



# TZ Centurion Server Software

## End User Licence and Software Maintenance Service Agreement

### 1. End User License

- a Application.** This TZ Centurion Server License and Software Maintenance Service Agreement (“EULA”) applies to the Licensed Software, together with any Update that TZ may make available to End User, with or without charge, after the date End User obtained its copy of the Licensed Software, unless the Update, subject to the sole discretion of TZ, is governed by a new end user license agreement, with or without additional consideration, in which event the terms of the new end user license agreement shall be furnished to End User and shall govern. End User, without further action, shall be deemed to have agreed to the terms of the new end user license upon use of the Update. For the purpose of avoiding any doubt, TZ is under no obligation to furnish, with or without consideration, an Update to the Licensed Software.
- b Grant of Limited License to End User.** Subject to the condition precedent that all licensing fees and other charges and expenses have been collected, TZ grants to End User a personal, non-exclusive, nontransferable, royalty free revocable license to use one (1) copy of the Licensed Software, together with any Update (absent the Update governed by a new end user license agreement) in object form solely in conjunction with and to operate the Product, subject to the terms set forth in this EULA, together with the terms of the Related Documents. End User acknowledges that TZ may monitor End User’s compliance with the use restrictions by allowing TZ upon reasonable notice to examine End User’s premises and such other locations where the Product and Licensed Software and Update thereto are utilized. For purpose of avoiding any doubt, (i) the Licensed Software and any Update, if applicable, is strictly licensed and not sold to End User and (ii) End User may only install and/or operate the Licensed Software and any Update, if applicable, equivalent to the number of licenses purchased and paid for by End User.
- c Reservation of Rights.** The Licensed Software and/or any Update thereto are protected by copyright and patent laws, international treaties and other applicable laws in the country of usage and without limitation in the United States, and Australia. Subject to the limited revocable license granted to End User as set forth in Sections 1(b) and 4(b) and (c), TZ solely and exclusively owns and retains all right, title and interest in and to the Licensed Software, any Update, the Related Documents and the Documentation including, without limitation, all copyrights, patents, patent applications, trade secrets, and other intellectual property rights. End User’s possession, installation, or use of the Licensed Software, Update thereto, the Related Documents and the Documentation does not transfer to End User nor shall End User acquire any right, title and/or interest to the intellectual property embodied therein, except as strictly granted by this EULA. Without limiting the foregoing, End User acknowledges and agrees that nothing herein shall constitute a sale and/or conveyance of title to the Licensed Software and any Update thereto, including, but not limited to, any copies and portions thereof, together with the Related Documents and the Documentation.
- d Software Update.** TZ may make available to End User an Update to the Licensed Software in such form and format and on such media as TZ, in its sole discretion, deems appropriate. TZ reserves the right, in its sole discretion, not to create an Update (i.e. nothing herein entitles End User to receive a minimum and/or any number of Updates at any time whatsoever). End User may use an Update only to update or replace a previous version. In the event End User installs an Update, End User is strictly prohibited from continuing to use the previous version of the software separately.
- e Restrictions.** End User shall not and agrees not to sell, lease, license, rent, loan, or otherwise transfer, with or without consideration, the Licensed Software, any Update thereto, the Related Documents and the Documentation. End User shall keep the Documentation to the extent, if at all provided to End User, secret and confidential employing no less than commercially reasonable efforts. End User is strictly prohibited from attempting to derive the source code, reverse engineering, decompiling, decrypting, disassembling and/or creating any derivative software of the Licensed Software, and any Update, if applicable. In the event the foregoing restriction is in violation of applicable law, End User forever waives any and all rights to attempt to derive the source code, reverse engineer, decrypt, decompile, disassemble and/or create any derivative software of the Licensed Software and any Update. End User shall not copy and/or reproduce, in whole or in part, in any manner the Licensed Software, any Update, the Related Documents and/or the Documentation. Without the prior written approval of TZ, End User shall not extend the use and/or the benefit of the Licensed Software and Update thereto to any person and/or entity other than End User via, without limitation, a timesharing, network, service bureau and/or any other arrangement on a temporary and/or permanent basis. End User shall not remove any



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proprietary notices and labels on the Licensed Software, any Update thereto, the Related Documents and the Documentation. All rights not expressly granted under this EULA to End User are expressly reserved by TZ.

