SOFTWARE LICENSE AGREEMENT TERMS AND CONDITIONS

These Terms and Conditions are subject to the terms of the Statement(s) of Works signed by Client and Nevelex Labs.

DEFINITIONS

"Derivative Products" shall mean computer programs in machine readable object code or source code form developed or otherwise acquired by Client which are a modification of, enhancement to, derived from or based upon the Software.

"Documentation" shall mean all manuals, user documentation, and other related materials pertaining to the Software which are furnished to Client by Nevelex Labs in connection with the Software.

"**Hardware**" shall mean the applicable Nevelex Labs product on which the Software is designed to run.

"Software" shall mean the computer programs in machine readable object code and source code and any subsequent error corrections or updates supplied to Client by Nevelex Labs pursuant to this Agreement.

"**Third Party Software**" Software may contain or use certain software that is owned by third parties, which shall be referred to as "Third Party Software". No third-party disclaimer or limitation of liability will relieve Nevelex Labs of its obligations to deliver the Software pursuant to the standards set forth in this Agreement.

ARTICLE I
LICENSE GRANT

License Limitations and Restrictions.

1.1   This Agreement does not grant Client a license to use the Hardware, Software, or Documentation to compete against Nevelex Labs in the areas of orchestration and automation and/or to create like or similar software programs or Derivative Products.

1.2   In no event may Client copy and distribute the Software or Documentation, or any portion thereof. Client may make a copy of the Software and/or Documentation exclusively for Client's own use.

1.3   Client may not reproduce, create Derivative Products, works, perform, publish, transmit, distribute, sell (or participate in a sale), or otherwise access, use, or exploit any software or material retrieved from, or contained in, the Software or Documentation, in any manner whatsoever that may infringe on any copyright or proprietary interest of Nevelex Labs or any third party; store the Software in any information storage and retrieval system; distribute the information contained in the Software to any person who is not duly authorized to use or receive the Software; distribute, rent, sublicense, lease, transfer or

assign the Software or this Agreement; decompile, disassemble, or otherwise reverse-engineer the Software, or alter, translate, modify, or adapt the Software to create any derivative works.

1.4   Under no circumstances does the License granted Client pursuant to the terms of this Agreement transfer any ownership interest in the Hardware, Software, Documentation, or any of Nevelex Labs intellectual property.

ARTICLE II
HARDWARE LEASE AND VIRTUAL MACHINE

2.1   As a part of the License granted Client, Nevelex Labs hereby leases to Client all Hardware necessary to run the Software, if and where such Software does not operate on a Protected Virtual Machine or is not deployed via a public cloud.

2.2   The Hardware provided by Nevelex Labs for Client's use shall meet current and reasonably anticipated future volume and use requirements of Client based on Client's stated usage of the Software. If for any reason, based on Client's request or Client's use of the Software, additional Hardware or specialized Hardware items are needed by Client to run the Software, Nevelex Labs, at an additional fee billed to Client separate from the License Fee, shall exercise commercially reasonably efforts in obtaining such additional Hardware or specialized hardware items.

2.3   Delivery and Return of Hardware

        2.3.1   Unless Nevelex Labs and Client agree differently, shipping of all Hardware will be determined to be FOB Origin.

        2.3.2   Nevelex Labs shall prepare and pack the Hardware to prevent damage and/or any type of deterioration or destruction. All charges for the packaging and shipping of the Hardware to Client shall be the responsibility of Nevelex Labs.

        2.3.3   When this Agreement has terminated or if any Hardware is defective or broken, such Hardware shall be returned to Nevelex Labs. When Hardware is to be returned, Client shall notify Nevelex Labs in writing of the type and amount of Hardware to be returned ("**Client Hardware Notification**") and within ten (10) business days of receipt of the Client Hardware Notification, Nevelex Labs, at Nevelex Labs sole cost, shall supply the repackage material, Client shall repackage the Hardware, and Client, at Nevelex Labs sole cost, shall ship the Hardware back to Nevelex Labs' office.

