

SERVICEPILOT END USER LICENSE AGREEMENT

1. DEFINITIONS

Capitalized terms not defined in context shall have the meanings assigned to them below:

"Affiliate" means any legal entity controlling, controlled by, or under common control with a Party to this Agreement, for so long as such control relationship exists. Control includes a) a direct or indirect ownership interest of more than 50% or (b) the power to direct or cause the direction of the management and policies, whether through the ownership of voting stock, by contract or otherwise, equal to that provided by a direct or indirect ownership of more than 50%.

"Documentation" means the user manuals and documentation that ServicePilot delivers with the Software, and all copies of the foregoing.

"Hardware" means the hardware products purchased by Customer under this Agreement, if any.

"License Type" means the model by which the Software is licensed (e.g., by objects, by devices, by users, etc.) as is indicated in the applicable Order.

"Maintenance Period" means the time period during which ServicePilot provides Customer with Maintenance Services pursuant to the terms and conditions set forth in this Agreement. The first Maintenance Period begins on the date of delivery of the Software following an Order and lasts for a duration of twelve (12), twenty four (24) or thirty six (36) months as set forth in the applicable Order, or for any other duration specified in the applicable Order (the *"Initial Maintenance Period"*). Following the Initial Maintenance Period, Customer may renew Maintenance Services for additional terms of twelve (12), twenty four (24) or thirty six (36) months (each, a *"Renewal Maintenance Period"*). ServicePilot shall send Customer a renewal proposal for Maintenance Services before the end of the applicable Maintenance Period.

"Maintenance Services" means the provision by ServicePilot to Customer, pursuant to the terms and conditions set forth in this Agreement and for the duration of the Maintenance Period, of Software patches, updates and/or upgrades made generally available to customers from time to time, and online technical support for the sole purpose of addressing technical issues relating to the use of the Software.

"Order" means (i) the document by which Customer orders the Product(s) or, (ii) if Customer orders the Product(s) from ServicePilot's website (www.servicepilot.com), the order form generated on the website and accepted by Customer, or (iii) if Customer placed the Order through a Partner, such Partner's order form referencing this Agreement. All Orders shall be governed solely by the terms of this Agreement as complemented by the applicable Order. Any conflicting or additional terms in or accompanying an Order will not be binding on ServicePilot unless ServicePilot accepts such terms in writing. Each Order shall be the Customer's irrevocable commitment to purchase and pay for the Products and/or Maintenance Services stated in the Order.

"Partner" means a reseller or distributor that is under contract with ServicePilot or another Partner and is authorized through such contract to resell the Products and/or Maintenance Services to Customer.

"Product(s)" means the Software licenses and/or Hardware purchased by Customer under this Agreement.

"Product Terms" means the usage rights and other terms associated with each License Type or individual Product. The Product Terms for Software identified in an Order issued to ServicePilot shall be as stated in the Order, or, if no Product Terms are stated in the Order, then the Product Terms for such Software shall be as stated in the Documentation.

"Software" means (i) the object code version of the software that is delivered pursuant to an Order as well as (ii) any corrections, enhancements, and upgrades to such software that ServicePilot may provide to Customer pursuant to this Agreement, and all copies of the foregoing.

"Territory" means the region from which the license was purchased: (i) North America and Latin America (ii) Europe, Middle East and Africa, Asia Pacific.

2. CONTRACTING PARTIES

This End User License Agreement (the *"Agreement"*) is made between ServicePilot (as determined by Section 2.1 "Latin America and North America", or Section 2.2. "Europe, Middle East, Africa or Asia Pacific Region" and hereinafter referred to as *"ServicePilot"*) and the entity subscribing a license and/or hardware or services in relation to the Software (hereinafter referred to as *"Customer"*), both together referred to as the *"Parties"* or each as a *"Party"*. The Agreement also includes the Technical Support Guide which is available at http://www.servicepilot.com/Support_EN.pdf as well as the ServicePilot Privacy Policy which is available at http://www.servicepilot.com/Privacy_EN.pdf.

2.1. North America or Latin America

If Customer acquiring the Product(s) or an Evaluation License is established in Latin America or North America, ServicePilot shall be ServicePilot Inc., a U.S. company, having its registered office at 6499 Powerline Road, Suite 108, Fort Lauderdale, FL 33309 – United States of America.

2.2. Europe, Middle East, Africa or Asia Pacific Region

If Customer acquiring the Product(s) or an Evaluation License is established in Europe, the Middle East, Africa or Asia Pacific, ServicePilot shall be ServicePilot Technologies, a French company registered with the Saint-Nazaire Trade Register under n° 439 416 504, having its registered office at 162 Boulevard des Oceanides, 44380 Pornichet – France.

