, suggestions, or other feedback regarding Stralto, Inc.'s products, services, or business are provided voluntarily, and Stralto, Inc. may use any feedback as it sees fit without obligation or restriction of any kind, other than its Confidential Information obligations.

**GT8.4 Marks.** Customer agrees not to remove or replace any Mark from the screens on which the Software is displayed or the Services are viewed or accessed or any associated materials without Stralto, Inc.'s express written consent, and to reproduce all Stralto, Inc. Marks on any copy or portion of any associated materials.

**GT8.5 Copyright Notice and Commercial Computer Software Notice.** The Products and Documentation are protected, with all rights reserved, under applicable copyright laws. Rights to use, modify, reproduce, release, perform, display or disclose the Products are as set forth in, and are subject to this Agreement.

**GT8.6 Extensions.** Stralto, Inc. may provide tools with certain products to assist Customer in creating code to extend the functionality of the Software, including custom reports or independently developed code extensions ("Extensions"). Whether developed by Customer, Stralto, Inc., or a third party on behalf of Customer, Extensions may not function properly after the underlying Software is updated. Customer is responsible for testing Extensions following updates to the Software and for all necessary corrections to the Extension to function with updated versions of the Software. Unless otherwise agreed in writing, (1) Stralto, Inc. has no obligation to fix, repair or otherwise make functional any Extensions that do not function properly after a Software update; and (2) Stralto, Inc. shall retain ownership of Extensions created by Stralto, Inc. for Customer, subject to Stralto, Inc.'s confidentiality obligations to Customer. In addition, Stralto, Inc. may develop and incorporate into the core product functionality similar to or the same as Extensions created by or for a Customer, and Customer has no right or remedy against Stralto, Inc. for Stralto, Inc.'s development of such functionality. Software Extensions are excluded from the maintenance and support, Software warranty, and infringement terms in the Agreement, unless otherwise expressly provided.

## **GT9. Indemnities**



## **GT9.1 Stralto, Inc. Indemnification for Infringement.**

- A. Stralto, Inc. agrees to defend Customer from and against any action based on a third party claim ("Claim") alleging that the Product or Documentation, when used in accordance with this Agreement, infringes a patent or copyright in the applicable jurisdiction or misappropriates a trade secret (as defined under applicable law) of any third party, and Stralto, Inc. shall pay all reasonable costs, expenses and damages finally awarded against Customer, arising from any such Claim; provided, however, that (i) Customer gives Stralto, Inc. prompt written notice of such Claim, (ii) Customer fully cooperates with Stralto, Inc. in the defense and settlement thereof, (iii) Stralto, Inc. is given full control of the defense of such Claim and any settlement or compromise thereof, and (iv) Customer complies with Stralto, Inc.'s direction to cease using any Product that in Stralto, Inc.'s reasonable judgment may be ruled to cause an infringement of a third party's Intellectual Property Rights.
- B. If a temporary or a final injunction is obtained against Customer's use of the Product or Documentation by reason of an infringement or misappropriation or if Stralto, Inc. believes such an injunction is likely, then Stralto, Inc. will, at its option and expense, either (i) procure for Customer the right to continue using the Product or Documentation, or (ii) replace or modify the Product or Documentation so that it no longer infringes a patent or copyright in the applicable jurisdiction or misappropriates a trade secret, so long as the utility or performance is not materially adversely affected by such replacement or modification. If Stralto, Inc. deems (i) or (ii) not feasible, Stralto, Inc. will terminate all Product licenses or subscriptions rendered unusable to Customer and return the unused portion of the fees paid (determined, in the case of Software licenses, by depreciating the license fees paid on a straight-line basis over thirty-six (36) months) by Customer for the Product or Documentation.
- C. Stralto, Inc. shall have no liability to Customer to the extent that any Claim is based upon or arises out of (i) use of any third party products or services, including ISV Software or ISV Service, (ii) modification of the Product or Documentation by Stralto, Inc. according to Customer's specifications, (iii) modification of the Product or Documentation by Customer or any third party or the use of the Product or Documentation or any portion thereof in combination with any other equipment or software, (iv) in the case of On Premise Software, Customer's failure to use the most recent version of the Software supplied by Stralto, Inc., (v) Customer's failure to comply with Stralto, Inc.'s direction to cease any activity that in Stralto, Inc.'s reasonable judgment may be ruled to cause an infringement of a third party's Intellectual Property Rights, (vi) Customer's use of the Product or Documentation that is not strictly in accordance with the terms of this Agreement, or (vii) third party content.
- D. THIS SECTION STATES CUSTOMER'S SOLE REMEDY AND STRALTO, INC.'S SOLE LIABILITY WITH RESPECT TO ANY CLAIM OF INFRINGEMENT.