- f U.S. Government License Rights.** The Licensed Software, any Update and Related Documents are each a “Commercial Item,” as defined by 48 C.F.R. 2.201, consisting of “commercial computer software” and “commercial computer software documentation,” as defined by 48 C.F.R. 12.212 (Sept. 1995) and 48 C.F.R. 227.7202 (June 1995). Consistent with 48 C.F.R. 12.212, 48 C.F.R. 27.405(b)(2) (June 1998) and 48 C.F.R. 227.7202, all U.S. Government end users acquire the use of Licensed Software, Update and Related Documents with only those rights as are granted to other end users pursuant to the terms of this EULA.
- g Export Restrictions.** End User shall not export or re-export the Licensed Software and any Update thereto in violation of any applicable laws and/or regulations including, without limitation, U.S. export laws and/or regulations and/or the laws and/or regulations of the country in which the Licensed Software and any Update thereto was first acquired.

## 2. Software Maintenance Services

- a Scope of Software Maintenance Services.** During the Software Maintenance Period, TZ will provide the services described in Sections 2(b) and 2(c) (collectively, “Software Maintenance Services”). If TZ performs any services outside the scope of the Software Maintenance Services, which End User acknowledges and agrees that TZ is not obligated to perform including, but not limited to, services requested by End User in accordance with Section 2(d) (Other Errors) and/or services required due to acts, omissions and/or events set forth in Section 2(e) (Limitations and Exclusions), such services shall be rendered, if at all, at End User’s sole expense. TZ’s obligation under this EULA is solely to undertake the agreed Software Maintenance Services and not to achieve, without limitation, technical, economical, and/or other results.
- b Support.** Unless otherwise agreed in writing between TZ and End User, TZ during the Business Day no later than two (2) Business Days following request, absent exigent circumstances, the finding of which shall be subject to the sole discretion of TZ, shall subject to its sole discretion, via telephone, e-mail, or TZ’s technical support website, if any, provide the following services at TZ’s sole expense: (i) respond to End User’s questions regarding any failure of the Licensed Software and any Update (in the event the Update is not governed by a new end user license agreement) to substantially conform to the applicable Documentation (“Problem”) and (ii) if End User reports a Problem to TZ with a detailed description of the Problem, use commercially reasonable efforts to correct any reproducible Problem so that the Licensed Software and any Update thereto functions substantially in conformance with the Documentation by and without limitation delivering patches, identifying a work-around or detour solution and/or specifying a plan for correcting the Problem (“Support”).
- c Problem Reporting, Response, Resolution and Escalation.** End User shall inform TZ of a Problem by providing the information required to correct the Problem and/or as otherwise reasonably requested by TZ. Based upon the information provided, TZ will, subject to TZ’s sole discretion, assign to the Problem a severity level. TZ reserves the right, in its sole discretion, to downgrade at any time and from time to time the assigned severity level: (i) if the Problem is determined to be less severe than originally reported and/or assessed by TZ; and/or (ii) as TZ provides solution(s) to lessen the impact of the Problem. In the event TZ in its opinion is unable to effectively provide Support due to End User’s failure to provide required information to TZ and/or reasonably cooperate as requested by TZ, TZ may, subject to its sole discretion, immediately cease providing Support. The Support may resume, subject to TZ having received adequate assurance from End User that the information required to correct the Problem and/or as otherwise reasonably requested by TZ will be provided in a timely manner. If TZ specifies any response and resolution times (collectively, “Response Times”), which Response Times may be revised from time to time by TZ, subject to its sole discretion, such Response Times shall constitute mere targets only and TZ shall not under any and all circumstances whatsoever be liable to End User for any delay and/or any damages of any kind and/or nature whatsoever that may result from failing to meet such target Response Times.
- d Other Errors.** If TZ believes that an error reported by End User may not be due to a Problem, is otherwise outside the scope of the Software Maintenance Services and/or falls within the scope of Section 2(e) (Limitations and Exclusions), TZ