3. CONTRACTING RESTRICTIONS

Customer may not access the ServicePilot Evaluation License if it is a competitor of ServicePilot, except with ServicePilot's prior written consent. Customer may not access ServicePilot services for the purposes of monitoring their availability, performance or functionality, or for any other benchmarking or comparison purposes, and may not publish any comment or report based thereon, except with ServicePilot's prior written consent.

4. SCOPE OF THE AGREEMENT

This Agreement governs (i) the provision by ServicePilot to Customer of an Evaluation License (as defined under Section 8. "Evaluation License") for use of the Software during a limited period of time, and, subject to payment by Customer of the required fees, (ii) the grant by ServicePilot of a license for use of the Product(s) by Customer, as well as (iii) the provision of Maintenance Services, and (iv) professional consultancy services.

5. AGREEMENT TERM

Customer can accept this Agreement either by clicking a box indicating his acceptance or by executing an Order form that references this Agreement.

Once the Agreement has been accepted by Customer, it shall become effective immediately and shall remain in force between the Parties for an indefinite term.

6. TERMINATION

6.1. Termination by mutual agreement

This Agreement and/or the License(s) granted hereunder may be terminated by mutual agreement of ServicePilot and Customer.

6.2. Termination by Customer

This agreement and/or the License(s) granted hereunder may be terminated by Customer for any reason upon thirty (30) days written notice to ServicePilot.

6.3. Termination by ServicePilot

This agreement and/or the License(s) granted hereunder may be terminated by ServicePilot in the event of a material breach by Customer of any of its obligations under this Agreement which is not cured within thirty (30) days after receipt of written notice sent by the ServicePilot specifying with reasonable particularity such breach.

7. EFFECTS OF TERMINATION

Upon termination of this Agreement or expiration or termination of a Product License for any reason, all rights granted to Customer in relation to the applicable Product(s) shall cease and Customer shall immediately: (i) cease using the applicable Software and Documentation, (ii) return the applicable Software to ServicePilot together with all Documentation and other materials associated with the Software and all copies of any of the foregoing, or destroy such items, (iii) cease using the Maintenance Services associated with the applicable License(s), (iv) pay ServicePilot or the applicable Partner all amounts due and payable up to the date of termination, and (v) give ServicePilot a written certification that Customer has complied with all of the foregoing obligations.

Termination of this Agreement or a License shall be without prejudice to any other remedies that the terminating party may have under law, subject to the limitations and exclusions set forth in this Agreement. Any provision of this Agreement that requires or contemplates execution after termination of this Agreement or expiration of a License are enforceable against the other party and their respective successors and assigns notwithstanding termination or expiration, including, without limitation, the "Payment," "Taxes," "Effects of Termination," "Warranty Disclaimer," "Infringement," "Limitation of Liability," "Confidentiality", "Usage Verification," and Sections 18 to 28 of this Agreement.

8. EVALUATION LICENSE

If an Order indicates that Software is to be used for evaluation purposes or if the Software is otherwise obtained from ServicePilot for evaluation purposes, Customer shall be granted a non-production License to use such Software and the associated

Documentation solely for Customer's own internal evaluation purposes for an evaluation period of up to thirty (30) days from the date of delivery of the Software, plus any extensions granted by ServicePilot in writing (the "*Evaluation Period*").

There is no fee for Customer's use of the Software for non-production evaluation purposes during the Evaluation Period. However, Customer is responsible for any applicable shipping charges or taxes which may be incurred, and for any fees which may be associated with usage beyond the scope permitted herein. Customer's opportunity for a free evaluation of the Software is limited to one Evaluation Period per release of the Software. Notwithstanding anything otherwise set forth in this Agreement, Customer understands and agrees that Software provided for evaluation purposes is provided "AS IS" and that ServicePilot does not provide any Warranty or Maintenance Services for evaluation Licenses. All the limitations to the Software License specified in the Agreement also apply to the Evaluation License.

9. SOFTWARE LICENSE

9.1. Internal Use License

Subject to the terms of this Agreement, ServicePilot grants to Customer, and Customer accepts from ServicePilot, a perpetual (unless otherwise set forth in an Order), non-exclusive, non-transferable (except as otherwise set forth herein) and non-sub licensable license in the Territory to (i) install, execute, access, run, or otherwise use the quantities of each item of Software identified in the applicable Order within the parameters of the Product Terms associated with the applicable Product and License Type, (ii) make a reasonable number of additional copies of the Software to be used solely for non-productive archival or passive disaster recovery purposes, so long as neither the original and a copy nor two copies of the same Software are used at the same time, and (iii) make and use copies of the Documentation as reasonably necessary to support Customer's authorized users in their use of the Software (collectively, "*License*"). Except for the specific third party uses as defined below under the "Third Party Use" Section, each License shall be used by Customer solely to manage its own internal business operations as well as the business operations of its Affiliates.

