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11.   **EXPORT COMPLIANCE.**

11.1   Licensee shall comply with all applicable export control, and sanctions laws and regulations ("**Export Laws**"), which may include those of the United Kingdom, European Union (or its Member States), the United States, and / or other countries. Licensee represents and warrants that the Licensor Materials provided hereunder, and any derivatives thereof, will not be: (i) downloaded or accessed in violation of Export Laws; (ii) used for any purposes prohibited by Export Laws; or (iii) exported, re-exported, or otherwise transferred, directly or indirectly, in a manner contrary to the Export Laws. Further, Licensee represents and warrants that neither Licensee nor any of its users is: (i) operating in, organized in, or resident of a country or territory that is subject to any comprehensive trade or economic sanctions or (ii) listed (or owned or controlled by a person or entity listed) on any export-control-related or sanctions-related list of designated persons or entities maintained by the United Kingdom, the European Union (or any Member States), the United States, or other countries whose regulations laws apply. Upon Licensor's request, Licensee shall promptly cooperate with Licensor and provide Licensor with any end-user certificates, affidavits, or other documents reasonably requested by Licensor in connection with the exporting or importing of any Licensor Materials under this Agreement. Licensee shall indemnify and hold harmless Licensor from and against any claim, action, proceeding, fine, loss, liabilities, cost and damages arising out of or relating to Licensee's violation of Export Laws. Licensor shall have no obligation to perform and no liability to Licensee in the event performance is prevented by any impediments arising out of Export Laws, including any restrictions imposed by Licensor's compliance policies which limit Licensor's business with identifiable end users, end uses or countries.

12.   **MISCELLANEOUS.**

12.1   Entire Agreement. This Agreement, together with the Weingärtner Maschinenbau GmbH General Terms and Conditions, constitutes the complete agreement between Licensor and Licensee with respect to the subject matter hereof and supersede all prior or contemporaneous agreements or representations, written or oral, with respect to the subject-matter. This Agreement supersedes and prevails over any conflicting terms in any purchase order or other Licensee-issued document. Licensee specifically agrees that any Licensee-generated pre-printed terms or general terms and conditions included or referenced in any purchase order or other Licensee-issued document shall not apply. In case there is a discrepancy between the General Terms and Conditions and this End User License Agreement regarding the Software, this End User License Agreement shall prevail.

12.2 <u>No Waiver.</u> Licensor shall have the benefit of all rights and remedies provided by law or equity. Failure of Licensor to exercise or reserve any right or remedy shall not be construed as a waiver thereof or of any other right or remedy.

12.3 <u>Severability.</u> If any term within this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

12.4 <u>Force Majeure.</u> Licensor will not be liable or responsible for delay or failure to perform any obligations under this Agreement occasioned by any cause beyond their reasonable control, including but not limited to war; terrorist acts; civil disturbance; epidemic; labor unrest; shortage of raw materials; fire; flood; earthquake; acts or defaults of common carriers or suppliers; governmental laws, acts, regulations, embargoes or orders; or any other cause, contingency or circumstance not subject to their reasonable control.

12.5 <u>Assignment.</u> This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns. Licensee may not assign or transfer, by operation of law or otherwise, this Agreement (or any licenses, rights or obligations hereunder), without Licensor's prior written consent. Any attempted assignment or transfer in violation of the foregoing shall be void. Licensor may freely assign this Agreement, or transfer all or any of its rights, or sub-contract, delegate or otherwise transfer all or any of its obligations or performance under this Agreement, without Licensee's consent.

12.6 <u>Notices.</u> Licensor may provide any notice to Licensee under this Agreement by sending an email message to the email address then associated with Licensee's account. Notices Licensor provides by email will be effective when Licensor sends the email. It is Licensee's responsibility to keep Licensee's email address current. Licensee will be deemed to have received any email sent to the email address then associated with Licensee's account when Licensor sends the email, whether or not Licensee actually receives the email. To give Licensor notice under this Agreement, Licensee must contact Licensor by personal delivery, overnight courier or registered or certified mail to the following mailing address: **Weingärtner Maschinenbau GmbH, 4656 Kirchham 29, AUSTRIA, Attention: Legal Department**. Notices provided by personal delivery will be effective immediately. Notices provided by overnight courier will be effective three (3) business day after they are sent. Notices provided by registered or certified mail will be effective five (5) business days after they are sent.

12.7 <u>Governing Language.</u> In the event of translation of this Agreement to a language other than English, the English language version shall govern in the event of a conflict.