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shall notify End User and End User may then either: (i) direct TZ to proceed with services regarding said error at End User's possible expense ("End User's Possible Expense") as provided for in this Section 2(d) which End User agrees to; or (ii) advise TZ that End User does not desire that the error be pursued, in which case TZ may elect, at its sole discretion, not to pursue the error without liability therefor. In the event End User requests that the error be pursued at End User's Possible Expense and the error is corrected but such error is not due to a Problem, is otherwise outside the scope of the Software Maintenance Services and/or falls within the scope of Section 2(e) (Limitations and Exclusions), which determination shall be made solely by TZ, subject to its sole discretion, End User shall and agrees to pay TZ its standard charges (for labor and materials) that are in than in effect for correcting such error and End User shall submit payment within thirty (30) days of the date of TZ's invoice.

**e Limitations and Exclusions.** TZ shall not be obligated to provide Software Maintenance Services if a Problem is caused by or related to: (i) End User's mishandling, abuse, misuse and/or use of the Licensed Software and any Update thereto, other than in accordance with TZ's Documentation and Related Documents; (ii) use of the Licensed Software and any Update thereto with media, interfacing, supplies, hardware, accessories, products and/ or software that was not expressly approved in writing by TZ for use with the Product; (iii) changes to End User's environment in which the Licensed Software and any Update thereto was initially used; (iv) acts and/or omissions of persons other than TZ; (v) installation, maintenance, and/or repair of the Licensed Software and any Update thereto by End User and/or a third party, except if authorized in writing by TZ; (vi) working around any technical limitations; (vii) electrical disturbances, fire and other casualties; and (viii) failure to implement any and all Updates and/or other new releases of software (collectively, "New Releases") made available to End User, with or without cost, (provided however, for the avoidance of doubt, TZ is not obligated to make available any minimum number of New Releases). End User shall also not be obligated to provide Software Maintenance Services and/or any other services for: (a) the Licensed Software and any Update thereto that has been modified other than by TZ, unless such modification was approved by TZ in writing and made in strict conformance with all instructions, documentation and specifications provided by TZ in writing; (b) the Licensed Software and any Update thereto that TZ modified in accordance with End User's request, specifications and/or instructions; or (c) third party products. TZ shall also not be obligated to provide Software Maintenance Services, except for the most recent version of the Licensed Software and any Update thereto (excepting in the event the Update is governed by a new end user license agreement which terms shall govern) and only for the balance of the Service Maintenance Period in the event such Service Maintenance Period has not expired at the time the most recent version of the Licensed Software, and any Update thereto is received by End User. TZ shall have no obligation whatsoever to provide any Software Maintenance Services for any version of the Licensed Software and any Update thereto that has been discontinued more than twelve (12) months prior to a request for software maintenance services.

**f Payment.** TZ may invoice End User in advance (excepting for an End User Possible Expense) for the performance of Software Maintenance Services not included free of charge pursuant to the terms of this EULA, at TZ's standard rates for labor and materials at which time such labor and materials are furnished. TZ, upon request of End User, shall furnish an estimate of TZ's charges for labor and materials prior to the commencement of any work, End User shall submit payment within thirty (30) days of the invoice date.

### 3. Limited Warranty (Licensed Software and Software Maintenance Services) and Limitation and Exclusion of Damages

**a Limited Warranty for Licensed Software.** TZ solely warrants that the Licensed Software in accordance with the Limited Warranty during the Limited Warranty Period For The Licensed Software. In the event TZ furnishes to End User an Update for additional consideration which is not governed by a new end user license agreement, TZ solely warrants that the Update shall perform in accordance with the Limited Warranty during the Limited Warranty Period For The Update (hereinafter the Limited Warranty Period For The Licensed Software and the Limited Warranty Period For The Update are collectively referred to as the "Limited Warranty Period"). The Limited Warranty does not apply to Damage and/or to expendable and/or consumer parts to the Licensed Software and Update thereto.