        2.4   Client, with the virtual assistance of Nevelex Labs, shall be responsible for installing all Hardware at the Client's offices. If Client requests that Nevelex Labs' personnel install the Hardware, Nevelex Labs shall charge Client an additional fee separate from the License Fee for all time and costs associated with the traveling to Client's offices and installing the Hardware.

2.5   Nevelex Labs agrees to make commercially reasonable modifications or repairs to the Hardware so that Client can run the Software as the Software is designed to operate per this Agreement. Any additional maintenance on the Hardware as requested of Nevelex Labs by Client may or may not be performed by Nevelex Labs at Nevelex Labs sole discretion ("**Additional Maintenance**"). Any Additional Maintenance requested of Nevelex Labs shall be performed by Nevelex Labs only to the Hardware and for the benefit of Client's use of the Software. Nevelex Labs will charge Client an additional fee separate from the License Fee for any Additional Maintenance performed.

2.6   In the event of a Hardware operational failure, Nevelex Labs personnel, or qualified technical service personnel hired by Nevelex Labs, shall be assigned to bring the Hardware back into operation as soon as possible. If it is determined that the operational failure is due to Client's use and/or negligence, Nevelex Labs will charge Client an additional fee separate from the License Fee for any services rendered or paid for to bring the Hardware back into operation.

2.7   Nevelex Labs shall not be liable for any other hardware needs of Client save for the Hardware used to operate the Software.

2.8   If the Beta Test Material or Software shall run on a Protected Virtual Machine ("**VM**"), Nevelex Labs shall deliver Software to Client via a secure process.

2.9   Nothing in this Agreement shall be construed to give Client any ownership in or to the Hardware and/or any other Confidential Information, as identified and defined at Article IX, and/or any of the Software, Nevelex Labs intellectual property, patentable material, trademarks, copyrights or source or object code as such items may be installed or a part of the Hardware.

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ARTICLE III
LICENSE AND ROYALTY FEE

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3.1   Nevelex Labs reserves the right to increase the amount of the License Fee owed by Client per year for the right to license the Software from Nevelex Labs. Such increase to the License Fee shall be communicated to Client via a written notice, subject to Article X herein, stating the increased amount and provided to Client sixty (60) calendar days prior to expiration of the Renewal Term ("**Written License Fee Notice**"). Any increase to the License Fee shall be made and determined in the sole and absolute discretion of Nevelex Labs. The new License Fee total (License Fee plus increase to License Fee) shall replace the prior License Fee and thereafter be determined and understood by both parties to be the License Fee.

3.2   Nevelex Labs shall bill to Client any third-party invoiced amounts, costs, and/or expenses that are provided, charged, or assessed to Nevelex Labs to or for the benefit of Client for any service, good, benefit, or use of resource Client may engage in while licensing the Software during the Initial Term or the Renewal Term.

ARTICLE IV
PATENT AND INTELLECTUAL RIGHTS

4.1   Any new patentable, copyright, trademark material and/or other intellectual property and/or any derivative products created by either Party using the Beta Test Material or Software during the term of this Agreement is the sole and absolute property of Nevelex Labs even where patent or intellectual property protection is not sought by Nevelex Labs.

4.2   Nevelex Labs shall retain all rights in and to the patents, copyrights, trademarks and/or any intellectual property either Party respectively creates, applies for, or obtains through each Party's respective use of the Software.

4.3   This Agreement shall limit Client's rights to modify the Software or to develop other products which are similar to, or the same as, any Derivative Products developed by Nevelex Labs.

4.4   Nevelex Labs does not owe Client a duty to exchange updates, additions, patentable material, or intellectual property with respect to the use of the Software after the Initial Term unless the term of the Agreement has been renewed per Article I above.

4.5   Client waives its rights to contest any of Nevelex Labs' patents, trademarks, service marks, trade names, copyrights, and/or other intellectual property and proprietary rights in and to the Software.