**GT9.2 Customer Indemnification.** If Stralto, Inc. notifies Customer promptly in writing of a Claim and gives Customer full control of and assistance for the defense of such Claim, Customer will indemnify, defend and hold harmless Stralto, Inc. against any damages finally awarded resulting from a Claim (including a Claim by an Authorized User) that:

- A. Customer Data, or Customer's grant of access to or misuse of the Services harms any person, violates any law, or violates that third party's Intellectual Property Rights, privacy, or other rights,
- B. Customer has breached any Third Party Terms, or



- C. Customer has violated the rights of the third party in posting, transmitting, storing, retaining or deleting of Customer Data.

Customer shall not be responsible for Stralto, Inc.'s compromise of such a Claim without Customer's written consent.

#### **GT10. U.S. Government Customers: Rights and Obligations.**

**GT10.1 Software.** The Software was developed exclusively at private expense and is a commercial Item, including commercial computer software, as those terms are defined in the Federal Acquisition Regulation ("FAR"), 48 C.F.R. 2.101. The Software is a "Commercial Item", as that term is defined in 48 C.F.R. 2.101 (OCT 2010), and is comprised of the accompanying Documentation that are deemed to be "commercial computer software" and "commercial computer software documentation". If acquired by or on behalf of a civilian agency, the U.S. Government Customer's or agency Customer's rights to use, modify, reproduce, release, perform, display or disclose this Stralto, Inc. commercial restricted computer software and/or commercial computer software documentation is subject to the terms of this Agreement as specified in 48 C.F.R. 12.212 (Commercial Computer Software) and 12.211 (Technical Data), as well as Part 27.405-3 of the 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 Agreement as specified in 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFARS") and its successors, consistent with 48 C.F.R. 227.7202-1 through 227.7202-4. 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 the Stralto, Inc. Software, Documentation or other technical data. A non-Government Customer may not acquire Software on behalf of a U.S. Government entity without Stralto, Inc.'s prior written consent. The Software (1) is an unpublished work with all rights reserved under the copyright laws of the United States, and (2) was developed fully at private expense. All other use is prohibited.

**GT10.2 Services.** The Services are deemed to be "Commercial Items" and if the Services are being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or subcontractor (at any tier) for use by or for the benefit of the U.S. Government, then the Government's rights in the Services will be only as set forth in this Agreement and in accordance with 48 CFR 227.7201 through 227.7202-4 (for DOD acquisitions) and with 48 CFR 2.101 and 12.212 (for civilian acquisitions). For U.S. Government Customers, each Support Contractor must be subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement.



**GT10.3 Support Contractors.** For U.S. Government Customers, each Support Contractor must be subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement. All Software disclosed to a Support Contractor must, if in physical form, bear the following restrictive marking: "Commercial Computer Software: The software herein is proprietary to Stralto, Inc. and may not be used, disclosed, reproduced, modified, performed, or displayed without the prior written approval of Stralto, Inc., Inc."

**GT11. Term and Termination.**

**GT11.1 Term of Agreement.** This Agreement is effective as of the Effective Date and will expire on the later of (a) termination of all Licenses granted hereunder, (b) expiration of all Term Licenses and Subscription Periods, or (c) upon completion of all Professional Services (if all other Licenses or Services have terminated or expired), unless otherwise terminated as set forth below.