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Subject to the foregoing, in the event TZ receives notice sent via email at support@TZ.net from End User prior to the expiration of the Limited Warranty Period that the Licensed Software and any Update thereto does not perform substantially in accordance with the Documentation specifying the claimed defect (“Notice of Defect”), TZ shall as soon as practical, but in no event later than ten (10) Business Days following receipt of notice, subject to its sole discretion, either refund End User’s purchase price or replace the Licensed Software and any Update thereto with a new copy or the functional equivalent at TZ’s cost and expense as End User’s sole and exclusive remedy. Upon receipt of such notice, TZ will then contact End User and provide details on the refund or replacement process.

That notwithstanding any term of this EULA that may be to the contrary, End User shall have no warranty claim and forever waives all warranty claims under this EULA, unless TZ receives End User’s Notice of Defect within thirty (30) days after the date End User knew of or should have known of the defect and prior to the expiration of the Limited Warranty Period.

This limited warranty gives end user specific legal rights and end user may have other rights which may vary from state to state and country to country. The waiver and limitation of damages set forth in section 5(a) applies to breach of this limited warranty. However, section 5(a) may not apply to end user for some states and countries do not permit the waiver and/or limitation of indirect, consequential, incidental and special, damages and/or other damages.

**b Limited Warranty for Software Maintenance Services.** Subject to the terms of this EULA, TZ warrants that the Software Maintenance Services shall be performed in a competent and professional manner as determined by TZ (“Software Maintenance Services Limited Warranty”).

The software maintenance services limited warranty gives end user specific legal rights and end user may have other rights which may vary from state to state and country and country.

The waiver and limitation of damages set forth in section 5(a) applies to breach of the software maintenance services limited warranty. However, section 5(a) may not apply to end user for some states and countries do not permit the waiver and/or limitation of special, incidental, indirect, consequential damages and/or other damages.

**c Disclaimer of warranties.** Except as specified in sections 3(a) and 3(b) and to the extent permitted by applicable law, TZ disclaims all express representations, indemnities, guarantees, conditions, duties and warranties with regard to any software maintenance services, the licensed software and updates thereto whether by statute, common law, custom and/or otherwise regardless of the legal and/or equitable theory on which such implied warranty, indemnity, guaranty, condition, duty or representation may be based, including, without limitation, contract, tort, course of dealing, usage and/or trade practice, except for the expressed limited warranty set forth above.

To the maximum extent permitted by applicable law, TZ disclaims and disavows all implied warranties, indemnities, guarantees, conditions, duties and representations including, but not limited to, any and all implied warranties of merchantability, fitness for a particular purpose, and non-infringement whether by statute, common law, custom and/or otherwise, regardless of the legal and/or equitable theory on which such implied warranty, indemnity, guaranty, condition, duty or representation may be based, including, without limitation, contract, tort, course of dealing, usage and/or trade practice. TZ does not warrant and disclaims that the operation of the licensed software and update thereto will be uninterrupted or error free.

TZ does not warrant and disclaims that the licensed software and update thereto will operate in hardware and in combination with other software, except if provided by TZ and/or that the licensed software and/or update thereto will meet end user’s requirements.

## 4. Term and Termination

**a Term and Renewal.** TZ shall only provide Software Maintenance Services during the Software Maintenance Period, which shall not be automatically renewed. If End User desires to obtain Software Maintenance Services following the Software Maintenance Period, End User shall submit to TZ in writing a new order. Nothing herein obligates TZ to accept such new order. Rates for subsequent Software Maintenance Periods may vary. Additional fees may apply if End User

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allows the Software Maintenance Services to lapse, and wishes to resume such Software Maintenance Services at some future date.