9.2. Third Party Use

If Customer contracts with a third party who performs Software implementation, configuration, consulting or outsourcing services (a "*Service Provider*"), the Service Provider may use the Software and Documentation licensed by Customer hereunder solely for purposes of providing such services solely to Customer, provided that (i) Customer ensures that the Service Provider uses the Software and Documentation in accordance with the terms of this Agreement, (ii) the use of the Software and Documentation by the Service Provider will not violate the terms of the export restrictions set forth herein, and (iii) the Service Provider is not a ServicePilot competitor. Customer shall be jointly liable to ServicePilot for the acts and omissions of its Service Providers in connection with their permitted use of the Software and Documentation.

9.3. Software Distribution or Managed Services by Partner

To the extent that the Product(s) is purchased by a Partner having concluded a distribution agreement with ServicePilot (a "*Partner Distribution Agreement*") with a view to offering customers the right to use the Product(s) (a) directly or (b) as part of managed services offered by such Partner ("*Managed Services*"), such Partner shall comply in all respects with the terms of such Partner Distribution Agreement, and shall further ensure that its customers are in compliance. If the Partner contracts with a Customer in order to offer Software implementation, configuration, consulting or outsourcing or Managed Services, the Partner may use the Software and Documentation licensed hereunder solely for purposes of providing such services to its own customers, provided that (i) Partner ensures that it uses the Software and Documentation in accordance with the terms of this Agreement, and (ii) the use of the Software and Documentation by the Partner will not violate the terms of the export restrictions set forth herein, and (iii) the Partner shall be jointly liable to ServicePilot for the acts and omissions of its own customers in connection with their permitted use of the Software and Documentation through the services offered by the Partner as though they had entered in the Agreement with ServicePilot.

9.4. Restrictions

Except to the extent expressly permitted by applicable law, and only to the extent that ServicePilot is not permitted by such applicable law to exclude or limit the following rights, Customer may not reverse engineer, decompile, disassemble, or attempt to discover or modify in any way the underlying source code of the Products, Documentation or any part thereof. In addition, Customer may not (i) modify, translate, localize, adapt, rent, lease, loan, create or prepare derivative works of, or create a patent based on the Products, Documentation or any part thereof, or (ii) resell the Products or Documentation or use the Products or Documentation in any commercial time share arrangement, in connection with the operation of any nuclear facilities, or for purposes which are competitive to ServicePilot.

Each permitted copy of the Software and Documentation made by Customer hereunder must contain all titles, trademarks, copyrights and restricted rights notices as in the original. Customer understands and agrees that the Products may work in conjunction with third party products and Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products.

Notwithstanding anything otherwise set forth in this Agreement, the terms and restrictions set forth herein shall not prevent or restrict Customer from exercising additional or different rights to any open source software that may be contained in or provided with the Products in accordance with the applicable open source licenses.

9.5. Reservation of Rights and Ownership

ServicePilot reserves any and all rights, implied or otherwise, which are not expressly granted to Customer in this Agreement. Customer understands and agrees that (i) the Products are protected by copyright and other intellectual property laws and treaties, (ii) ServicePilot and/or its affiliates own the title, copyright, and other intellectual property rights in the Products, (iii) the Software is licensed, and not sold, and (iv) this Agreement does not grant Customer any rights to ServicePilot's trademarks or service marks.

9.6. Data back-up

If the Software or data maintained or processed by the Software is accessible through the Internet or other networked environment, Customer shall maintain, in connection with the operation of the Software, adequate technical and procedural access controls and system security requirements and devices, necessary for data privacy, confidentiality, integrity, authorization, and virus detection and eradication.

To the extent that Customer's Affiliates or clients have access to the Software through the Internet or other networked environment, Customer shall maintain agreements with such end-users that adequately protect the confidentiality and intellectual property rights of ServicePilot in the Software and Documentation, and disclaim any liability or responsibility of ServicePilot with respect to such end-users.

Customer expressly acknowledges that it shall be Customer's responsibility to maintain secure and complete back-up copies of data that Customer processes using the Software, which data will be backed-up by Customer on not less than a daily basis and which will be readily available on machines controlled by the Customer to facilitate the prompt restoration of such data in the event of any loss of or damage to it.