**GT11.2 Termination for Breach.** Either party may terminate this Agreement as a result of a material breach by the other party, if (a) the non-breaching party provides written notice to the other party of the breach, and (b) such breach, if remediable, is not cured within fifteen (15) days of receipt of notice. However, Stralto, Inc. may terminate this Agreement immediately upon written notification to Customer in the case of Customer's breach of Stralto, Inc.'s Intellectual Property Rights or restrictions on Customer's use of Services.

**GT11.3** Upon termination for any reason, all Licenses granted under this Agreement shall immediately terminate. The accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

**GT12. Non-solicitation of Employees.** For one year after delivery of an order, or after termination of an SOW, neither party shall solicit for hire as an employee, consultant or otherwise any of the other party's personnel who have had direct involvement with the Products and/or Professional Services or proposal for the Products and/or Professional Services specified in the Order Form or SOW, without the other party's express written consent. However, neither party will be precluded from hiring any employee of the other party who responds to any public notice or advertisement of an employment opportunity or who terminated his/her employment with the other party at least six months previously, provided that the hiring party did not solicit the termination. A party shall not be in breach of this Non-solicitation of Employees Section if those responsible for the solicitation, hiring or retention of the other party's personnel were not aware of these restrictions. However, personnel of either party working on a proposal or order for any Products and/or Professional Services under this Agreement shall be presumed to know of the restriction.



### **GT13. Miscellaneous.**

**GT13.1 Excusable Delays.** In no event shall either party be liable to the other for any delay or failure to perform hereunder due to causes beyond the reasonable control of that party, including acts of a government and severe weather conditions. Failure to make payment under this Agreement shall not be considered an excusable delay.

**GT13.2 Publicity.** Neither party will issue any press release, advertising nor other public materials that use the Marks or refer to the other party or Stralto, Inc.'s licensors, the existence of this Agreement, the Products or the Professional Services provided without the other party's prior written consent. However, Stralto, Inc. may identify Customer on its client list and may use a mutually-agreed general description of the nature of the relationship in promotional materials, presentations, and proposals to current and prospective clients. Notwithstanding anything to the contrary herein, either party may identify the other party or disclose the existence of this Agreement to its attorneys, auditors and in connection with regulatory filings.

**GT13.3 Binding Effect.** This Agreement shall be binding upon the parties and their respective legal successors and permitted assigns.

**GT13.4 Assignment and Transfer.** Each order is exclusively for the named Customer. Except as otherwise stated or supplemented in the applicable Sectional Terms or an Order Form, Customer may not in whole or part, assign, transfer, novate, subcontract or sublicense this Agreement or any right or obligation under it except with Stralto, Inc.'s prior written consent, and any assignment made in violation of this provision shall be invalid. Transfer or assignment requests are at Stralto, Inc.'s discretion and may be restricted by Third Party Terms. However, Customer may assign all Products acquired under this Agreement, without Stralto, Inc.'s written consent, to any successor in interest by way of merger or the acquisition of substantially all of Customer's assets; provided that (1) assignor's account with Stralto, Inc. is current at the time of assignment, (2) assignee is not a direct competitor of Stralto, Inc., and (3) assignee will be bound by Stralto, Inc.'s standard then-current terms and conditions of this Agreement, including any Sectional Terms applicable to the Product transferred.

**GT13.5 Export Regulations.** Customer acknowledges that Trade Controls may restrict use, disposition, export, reexport, transfer or other action taken with respect to the Products and any other goods, services, software and technical information provided in connection with this Agreement (collectively, "Supplied Items"). Customer warrants and represents that it, its Affiliates and Support Contractors, its employees, directors and officers, and the employees, directors and officers of its Affiliates and Support Contractors, are not (1) on the U.S. Department of Commerce's



Denied Persons List, or the U.S. Department of Treasury's List of Specially Designated Nationals and Blocked Persons, or without limitation, otherwise an individual with whom or legal entity with which dealings are restricted under Trade Controls that apply to the actions of Stralto, Inc., Customer or any of Customer's Affiliates (a "Sanctioned Person") and (2) none of Customer, Customer's Affiliates or anyone acting on behalf of Customer or one of its Affiliates shall provide a Supplied Item to a Sanctioned Person.