- b Termination for Cause.** Either party may terminate this EULA by written notice, effective immediately, if the other party fails to cure any material breach of this EULA within thirty (30) days after receiving a written notice from the non-breaching party setting forth with reasonable specificity the alleged material breach. For purpose of avoiding any doubt, the limited license granted End User under this EULA is only effective until terminated pursuant to the terms of this EULA.
- c Consequences.** In the event that End User terminates this EULA for cause because of TZ's material breach, End User shall be entitled to receive a proportionate credit equal to any fees with respect to the Software Maintenance Services applicable to the thirty (30) days immediately preceding the date of termination. End User shall not under any circumstances be entitled to receive a refund. If TZ terminates this EULA due to End User's material breach, End User shall return to TZ all the Licensed Software and any Updates thereto, TZ's Confidential Information (and other tangibles and intangibles received in connection with the Licensed Software, any Updates thereto and Software Maintenance Services without retaining any copies thereof) and all licenses granted to End User under this EULA for the Licensed Software and any Update thereto shall automatically be revoked without further notice. Under no circumstances whatsoever is End User entitled to a refund and/or credit in the event TZ terminates this EULA for cause because of End User's material breach.

## 5. Waiver and Limitation of Damages

- a Limitation of Direct Damages.** The maximum liability of end user in the aggregate for actual direct damages to TZ, and the maximum liability of TZ, together with TZ's representatives to end user for actual direct damages arising under the terms of this eula including, but not limited to, for breach and/or in tort, strict liability and/or under any other theory at law and/or at equity shall not exceed in the aggregate the fee charged end user by TZ for the licensed software and any update thereto which gave rise to the claim or the fee charged end user by TZ for the software maintenance services which gave rise to the claim ( each, "liquidated damages for direct damages"). TZ and end user agree that the amount of liquidated damages for direct damages is just compensation based upon at this time a reasonable forecast of the loss, harm and/or damages that each party may sustain and the damages that may result are impossible or very difficult to estimate accurately. TZ and end user acknowledge and agree that each party accepts the terms of this provision freely and without compulsion and/or duress for the terms are commercially reasonable.

Waiver of Consequential Damages and in the Alternative Limitation of Consequential Damages. TZ, together with TZ's representatives shall not be liable to end user and end user shall not be liable to TZ for indirect, consequential, incidental special damages and/or punitive damages (collectively, "consequential damages") arising from and/or related to the subject matter of this eula including, but not limited to, the use or inability to use the licensed software and any update thereto, resulting from and/or arising from any breach of this eula, together with any breach of any duty and/or condition under any theory of law and/or equity whatsoever including, but not limited to, loss of use, loss of revenue, loss of actual or anticipated profits (including loss of primary and secondary profits); loss of the use of money; loss of anticipated savings; loss of business; loss of opportunity; loss of goodwill; loss of reputation; loss of damage to or corruption of data; or any damages (excepting compensatory damages as set forth in the preceding paragraph) whatsoever howsoever caused (collectively, "waiver of consequential damages"). In the event the waiver of consequential damages is held by a court of competent jurisdiction by a final order, subject to exhaustion of all rights of appeal, to be unenforceable, the maximum liability of end user in the aggregate for consequential damages against TZ, together with TZ's representatives and the maximum liability of TZ in the aggregate against end user for consequential damages shall not exceed in the aggregate the fee charged end user by TZ for the licensed software and any update thereto which gave rise to the claim or the fee charged end user by TZ for the software maintenance services which gave rise to the claim ("liquidated damages for consequential damages"). TZ and end user agree that the amount of liquidated damages for consequential damages is just compensation based upon at this time a reasonable forecast of the loss or harm or damages that each party may sustain and the consequential damages that may result are impossible or very difficult to estimate accurately. TZ and end user acknowledge and agree that each party accepts the terms of this provision freely and without compulsion and/or duress for the terms are commercially reasonable.

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This foregoing waiver and limitations of damages provisions applies to all claims whatsoever, in law and in equity, including, without limitation, for breach of contract, breach of guaranty or condition, breach of warranty, negligence, strict liability and/or any other tort to the extent not in violation of applicable law, except as expressly set forth otherwise.