10. HARDWARE

In the event Customer acquires Hardware under this Agreement, title to such Hardware shall pass to Customer upon shipment, unless a lease agreement has been executed. Title to any leased hardware will be subject to the terms of the lease agreement.

11. MAINTENANCE

11.1. Undertakings of ServicePilot

During any Maintenance Period and in consideration for the applicable fees, ServicePilot shall make available to Customer the Maintenance Services for the Software as defined in the Technical Support Guide which is available at http://www.servicepilot.com/Support_EN.pdf. The Technical Support Guide is a part of this Agreement and can be modified from time to time by ServicePilot. Any modification to the Technical Support Guide for the duration of the Maintenance Period may change but not reduce the Software support level.

As part of the Maintenance Services, ServicePilot shall provide to Customer efforts, on the basis of available resources, in investigating and solving failures of the Software to conform to the Documentation that arise in connection with Customer's proper and authorized use of Customer's Licensed Software. Customer shall provide to ServicePilot such detailed documentation and explanations as may be requested, together with underlying data, to substantiate any such failures and to assist ServicePilot in its efforts to investigate, diagnose and correct the failure. These support services shall only be provided by ServicePilot at Customer location(s) if and when ServicePilot and Customer agree that on-site services are necessary to diagnose or resolve the failure.

11.2. Maintenance Services term and renewal

During any Maintenance Period and for the applicable fees, ServicePilot shall make available to Customer the Maintenance Services for the Software as defined in this Section. The first Maintenance Period begins on the date of delivery of the Software following an Order and ends twelve (12) months thereafter unless otherwise set forth in the applicable Order (the "*Initial Maintenance Period*"). Following the Initial Maintenance Period, Customer shall have the possibility to renew Maintenance Services for additional terms of twelve (12), twenty four (24) or thirty six (36) months (each, a "*Renewal Maintenance Period*"). ServicePilot shall inform Customer of the expiration of Maintenance Services sixty (60) days before the expiration date of the applicable Maintenance Period. The non-renewal of Maintenance Services will not terminate Customer's rights to continue to use the Software. Upon the effective termination date of Maintenance Services ("*Maintenance Termination Date*"), (i) ServicePilot shall discontinue providing all ongoing support services, including ServicePilot's obligations under Section 11.1, (ii) any Warranties offered by ServicePilot under this Agreement shall cease to apply for the period after the Maintenance Termination Date, and (iii) ServicePilot shall have no obligation to correct any issue or to provide any new patch, bug fix or update. Maintenance fees shall be due in advance of a Renewal Maintenance Period and shall be subject to the payment requirements set forth in this Agreement.

12. GENERAL OBLIGATIONS OF THE PARTIES

12.1. Confidentiality

"*Confidential Information*" means information or materials disclosed by one Party (the "*Disclosing Party*") to the other Party (the "*Receiving Party*") that are not generally available to the public and which, due to their character and nature, a reasonable person under like circumstances would treat as confidential, including, without limitation, the Disclosing Party's personal data, financial information, marketing information, trade secrets, know-how, proprietary tools, proprietary knowledge and proprietary methodologies. Confidential Information of ServicePilot further includes this Agreement, the Products (in source code and/or object

code form), the pricing and discounting offered by ServicePilot to Customer hereunder, information regarding the functionality and performance of the Products, benchmark test results regarding the Products, and any Software license keys provided to Customer. Confidential Information shall not include information or materials that (a) were, on the date of disclosure, generally known to the public; (b) become generally known to the public other than as a result of the act or omission of the Receiving Party; (c) were known to the Receiving Party without an obligation of confidentiality prior to that Party receiving the same from the Disclosing Party; (d) the Receiving Party lawfully received from a third party without that third party's breach of agreement or obligation of trust; or (e) are or were independently developed by the Receiving Party without access to or use of the Disclosing Party's Confidential Information.

Additionally, it shall not be a breach of this Section for the Receiving Party to disclose the Disclosing Party's Confidential Information as may be required by operation of law or legal process, provided that the Receiving Party provides prior notice of such disclosure to the Disclosing Party unless expressly prohibited from doing so by a court, arbitration panel or other legal authority of competent jurisdiction. The Receiving Party shall not (1) make the Disclosing Party's Confidential Information available to any Affiliates, directors, officers, employees, consultants or representatives (collectively, the "**Representatives**") who do not have a "need to know" in order to carry out the purposes of this Agreement; (2) otherwise disclose the Disclosing Party's Confidential Information to any third party without the written consent of the Disclosing Party; or (3) use the Disclosing Party's Confidential Information for any purpose other than as contemplated by this Agreement.