**GT13.6 Entire Agreement.** This Agreement is the entire agreement between Customer and Stralto, Inc. relating to the specific Products and/or Professional Services described in an Order Form, as well as all customer's licenses of or subscriptions to Products of the same type, and supersedes all prior or contemporaneous oral or written communications, proposals and representations relating to such. Notwithstanding the foregoing, this Agreement does not affect any prior or separate agreement between the parties for any other Products or Professional Services. Any purchase order or other document issued by the Customer (including any online terms as part of a required procurement process) will be for administrative purposes only and any such terms will not alter or supplement this Agreement. Except as explicitly set forth herein, this Agreement will not be modified by any other act, document, usage, custom, or course of dealing unless it is signed by both parties. However, only Customer's signature or affirmation is required to agree to an unmodified Order Form, or other transaction document or language provided by Stralto, Inc.. Specified terms in an Order Form or SOW will prevail over conflicting terms in the remainder of this Agreement for purposes of that Order Form or SOW, including any applicable Product-Specific Terms herein. Unless otherwise agreed in writing or as otherwise set forth herein, this Agreement (1) does not terminate or change the Customer's rights or obligations of any prior Stralto, Inc. agreement for Stralto, Inc. Products of another type that have not been ordered under this Agreement, and (2) supersedes any "clickwrap" license incorporated in the Software.

**GT13.7 Severability.** If any provision of this Agreement is illegal or unenforceable in any jurisdiction, that provision shall remain effective with respect to any jurisdiction in which it is legal and enforceable, and the remainder of this Agreement will remain valid and enforceable anywhere.

**GT13.8 Notices.** Notices sent in accordance with this Section GT13.8 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when by e-mail, with confirmation of receipt, if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (d) on the fifth (5th) day after the date mailed by certified or registered mail, return receipt requested, postage prepaid. Notices to Stralto, Inc. must be sent to Stralto, Inc., Inc., 222 Broadway , F19th, New York, NY 10038, Attention: General Counsel, or by email to 222 Broadway , F19th, New York, NY 10038 or [info@stralto.com](mailto:info@stralto.com) and to Customer via email to the primary registered contact with Stralto, Inc..



**GT13.9 Stralto, Inc. Amendments to Agreement.** Stralto, Inc. reserves the right to amend these General Terms and the Sectional Terms from time to time, provided that Stralto, Inc. agrees to promptly notify Customer of any such amendments in writing to the Customer Care contact (other than minor revisions for consistency or clarity). If, in the judgment of Customer, such amendments have a material adverse impact on Customer, and Customer objects to such amendments, Customer must notify Stralto, Inc. within thirty (30) days of receiving written notice of such amendments. If Stralto, Inc. is unable to accommodate Customer's objection, the prior applicable terms will govern until expiration of any then-current Order Form, or relevant Product Term, Subscription Period or maintenance term. Any subsequent Order Form, Term License, Subscription Period, or maintenance term, or renewal of the foregoing Services, will be governed by Stralto, Inc.'s then-current terms.

**GT13.10 Waiver.** A failure or delay of either party to this Agreement to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of any provision of this Agreement. No waiver will be effective unless made in writing and signed by an authorized representative of the waiving party.

**GT13.11 Survival.** Termination or expiration of this Agreement or an Order Form hereunder, howsoever caused, shall not prejudice any rights and remedies of either party which may have accrued under this Agreement up to the date of termination. Provisions anywhere in this Agreement regarding payment, termination, ownership, Intellectual Property Rights, warranties, limitations of liability, governing law, dispute resolution, confidentiality, severability, Trade Controls, waivers, audit, and U.S. Government Rights will survive the expiration or termination of this Agreement.

**GT13.12 Counterparts.** Each Order Form may be executed in several counterparts, each of which when executed shall be deemed to be an original. Scanned or facsimile transmissions of signatures or electronic signatures or acceptance shall be deemed to create a binding agreement in the same way as original signatures.

**GT13.13 E-mail Communications.** Each party shall comply with the U.S. CAN-SPAM Act of 2003, 15 U.S.C. §§ 7701-7713 ("CAN-SPAM Act") and similar legislation when applicable. Customer consents to receiving email messages from Stralto, Inc. that may constitute "commercial e-mails" under the CAN-SPAM Act. Customer may at any time "opt out" of receiving future emails from Stralto, Inc..