TZ and end user acknowledge and agree that the foregoing waiver limitations of damages provisions applies even if (i) the limitation results in a party not receiving full compensation for all losses it may sustain; (ii) either party knew or should have known about the possibility of damages and/or (iii) the remedy fails of its essential purpose.

This section 5(a) may not apply for some states and countries do not permit the waiver and/or limitation of consequential damages.

TZ disclaims and disavows any representation that it will be able to service, repair and/or replace the licensed software and updates thereto without risk to or loss of and/or corruption of the software program and/or data all of which risk end user fully assumes.

This Section 5 does not apply to breach of Sections 1(b) and/or 1(e) by End User and to 7(c) with respect to an award of Attorney's Fees and Litigation Expenses to the prevailing party.

## 6. Indemnification

Subject to the terms of Section 5, End User shall defend, indemnify and hold TZ harmless from and against any and all claims, demands, liabilities, losses, penalties, causes of action and judgments, and damages, together with reasonable attorney's fees, litigation expenses (including, but not limited to, professional fees) and costs pertaining to, arising from and/or relating to a breach of this EULA by End User, its employees, contractors, agents and/or representatives including, but not limited to, the use by End User of the Licensed Software and any Update thereto in violation of applicable law.

## 7. Miscellaneous

### a Definitions:

- i **"Acceptance Date of the Licensed Software"** shall mean the date that End User is notified by TZ or its authorized representative (oral notice is sufficient) that the Licensed Software has been installed in the Product, tested and is operational;
- ii **"Acceptance Date of an Update to the Licensed Software"** shall mean the date that End User is notified by TZ or its authorized representative (oral notice is sufficient) that the Update is available to End User for installation in the Product by End User if directed by TZ to install or the event TZ elects to install the Update in the Product, the date that End User is notified by TZ or its authorized representative (oral notice is sufficient) that the Update has been installed in the Product, tested and is operational;
- iii **"Business Day"** shall mean Monday-Friday 9:00 a.m. to 5:00 p.m. EST, excepting public holidays;
- iv **"Confidential Information"** shall mean and include, without limitation, scientific and proprietary information, inventions, research and development, patent and applications, technical information, computer programs, know-how, trade secrets, knowledge, designs, drawings, specifications, concepts, data, material, photographs, products, equipment, reports, methods, processes, documentation, methodology, pricing, marketing plans, sales plans, acquisition plans, actual or potential customer lists and/or identifying information, salaries, business affairs, suppliers, vendors, manufacturers, contacts, profits, markets, sales strategies, unique servicing techniques, and any other information that has economic value to TZ and otherwise non-public;
- v **"Damage"** shall mean as a result of accident, misuse, liquid spills, abuse, contamination and/or other external causes; by use outside the usage parameters provided for in the Related Documentation, by software, interfacing, parts and/or supplies not supplied by TZ and/or not approved in writing by TZ; by improper maintenance (except if performed by TZ), use in environmental conditions that do not conform to TZ's directives; by virus, infection, worm and/or similar malicious code not introduced by TZ; by loss, damage or destruction in transit; by modification,



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service and/or maintenance by anyone other than TZ and/or TZ authorized representative, absent the prior written approval of TZ and other matters and events beyond the control of TZ;