The Receiving Party shall inform its Representatives of the confidential nature of the Disclosing Party's Confidential Information and the requirements regarding restrictions on disclosure and use as set forth in this Section and shall disclose the Disclosing Party's Confidential Information only to its Representatives who are legally bound to protect the Confidential Information under terms at least as restrictive as those provided herein. The Receiving Party agrees to protect the Disclosing Party's Confidential Information from unauthorized use or disclosure by exercising at least the same degree of care it uses to protect its own similar information, but in no event less than a reasonable degree of care. The Receiving Party shall be liable to the Disclosing Party for any disclosure or other breach in violation of this Agreement by any of its Representatives. The Receiving Party shall promptly notify the Disclosing Party of any known unauthorized use or disclosure of the Disclosing Party's Confidential Information and will cooperate with the Disclosing Party in any litigation brought by the Disclosing Party against third parties to protect its proprietary rights.

12.2. Authorizations and Compliance with Applicable Laws

Customer and ServicePilot each agree to comply with all applicable laws and regulations and to conduct business with due skill and care, in compliance with the rules and practices applicable in their respective fields of activity.

12.3. Limitation of Liability

EXCEPT FOR (A) ANY BREACH OF THE "RESTRICTIONS" OR "CONFIDENTIALITY" SECTIONS OF THIS AGREEMENT, (B) AMOUNTS CONTAINED IN JUDGMENTS OR SETTLEMENTS WHICH SERVICEPILOT IS LIABLE TO PAY ON BEHALF OF CUSTOMER UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT, OR (C) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF LAW, IN NO EVENT SHALL SERVICEPILOT, ITS AFFILIATES, OR SUPPLIERS, OR CUSTOMER BE LIABLE FOR ANY LOSS OF REVENUE, LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS, LOSS OF CONTRACTS, LOSS OF GOODWILL OR REPUTATION, LOSS OF ANTICIPATED SAVINGS, LOSS OF, DAMAGE TO OR CORRUPTION OF DATA, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND, IN EACH CASE HOWSOEVER ARISING, WHETHER SUCH LOSS OR DAMAGE WAS FORESEEABLE OR IN THE CONTEMPLATION OF THE PARTIES AND WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE. EXCEPT FOR (A) ANY BREACH OF CUSTOMER'S PAYMENT OBLIGATIONS; (B) ANY BREACH OF THE "SOFTWARE LICENSE," "RESTRICTIONS," "EXPORT" OR "CONFIDENTIALITY" SECTIONS OF THIS AGREEMENT, OR ANY OTHER VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS; (C) SERVICEPILOT'S EXPRESS OBLIGATIONS UNDER THE "INFRINGEMENT" SECTION OF THIS AGREEMENT; OR (D) ANY LIABILITY TO THE EXTENT LIABILITY MAY NOT BE EXCLUDED OR LIMITED AS A MATTER OF LAW, THE MAXIMUM AGGREGATE AND CUMULATIVE LIABILITY OF SERVICEPILOT, ITS AFFILIATES AND SUPPLIERS, AND CUSTOMER UNDER THIS AGREEMENT, WHETHER ARISING IN OR FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY, OR OTHERWISE, SHALL NOT EXCEED THE FEES PAID AND/OR OWED (AS APPLICABLE) BY CUSTOMER FOR THE PRODUCTS OR MAINTENANCE SERVICES THAT ARE THE SUBJECT OF THE CLAIM. FOR MAINTENANCE SERVICES OR A PRODUCT SUBJECT TO RECURRING FEES, THE LIABILITY SHALL NOT EXCEED THE AMOUNT PAID AND/OR OWED (AS APPLICABLE) FOR SUCH MAINTENANCE SERVICE OR PRODUCT DURING THE TWELVE (12) MONTHS PRECEDING THE CLAIM.

ServicePilot's Affiliates and suppliers shall be beneficiaries of this "Limitation of Liability" section and Customer's Service Providers are entitled to the rights granted under the "Third Party Use" section of this Agreement; otherwise, no third party beneficiaries exist under this Agreement. ServicePilot expressly excludes any and all liability to Customer's Service Providers, clients and to any other third party.

13. WARRANTIES

13.1. Software Warranty

ServicePilot warrants that, for a period of thirty (30) days following the initial delivery of Software pursuant to an Order (the "**Warranty Period**"), (i) the media provided by ServicePilot, if any, on which the Software is recorded will be free from material

defects in materials and workmanship under normal use, (ii) the operation of the Software, as provided by ServicePilot, will substantially conform to the Documentation applicable to such Software, and (iii) the Software as delivered by ServicePilot does not contain any viruses, worms, Trojan Horses, or other malicious or destructive code designed by ServicePilot to allow unauthorized intrusion upon, disabling of, or erasure of the Software (however, the Software may contain a key limiting use of the Software to within the scope of License granted, and license keys issued by ServicePilot for temporary use are time-sensitive) (the “*Warranties*”).