**GT13.14 Language & Interpretation.**

- A. Unless otherwise mutually agreed, all communications and notices pursuant to this Agreement must be in the English language, and all Products and Professional Services are provided in the English language.
- B. For purposes of this Agreement: (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; (iii) the words



"herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (iv) words denoting the singular have a comparable meaning when used in the plural, and vice versa; (v) words denoting any gender include all genders; (vi) a reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established; (vii) Section, schedule and paragraph headings shall not affect the interpretation of this Agreement; (ix) a person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns;

- C. Unless the context otherwise requires, references in this Agreement: (i) to sections, exhibits, schedules, attachments and appendices mean the sections of, and exhibits, schedules, attachments and appendices to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder.
- D. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

**GT13.15 Independent Contractor.** Each party is at all times acting as an independent contractor under this Agreement and not as an agent, employee, joint venture or partner of the other.

**GT13.16 Partner Transactions.** Where Customer acquires Stralto, Inc. Products or receives maintenance, support, or Professional Services from a Partner, any specific term regarding warranty, maintenance and/or services, as applicable, may be contracted directly between Customer and that Partner and conflicting terms of this Agreement shall not apply to such Products, maintenance, support or Professional Services.

**GT13.17 Use of Cookies.** Most Products contain cookies. Stralto, Inc. uses cookies for usage tracking purposes and statistical analysis, which helps Stralto, Inc. to improve the Products by giving Stralto, Inc. some insight into how the Products are being used. Please email Stralto, Inc. To [info@stralto.com](mailto:info@stralto.com) for any further information on Stralto, Inc.'s use of cookies. Customer consents to such use of cookies and represents and warrants that it has provided adequate notice to all Product users of, and obtained their informed consent to, the use of cookies by the Products in accordance with applicable Privacy Laws. Customer is responsible for providing appropriate information and obtaining any required consent from its users of the Products in accordance with applicable Privacy Laws prior to any Processing of Personal Information by and through the Products.

#### **GT14. Mobile Applications.**

**GT14.1 All Mobile Applications.** Stralto, Inc. may make certain Mobile Applications available to Customer. The use of Mobile Applications either alone or in connection with the Products is



governed by this Agreement. In addition, Customer must comply with all applicable third party terms of agreement when using the Mobile Applications (for example, any agreement with a wireless service or wireless data provider). By using Mobile Applications, Customer explicitly confirms its acceptance of the terms associated with the application provided at download or installation, or as may be updated from time to time.

**GT14.2 Additional Terms for Apple or other Mobile Application Distributors.** The Mobile Applications may be used on a product that Customer owns or controls and as permitted by the usage rules set forth in Apple Inc.'s App Store Terms of Service or the equivalent from another provider. Customer agrees that this Agreement is between Customer and Stralto, Inc., and that even if it receives access to the Mobile Applications through Apple, Inc.'s AppStore or any other source (each, a "Distributor"), the Distributor has no liability or responsibility whatsoever to Customer related to the Mobile Applications, whether by contract, warranty or otherwise, and Customer will look only to Stralto, Inc. for any support for the Mobile Applications. The Distributor is not responsible for addressing any claims of any sort related to the Mobile Applications, and Customer must address any claims directly with Stralto, Inc.. Questions related to the Mobile Applications should be addressed to Stralto, Inc. and not to the Distributor. In the event of a failure of a Mobile Application to comply with any limited warranty stated in this Agreement, Customer may notify Distributor and Distributor may refund the purchase price paid by Customer to Distributor for that Mobile Application and, to the maximum extent permitted by applicable law, Distributor will have no other warranty obligation whatsoever with respect to the Mobile Application, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to the limited warranty will be Stralto, Inc.'s sole responsibility. Notwithstanding anything to the contrary in this Agreement, the Distributor and its subsidiaries are third party beneficiaries of this Agreement, and the Distributor has the right (and will be deemed to have accepted the right) to enforce this Agreement against the Customer as a third party beneficiary hereof.