ARTICLE V
PROTECTION OF SOFTWARE

5.1   **Proprietary Notices.** Client shall maintain and place on any and all copies of the Software which it reproduces for internal use the following notice or such other reasonable notice as Nevelex Labs shall from time to time require. Such notice shall be loaded in the computer memory for use, display, or reproduction and shall be embedded in program source code and object code, in the video screen display, on the physical medium embodying the Software copy, and on any Documentation and licensee reference manuals:

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This software and documentation constitute an unpublished work and contain valuable trade secrets and proprietary information belonging to Nevelex Labs, LLC. None of the foregoing material may be copied, duplicated or disclosed without the express written permission of Nevelex Labs. NEVELEX LABS EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES CONCERNING THIS SOFTWARE AND DOCUMENTATION, INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR ANY PARTICULAR PURPOSE, AND WARRANTIES OF PERFORMANCE, AND ANY WARRANTY THAT MIGHT OTHERWISE ARISE FROM COURSE OF DEALING OR USAGE OF TRADE. NO WARRANTY IS EITHER EXPRESS OR IMPLIED WITH RESPECT TO THE USE OF THE SOFTWARE OR

DOCUMENTATION. Under no circumstances shall Nevelex Labs be liable for incidental, special, indirect, direct or consequential damages or loss of profits, interruption of business, or related expenses which may arise from use of software or documentation, including but not limited to those resulting from defects in software and/or documentation, or loss or inaccuracy of data of any kind.

5.2   **Ownership.** Client further acknowledges that the Software in any form provided by Nevelex Labs or made by Client is the sole property of Nevelex Labs. Client shall not have any right, title, or interest in or to the Software except as provided in this Agreement. Client shall secure and protect all Software and Documentation consistent with maintenance of Nevelex Labs' proprietary rights therein.

ARTICLE VI
WARRANTIES AND REPRESENTATIONS

6.1   All Parties warrant that, as of the Effective Date, each has full power and authority to enter into and perform its obligations under this Agreement.

6.2   Nevelex Labs represents and warrants its belief that it has the sole right to supply the Hardware, grant Licenses to the Software, and that Nevelex Labs is not knowingly in violation of any third-party licenses, intellectual property, and has not previously granted a License to any other entity that would restrict the rights granted hereunder.

6.3   **Limited Warranty**. Nevelex Labs represents and warrants to Client that the Hardware and Software when properly installed and/or used by Client will perform substantially as described in Nevelex Labs's then current Documentation for such Hardware and Software.

6.4   **Limitations**. Notwithstanding the warranty provisions set forth in Section 6.3, all of Nevelex Labs's obligations with respect to such warranties shall be contingent on Client's use of the Hardware and Software in accordance with this Agreement and in accordance with Nevelex Labs's instructions as provided by Nevelex Labs in the Documentation, as such instructions may be amended, supplemented, or modified by Nevelex Labs from time to time. Nevelex Labs shall have no warranty obligations with respect to any failures of the Hardware or Software which are the result of accident, abuse, misapplication, extreme power surge, or extreme electromagnetic field.

6.5   **Client's Sole Remedy**. Nevelex Labs's entire liability and Client's exclusive remedy shall be repair or replacement of the Hardware and Software upon its return to Nevelex Labs; provided Nevelex Labs receives written notice from Client during the warranty period of a breach of warranty. Any replacement Hardware or Software will be warranted for the remainder of the original warranty period or thirty (30) days, whichever is longer.

6.6   **Disclaimer of Warranties**. NEVELEX LABS DOES NOT REPRESENT OR WARRANT THAT ALL ERRORS IN THE HARDWARE AND SOFTWARE AND

DOCUMENTATION WILL BE CORRECTED. THE WARRANTIES STATED IN SECTION 6.3 ABOVE ARE THE SOLE AND THE EXCLUSIVE WARRANTIES OFFERED BY NEVELEX LABS. THERE ARE NO OTHER WARRANTIES RESPECTING THE HARDWARE, SOFTWARE, DERIVATIVE PRODUCTS, DOCUMENTATION OR SERVICES PROVIDED HEREUNDER, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF DESIGN, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE, EVEN IF NEVELEX LABS HAS BEEN INFORMED OF SUCH PURPOSE. NO AGENT OF NEVELEX LABS IS AUTHORIZED TO ALTER OR EXCEED THE WARRANTY OBLIGATIONS OF NEVELEX LABS AS SET FORTH HEREIN.