Customer must give written notice to ServicePilot of any breach of the Warranties no later than five days following the expiration of the Warranty Period. Customer’s exclusive remedies, and ServicePilot’s sole obligations, for any such breach of these Warranties shall be as follows: (a) for the warranty in subsection (i), ServicePilot shall, at its expense, replace any defective media; (b) for the warranty in subsection (ii), ServicePilot shall correct or provide a workaround for reproducible errors in the Software that cause a breach of the warranty within a reasonable time considering the severity of the error and its effect on Customer, or, at ServicePilot’s option, refund the license fees paid for the nonconforming Software upon return of such Software to ServicePilot and termination of the related License(s) hereunder; and (c) for the warranty in subsection (iii), ServicePilot shall provide a copy of the Software that is in conformance with such warranty. The foregoing Warranties shall not apply to any non-conformance (i) that ServicePilot cannot recreate after exercising commercially reasonable efforts to attempt to do so; (ii) caused by misuse of the Software or by using the Software in a manner that is inconsistent with this Agreement or the Documentation; or (iii) arising from the modification of the Software by anyone other than ServicePilot.

Customer shall have no rights or remedies against ServicePilot except as specified in this Agreement. No action or claim of any type relating to this Agreement may be brought or made by Customer more than one (1) year after Customer first has knowledge of the basis for the action or claim.

13.2. Hardware Warranty

Hardware shall be warranted in accordance with the warranty document delivered with the Hardware and/or included on the Hardware manufacturers’ website. In the event Customer acquires Hardware that is delivered with a third party warranty (“*Third Party Warranty*”), Customer will rely solely on the applicable third party for all Third Party Warranty obligations.

13.3. Warranty Disclaimer

THE EXPRESS WARRANTIES AND REMEDIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES AND REMEDIES PROVIDED BY SERVICEPILOT HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER WARRANTIES OR REMEDIES ARE EXCLUDED, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, AND ANY WARRANTIES ARISING FROM USAGE OF TRADE OR COURSE OF DEALING OR PERFORMANCE. SERVICEPILOT DOES NOT WARRANT UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCTS.

13.4. Force Majeure

Each Party will be excused from performance for any period during which, and to the extent that, it is prevented from performing any obligation or service as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, Government decisions or orders, changes in applicable laws, strikes, lockouts, riots, acts of war, epidemics, telecommunication failures, and power failures. Nothing in the foregoing shall be deemed to relieve Customer or its Affiliates of its obligation to pay fees owed under this Agreement.

14. PAYMENT

Customer agrees to pay to ServicePilot (or, if applicable, the Partner) the fees specified in each Order, including any applicable shipping fees. Customer will be invoiced promptly following delivery of the Products or prior to the commencement of any Renewal Maintenance Period and Customer shall make all payments due to ServicePilot in full within thirty (30) days from the date of each invoice or such other period (if any) stated in an Order signed by ServicePilot. Any amounts payable to ServicePilot by Customer that remain unpaid after the due date shall be subject to a late charge of 1.5% of the invoice amount per month from the due date until such amount is paid, or the maximum rate permitted by law if less.

15. TAXES

Customer will pay or reimburse ServicePilot or, when required by law, the appropriate governmental agency, for taxes of any jurisdiction that may be assessed or imposed upon the copies of the Software and Documentation delivered to Customer, the license granted under this Agreement or the services provided under this Agreement, or otherwise assessed or imposed in connection with the transactions contemplated by this Agreement, including sales, use, excise, value added, personal property, export, import and withholding taxes, and other similar taxes imposed in connection with the fees paid for the Services, which are exclusive of these taxes, excluding only taxes based upon ServicePilot’s net income. Customer shall directly pay any such taxes assessed against it, and Customer shall promptly reimburse ServicePilot for any such taxes payable or collectable by ServicePilot, if any.

16. EXPORT

Customer acknowledges and agrees that the Products are subject to the export control laws, rules, regulations, restrictions and national security controls of the United States and other applicable foreign agencies (the "**Export Controls**"), and agrees not to export or re-export, or allow the export or re-export of the Products or any copy, portion or direct product of the foregoing in violation of the Export Controls. Customer hereby represents that (i) Customer is not an entity or person to which shipment of Products is prohibited by the Export Controls; and ii) Customer will not export, re-export or otherwise transfer the Products to (a) any country subject to a United States trade embargo, (b) a national or resident of any country subject to a United States trade embargo, (c) any person or entity to which shipment of Products is prohibited by the Export Controls, or (d) anyone who is engaged in activities related to the design, development, production, or use of nuclear materials, nuclear facilities, nuclear weapons, missiles or chemical or biological weapons.