- vi **“Documentation”** shall mean and include is written text that accompanies the Licensed Software and Update, tangible items that relate to the attributes, capabilities, characteristics and qualities of the Licensed Software and Update, architecture and design relating to environment and construction principles used in the design of the components of the Licensed Software and Updates, technical tangible items relating to the Licensed Software and Update including, but not limited to, code, algorithms, interfaces, and application programming interface. (vii) **“Licensed Software”** shall mean the TZ Client Software and/or the TZ Asset Manager Software, together with any Update, as applicable, subject to TZ and End User entering into this EULA and TZ collecting all license fees.
  - viii **“Limited Warranty”** shall mean that the Licensed Software and Update shall perform substantially in accordance with the applicable Documentation during the Limited Warranty Period;
  - ix **“Limited Warranty Period”** shall mean the (a) with respect to the Licensed Software the date commencing on the Acceptance Date and ending ninety (90) days thereafter and (b) with respect to an Update commencing on the earlier of the date installed or used and ending ninety (90) days thereafter, absent earlier termination of the EULA in accordance with its terms;
  - x **“Related Documents”** shall mean the User Guidelines and other written documentation which may accompany the Licensed Software and/or otherwise provided to End User relating to the Licensed Software.
  - xi **“Software Maintenance Period”** shall mean the period commencing on the date that End User is notified by TZ or its authorized representative (oral notice is sufficient) that the Licensed Software has been installed in the Product, tested and is operational and ending three hundred sixty five (365) days thereafter, absent earlier termination of the EULA in accordance with its terms;
  - xii **“TZ Representatives”** shall mean TZ’s parent, subsidiaries and affiliates, its vendors, suppliers and distributors, together with their respective directors, officers, shareholders, members, managers, employees, agents, independent contractors, and other representatives; and
  - xiii **“Update”** shall mean, subject to the discretion of TZ, a new updated or upgraded version of the Licensed Software which may not include all existing software features and/or new features that TZ may release for other versions of the Licensed Software.
- b Survival.** The earlier termination of this EULA shall not affect the rights and obligations set forth in Sections 2(g) (Payment), 3 (Limited Warranty and Disclaimer), and 4 (Term and Termination), together with such other provisions that evidence the intent of the parties and/or by their nature must survive in order to give effect to this EULA all of which shall survive earlier termination of this EULA.
- c Governing Law and Attorney’s Fees.** In the event End User acquired the Licensed Software and any Update thereto, if applicable, in the USA, this EULA shall be governed in accordance with the laws of the State of Illinois regardless of conflict of law principles and place of execution. In the event End User acquired the Licensed Software and any Update thereto, if applicable, outside the USA, the laws of the country of acquisition shall govern. This EULA will not be governed by the United Nations Convention on Contracts for the International Sale of Goods. In the event a lawsuit is filed relating to the subject matter of this EULA including, but not limited to its enforcement and interpretation, the prevailing party shall be entitled to an award of reasonable attorney’s fees, litigation expenses (including, but not limited to, professional fees) and costs (collectively, “Attorney’s Fees and Litigation Expenses”). Words in this EULA importing the singular shall, where the context so admits, include the plural meaning and vice versa.
- d Consumer Rights Not Affected.** End User may have additional consumer rights under local law that this EULA may not change.
- e Entire Agreement; Severability and Interpretation.** This EULA is the entire agreement between TZ and End User relating to the Licensed Software and any Update thereto (absent the Update being governed by a new end user license agreement), the Software Maintenance Services (absent the Software Maintenance Services governed by a new software

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maintenance services agreement), the Documentation and the Related Documents and supersedes all prior or contemporaneous oral or written communications, proposals and representations with respect to the Licensed Software and any Update thereto and the Software Maintenance Services or any other subject matter covered by this EULA. If any provision of this EULA is held to be void, invalid, unenforceable or illegal by a court of competent jurisdiction subject to exhaustion of all rights of appeal, the remaining provisions shall continue in full force and effect. The captions and headings used in this EULA are solely for the convenience of the parties, and shall not be used in the interpretation of the text of this EULA. The parties acknowledge and agree that each party and its counsel had an opportunity to review this EULA or reviewed this EULA and that the rule/principle of contract construction to the effect that an ambiguity is to be resolved and interpreted against the drafting party shall not be employed in the interpretation of this EULA.

**f Assignment and Binding Effect.** This EULA, together with the rights and obligations arising hereunder may not be assigned, in whole or in part, without the prior written approval of TZ, which approval TZ shall not unreasonably withhold. In the event TZ agrees to assignment of this EULA at the request of End User, End User and such assignee shall be jointly and severally liable for all obligations and liabilities arising under this EULA. This EULA is binding upon End User, together with End User's successors and permitted assigns.