6.7   **Limitation of Liability**. CLIENT ACKNOWLEDGES AND AGREES THAT THE CONSIDERATION WHICH NEVELEX LABS IS CHARGING HEREUNDER DOES NOT INCLUDE ANY CONSIDERATION FOR ASSUMPTION BY NEVELEX LABS OF THE RISK OF CLIENT'S CONSEQUENTIAL OR INCIDENTAL DAMAGES WHICH MAY ARISE IN CONNECTION WITH CLIENT'S USE OF THE SOFTWARE, DERIVATIVE PRODUCTS, AND DOCUMENTATION. ACCORDINGLY, CLIENT AGREES THAT NEVELEX LABS SHALL NOT BE RESPONSIBLE TO CLIENT FOR ANY LOSS-OF-PROFIT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE LICENSING OR USE OF THE HARDWARE, SOFTWARE, DERIVATIVE PRODUCTS, OR DOCUMENTATION. Any provision herein to the contrary notwithstanding, the maximum liability of Nevelex Labs to any person, firm or corporation whatsoever arising out of or in connection with any license, use, or other employment of any Hardware or Software delivered to Client hereunder, whether such liability arises from any claim based on breach or repudiation of contract, warranty, tort or otherwise, shall in no case exceed the actual License Fee paid to date to Nevelex Labs by Client for the Hardware and Software whose License, use, or other employment gives rise to the liability. The essential purpose of this provision is to limit the potential liability of Nevelex Labs arising out of this Agreement. The parties acknowledge that the limitations set forth in this Article 6 are integral to the amount of consideration levied in connection with the License of the Hardware, Software, and Documentation and any services rendered hereunder and that, were Nevelex Labs to assume any further liability other than as set forth herein, such consideration would of necessity be set substantially higher.

6.8   Client shall indemnify and hold harmless Nevelex Labs, their members, officers, agents and employees from and against any claims, demands, or causes of action whatsoever, including, without limitation, those arising on account of Client's modification or enhancement of the Software or otherwise caused by, or arising out of, or resulting from, the use of the License by the Client's subsidiaries or their officers, employees, agents, or representatives.

6.9   Nevelex Labs warrants that it has the right to grant the License set forth in this Agreement.

6.10   Client and Nevelex Labs warrant that, as of the Effective Date, they have no knowledge that the Hardware, Software, and Documentation infringe upon any intellectual property rights of any third party.

ARTICLE VII
TERM AND TERMINATION

7.1   **Termination for Convenience**. Either Party may terminate this Agreement for its convenience by giving the non-terminating Party thirty (30) days prior written notice (the last day of the thirty (30) day notice period shall be deemed the "**Termination Date**"). In such case, Client agrees to pay Nevelex Labs the License Fee, pro-rated as of the Termination Date, due and owning on the Termination Date.

7.2   **Default Termination**. Either Party is considered to be in Default Termination when:

   7.2.1   The other Party is in material breach of the Agreement or default of any representation, warranty, covenant or agreement hereunder, of which breach or default is not cured within thirty (30) days of receipt of written notice from the non-breaching party; or

   7.2.2   If the other Party becomes the subject of any proceeding under any bankruptcy, insolvency, or liquidation law, whether domestic or foreign and whether voluntary or involuntary, which is not resolved favorably within ninety (90) days of commencement thereof.

ARTICLE VIII
INDEMNITIES

8.1   Nevelex Labs Indemnities.   Nevelex Labs agrees to indemnify and hold harmless Client and Client's representatives, successors, assigns, heirs, insurers, agents, administrators, and executors from any and all liabilities, losses, damages, costs, fees and expenses, including reasonable attorney's fees, directly or indirectly, to the extent arising out of, or in any way associated with the violation of any third-party's intellectual property rights in connection with the Software or Hardware at delivery provided to Client. Regarding the obligations of Nevelex Labs under Section 8.1, if any Software, Hardware or Documentation, or any part thereof, (collectively "**Infringing Material**") under this Agreement becomes the subject of any claim, demand, action, or cause of action for infringement of the intellectual property rights of any third party, or if any Infringing Material is held or otherwise determined to infringe intellectual property rights, Nevelex Labs, as its sole means of indemnification protection for Client, will: (a) secure for Client the right to continue using the affected Infringing Material; or (b) replace or modify the Infringing Material to make it non-infringing without degrading its performance or utility; or if neither (a) nor (b) is feasible, then (c) refund all monies paid by Client to Nevelex Labs for the Infringing Material, subject to the cap on liability found in Article 6.