12.8 <u>Governing Law / Jurisdiction.</u> It is the clear and unequivocal intent of the parties that any dispute, controversy or claim between the parties arising out of or in connection with this Agreement shall, on the written notice by either party to the other party, be submitted to binding arbitration. Such arbitration shall comply with and be governed by the commercial arbitration rules of the International Chamber of Commerce ("ICC") then in effect. The arbitration shall be filed with the office located in Linz, Austria and Hearings shall be conducted at such location. Each party hereby irrevocably agrees that service of process, summons, notice or other communications relating to the arbitration procedure shall be deemed served and accepted by the other party if forwarded in accordance with the Notice Section hereof. The arbitration shall be conducted by a single arbitrator familiar with legal issues, to be selected by the parties.

The parties agree that discovery in the arbitration proceedings shall be limited to those documents or categories of information that are relevant or material to the case. Depositions shall be limited to no more than two (2) witnesses per side. Interrogatories shall be limited to ten (10) per side. The parties agree to exchange documents in their possession or custody on which they intend to rely prior to their initial conference with the arbitrator and to supplement their exchanges as additional documents become known to them. To the extent that additional requests for document production are necessary, they shall be limited in number to ten (10) per side. When documents to be exchanged are maintained in electronic form, the parties should attempt to agree in advance upon reasonable search parameters such that relevant and material documents are identified and collected in a manner that balances the need for the documents with the cost of production. Documents shall be produced or made available in the form most convenient and cost effective for the producing party.

The award rendered by the arbitrator shall be final and binding upon the parties. Judgment may be entered in any court having jurisdiction thereof in accordance with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the "New York Convention"). All fees and expenses of the arbitration shall be borne by the parties equally. However, each party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentations.

13. **ADDITIONAL TERMS RE APIs AND ADD-INS.**

13.1 <u>APIs.</u> With respect to any published application programming interfaces, scripts, macros, sample code, or other development materials (collectively, "**APIs**") made available by Licensor as part of the Licensed Materials, subject to any and all payment obligations and compliance with the terms of this Agreement, Licensor grants to Licensee a non-exclusive, non-sublicensable, non-transferable, limited license to install and use the APIs, during the applicable license term, solely on the same

Licensee computer(s) where the associated Software is permitted to be installed, and solely for Licensee's own internal use in conjunction with the Licensed Materials for which APIs were provided, and only in accordance with the Documentation for the APIs. Licensee acknowledges and agrees that APIs are the confidential and proprietary information of Licensor (or its suppliers, as applicable), and no portion of the APIs may be disclosed or distributed to any third party, nor shall Licensee make the functionality of the APIs available to any third party through any means. To the extent Licensee uses the any portion of the APIs to develop one or more applications, services, modules, components, scripts, post processors, or other custom developments (collectively, "**Add-Ins**"), such Add-Ins may only be installed on the same Licensee computer(s) where the associated Licensed Materials are permitted to be installed, and used only by Licensee's Authorized Users, during the license term, in conjunction with the Licensed Materials for which APIs were provided on the same Licensee computer, in accordance with the applicable License Type, for Licensee's own internal use of the associated Licensed Materials. **Licensee shall have no rights under this Agreement to distribute or disclose Add-Ins to any third party, whether on a commercial or non-commercial basis. Any distribution rights for Add-Ins shall require Licensee entering into a separate agreement with Licensor, and payment of applicable fees and charges by Licensee.**

13.2   Additional Requirements and Restrictions RE APIs and Add-Ins. In addition to any other obligations, restrictions, and limitations in this Agreement, Licensee agrees as follows:

(i)   Licensee agrees not to use the APIs to reproduce, or substantially reproduce, features or functionality provided by the Software or any Weingärtner Maschinenbau GmbH software;

(ii)   Licensee agrees not to use the APIs to, or develop Add-Ins that, disable, modify, circumvent or defeat any license management system, TPM, or other security mechanism that exist in or accompany the Licensor Materials;

(iii)   Licensee warrants that its use of APIs and development of any Add-Ins will be in accordance with this Agreement and will not infringe or violate the rights of any third party, or violate applicable law;

(iv)   Licensee agrees to indemnify and hold harmless Licensor from and against any and all losses suffered by Licensor (including legal expenses and attorney's fees) arising out of or in connection with any claim, action or allegation that Licensee's development or use of any Add-Ins violates or infringes the rights of any third party, or violates applicable law;