17. INFRINGEMENT

ServicePilot will at its own expense defend or settle any claim, suit, action, or proceeding brought against Customer by a third party to the extent it is based on an allegation that the Software directly infringes any patent, copyright, trademark, or other proprietary right enforceable in the country in which the Software is delivered to Customer, or misappropriates a trade secret in such country (a "**Claim**"). Additionally, ServicePilot shall pay any judgments finally awarded against Customer under a Claim or any amounts assessed against Customer in any settlements of a Claim, and reasonable administrative costs or expenses, including without limitation reasonable attorneys' fees, necessarily incurred by Customer in responding to the Claim. ServicePilot's obligations under this Section are conditioned upon Customer (i) giving prompt written notice of the Claim to ServicePilot; (ii) permitting ServicePilot to retain sole control of the investigation, defense or settlement of the Claim, and (iii) providing ServicePilot with such cooperation and assistance as ServicePilot may reasonably request from time to time in connection with the investigation, defense or settlement of the Claim. ServicePilot shall have no obligation hereunder to defend Customer against any Claim (a) resulting from use of the Software other than as authorized in this Agreement, (b) resulting from a modification of the Software other than by ServicePilot, or (c) based on Customer's use of the Software after ServicePilot recommends discontinuation because of possible or actual infringement, (d) based on Customer's use of a superseded or altered release of Software if the infringement would have been avoided by use of a current or unaltered release of the Software made available to Customer, or (e) to the extent the Claim arises from or is based on the use of the Software with other products, services, or data not supplied by ServicePilot if the infringement would not have occurred but for such use. If Customer's use of the Software is enjoined as a result of a Claim, ServicePilot shall, at its expense and option either (i) obtain for Customer the right to continue using the Software, (ii) replace the Software with a functionally equivalent non-infringing product, (iii) modify the Software so that it is non-infringing, or (iv) accept the return of the infringing Software and refund the license fee paid for the infringing Software, pro-rated over a sixty (60) month period from the date of delivery of the Software following an Order. This Section states the entire liability of ServicePilot, and Customer's sole and exclusive remedy, with respect to a Claim.

18. TRANSFER OF AGREEMENT

Except as otherwise set forth herein, Customer shall not, in whole or part, assign or transfer any part of this Agreement or any rights hereunder without the prior written consent of ServicePilot. Any attempted transfer or assignment by Customer that is not permitted by this Agreement shall be null and void.

19. NOTICES

All notices provided in the Agreement shall be in writing, delivered personally, sent by facsimile or e-mail, or mailed by first class mail, postage prepaid, addressed to the legal department of the respective Party or to such other address as may be specified in an Order or in writing by either of the Parties to the other in accordance with this Section. All notices, requests, demands or communications shall be deemed effective upon personal delivery or four (4) days following deposit in the mail in accordance with this paragraph.

20. COMMUNICATION

ServicePilot may include Customer in its listing of customers and, upon written consent by Customer, announce Customer's selection of ServicePilot in its marketing communications.

21. USAGE VERIFICATION

At ServicePilot's request, but not more frequently than once per year, Customer shall furnish ServicePilot with a document signed by an authorized representative verifying Customer's installations and usage of the Products. Customer will permit ServicePilot to review Customer's deployment and use of the Products for compliance with the terms and conditions of this Agreement. Any such reviews shall be scheduled at least fifteen (15) days in advance, shall be conducted during normal business hours at Customer's facilities, and shall not unreasonably interfere with Customer's business activities. If Customer's use of the Products is found to be greater than contracted for Customer will be invoiced for the additional use and the unpaid fees shall be payable in accordance with this Agreement. Additionally, if the unpaid fees exceed five percent (5%) of the fees paid for the subject Products, then Customer shall also pay ServicePilot's reasonable costs of conducting the audit. This Section shall not limit or restrict any other rights or remedies of ServicePilot that are otherwise set forth in this Agreement or available at law.

22. SEVERABILITY

If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, such provision will be enforced to the maximum extent permissible and the remaining provisions of this Agreement will remain in full force and effect. Notwithstanding the foregoing, the terms of this Agreement that limit, disclaim, or exclude warranties, remedies or damages are intended by the Parties to be independent and remain in effect despite the failure or unenforceability of an agreed remedy. The Parties have relied on the limitations and exclusions set forth in this Agreement in determining whether to enter into it.

23. WAIVER

Performance of any obligation required by a Party hereunder may be waived only by a written waiver signed by an authorized representative of the other Party, which waiver shall be effective only with respect to the specific obligation described therein. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

24. INJUNCTIVE RELIEF

Each Party acknowledges and agrees that in the event of a material breach of this Agreement, including but not limited to a breach of the "Evaluation License", "Software License," "Restrictions" or "Confidentiality" Sections of this Agreement, the non-breaching Party shall be entitled to seek immediate injunctive relief, without limiting its other rights and remedies.

25. HEADINGS

Headings in this Agreement are for convenience only and do not affect the meaning or interpretation of this Agreement. This Agreement will not be construed either in favor of or against one Party or the other, but rather in accordance with its fair meaning. When the term "including" is used in this Agreement it will be construed in each case to mean "including, but not limited to."

26. ENTIRE AGREEMENT

This Agreement is intended by the Parties as a final expression of their agreement with respect to the subject matter hereof and may not be contradicted by evidence of any prior or contemporaneous agreement unless such agreement is signed by both Parties. In the absence of such an agreement, this Agreement shall constitute the complete and exclusive statement of the terms and conditions and no extrinsic evidence whatsoever may be introduced in any judicial proceeding that may involve the Agreement. Neither this Agreement, nor any Order, may be modified or amended except by a written addendum to the Agreement expressly signed by a duly authorized representative of each Party. No other act, document, usage or custom shall be deemed to amend or modify this Agreement or an Order. In particular, the terms of purchase of Customer, or any provision or mention included in an Order shall not be applicable or binding upon ServicePilot, including when such Order is processed by ServicePilot. The terms of delivery for any hardware Product or physical medium shall be specified in the applicable Order.

27. PROVISIONS APPLICABLE TO THE UNITED STATES, PUERTO RICO, CANADA AND COUNTRIES IN CENTRAL OR SOUTH AMERICA ONLY

The provisions of this Section are only applicable if Customer acquires the Product(s) or an Evaluation License in the United States, Puerto Rico, Canada or any country in Central or South America.

27.1. Use by U.S. Government

The Software is a "commercial item" under FAR 12.201. Consistent with FAR section 12.212 and DFARS section 227.7202, any use, modification, reproduction, release, performance, display, disclosure or distribution of the Software or Documentation by the U.S. government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted herein.

27.2. Customer Data

As between ServicePilot and Customer, Customer owns all rights, title and interest in and to Customer Data. Customer Data is deemed Confidential Information under this Agreement. Customer is responsible for complying with all legal requirements, including applicable privacy laws and regulations, relating to the collection, use, processing and transfer of Customer Data. Customer acknowledges and consents that Services provided may require Customer Data to be transferred to a country outside of Customer's country or the country where the Customer Data originated.

27.3. Governing Law and Jurisdiction

This Agreement is governed by the Law of the States of Florida, United States of America. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act (UCITA) are specifically disclaimed in their entirety.

This Agreement or any provision hereof shall be brought exclusively in the state or federal courts located in the County of Broward, State of Florida, United States of America.

28. PROVISIONS APPLICABLE TO ALL OTHER COUNTRIES

The provisions of this Section are only applicable if Customer acquires the Product(s) or an Evaluation License in any other country than the United States, Puerto Rico, Canada or any country in Central or South America.

28.1. Customer Data

As between ServicePilot and Customer, Customer owns all rights, title and interest in and to Customer Data. Customer Data is deemed Confidential Information under this Agreement. Customer is responsible for complying with all legal requirements, including applicable privacy laws and regulations, relating to the collection, use, processing and transfer of Customer Data. Customer acknowledges and consents that Services provided may require Customer Data to be transferred to a country outside of Customer's country or the country where the Customer Data originated.

Customer and all persons benefitting from the performance of this Agreement have a right of access to, and modification of personal data concerning them that ServicePilot is managing. The ServicePilot Privacy Policy may be reviewed on its website at http://www.servicepilot.com/Privacy_EN.pdf.

28.2. Governing Law and Jurisdiction

This Agreement is governed by French Law. The United Nations Convention on Contracts for the International Sale of Goods is specifically disclaimed in its entirety.

Pursuant to the provisions of article 48 of the French Civil Procedure Code, failing an amicable agreement between the Parties with respect to any dispute relating to the interpretation, performance or termination of this Agreement, exclusive jurisdiction is expressly granted to the competent Courts of Paris, France.