(v)   Licensee acknowledges that APIs are subject to change as new versions and updates of the Software are released, and that such changes may require Licensee to alter, modify, update, recompile and / or rewrite any Add-Ins Licensee has developed and may detrimentally affect the functionality of Licensee's Add-In;

(vi)   Future versions of the Software may include functionality provided by an existing Add-In. Licensee agrees to cease further development, except to remove competing functionality or any other development requested by Licensor, of Licensee's Add-In if this occurs until such competing functionality is removed;

(vii)   Licensee shall not access or use any unpublished application programming interfaces of the Software;

(viii) Licensee shall not use the APIs in a way that could limit, impair, harm, or damage the APIs, the Weingärtner Group, or any of Weingärtner Group's products or services;

(ix)   Licensee shall not use the APIs to migrate users of the Add-in away from any of Weingärtner Group's products or services;

(x)   Add-Ins may not remotely access the Licensed Materials over a network; Add-Ins invoking the APIs and / or calling the Software must be installed and running on the same Licensee computing device as the Software; nor may any Add-Ins act as a server or other means of remote access to the Licensed Materials; and

(xi)   Upon expiration or termination of Licensee's license to the APIs or the associated Software, Licensee shall immediately cease using any and all portions or elements of the APIs incorporated or embodied in the Add-ins.

14.   **ADDITIONAL TERMS RE CLOUD HOSTED FEATURES.**

14.1   Certain features, functions, or capabilities associated with Software may require access to and use of cloud-hosted content and / or services hosted on Licensor, or third-party websites ("**Hosted Features**"). In such cases, the Software may cause Licensee's computer(s), with or without notice, to connect to the internet and to communicate with the website for such purposes. Access to and use of certain Hosted Features may require additional registration by Licensee and / or its Authorized Users. Some Hosted Features may only be available subject to payment of additional fees and charges.

14.2   Access to or use of Hosted Features may be subject to additional or different terms, as may be presented to Licensee and / or its Authorized Users at the time of registration, sign-in or other use, or as posted on the applicable website. Licensee shall comply with such additional or different terms, and cause its users to comply with such additional or different terms. Licensee and / or its Authorized Users may be required to further accept such additional or different terms prior to access or use of Hosted Features (e.g., at the time of registration or sign-in).

14.3   Licensee acknowledges and agrees that: (i) Licensor or third party suppliers may modify, discontinue or replace any or all features, functionality or capabilities of the Hosted Features; (ii) Licensee is

solely responsible for ensuring that use of the Hosted Features will not cause any error or interruption in Licensee's systems or other software; (iii) Licensee is solely responsible for procuring and maintaining network connections and internet connectivity to the data centers where the Hosted Features are hosted and neither Licensor,or its suppliers shall have liability for loss or damage arising from or related to such connections and connectivity.

14.4   HOSTED FEATURES ARE NOT MADE AVAILABLE ON A PERPETUAL OR PAID-UP LICENSE BASIS, BUT ARE OFFERED ONLY ON A TERM-LIMITED BASIS, SUCH AS DURING AN ASSOCIATED SUBSCRIPTION TERM OR MAINTENANCE TERM. Upon expiration or termination of the associated Subscription or Maintenance term, Licensee and its users lose access and usage rights as to the associated Hosted Features. Licensee understands that upon such expiration or termination, License may have no further access to any Licensee data or content it stored on the cloud service relating to the Hosted Features.

14.5   Hosted Features are provided on an "as is" basis, with no warranties of any kind. LICENSOR DOES NOT REPRESENT THAT LICENSEE'S USE OF THE HOSTED FEATURES WILL BE SECURE, TIMELY, UNINTERRUPED OR ERROR FREE, OR THAT THE HOSTED FEATURES WILL MEET LICENSEE REQUIREMENTS OR THAT ALL ERRORS IN THE HOSTED FEATURES WILL BE CORRECTED. LICENSEE ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE HOSTED FEATURES OR THE INFORMATION GENERATED THEREBY IS ACCURATE OR SUFFICIENT FOR THE LICENSEE'S PURPOSE.

14.6   Licensor does not control nor accept any responsibility for any third-party content or services. Third-party websites are subject to the terms and conditions found on such third-party sites or otherwise associated with the third-party content or services. Any dealings between Licensee and any third party in connection with such content or services, including, without limitation, such third party's privacy policies, are solely between Licensee and such third party. Licensor may at any time, for any reason, modify or discontinue the availability of any third-party content or services.