Indemnification from Nevelex Labs to Client shall not apply to any liability, damage, or other amounts incurred by Client which Client caused by: (a) Client's negligence or use of the Software or Hardware; (b) any modifications Client may have made to the Software or Hardware; (c) the combination of Software with hardware or software not made by Nevelex Labs, or made with third-party services, processes or materials where the infringement or misappropriation would not have occurred but for such combination; (d) Client's continued use of the Software or Hardware after receiving notice of the alleged infringement; (e) any version of the Software or Hardware that is no longer supported by Nevelex Labs (all items (a) through (e) shall be referred to as "**Excluded Matters**");

8.2   Client Indemnities. Client agrees to indemnify and hold harmless Nevelex Labs and its representatives, successors, assigns, heirs, insurers, agents, administrators, and executors from any and all liabilities, losses, damages, costs, fees and expenses, including reasonable attorney's fees, directly or indirectly, to the extent arising out of, or in any way associated with: (a) the breach of, or failure of, Client to fulfill or perform, any representation, warranty, covenant, or agreement made herein; and (b) the violation of any third-party's intellectual property rights in connection with any changes, updates, or alterations Client unilaterally makes to the Software or Hardware.

8.3   In the event that any liabilities, losses, damages, costs, fees and expenses under this Section VIII result from or arise out of the joint or concurrent negligence of Nevelex Labs and Client then such liability shall be apportioned between the parties based upon their respective degrees of negligence.

8.4   **Client Indemnities**. Client agrees to indemnify and hold harmless Nevelex Labs and its members, partners, successors, assigns, heirs, insurers, agents, administrators, and executors from:

8.4.1   Any and all liabilities, losses, damages, costs, fees and expenses, including reasonable attorney's fees, directly or indirectly, arising out of, or in any way associated with, the breach of Client of any representation, warranty, covenant, or agreement made herein; and

8.4.2   The failure of Client to fulfill or perform any covenant, agreement, or obligation to be performed by Client contained herein.

ARTICLE IX
CONFIDENTIAL INFORMATION

9.1   **Confidential Information.** "**Confidential Information**" means all confidential and/or proprietary information disclosed or made available by one party to the other, including but not limited to, (a) business plans, financial reports, financial data, employee data, customer lists, forecasts, strategies, and all other business information; and (b) the Software, Documentation, and additional software or firmware code utilized by Nevelex Labs for and/or on behalf of Client, semiconductor or printed circuit board layout diagrams, product designs and/or specifications, algorithms, computer programs, mask works,

inventions, unpublished patent applications, manufacturing or other technical or scientific know-how, specifications, technical drawings, diagrams, schematics, technology, processes, and any other trade secrets, discoveries, ideas, concepts, know-how, techniques, materials, formulae, compositions, information, data, results, plans, surveys and/or reports of a technical nature or concerning research and development and/or engineering activity. Confidential Information may be that of Nevelex Labs or of third parties to whom Nevelex Labs has an obligation to treat the disclosed information as confidential. Confidential Information also includes copies, notes, abstracts and other tangible embodiments made by the Client that are based on or contain any of such Confidential Information.

9.1.1   Confidential Information also includes information relating to business plans and to business as conducted or anticipated to be conducted, any information contained in the provisions of this Agreement, and all information related to past, current, or anticipated products.

9.1.2   Confidential Information also includes, without limitation, information concerning research, operations, development, purchasing, accounting, techniques, formulas, recipes, intellectual property, know-how, marketing, selling services and strategies relating to Nevelex Labs' business. All information that Nevelex Labs has a reasonable basis to consider confidential is Confidential Information, whether or not originated by Nevelex Labs and without regard to the manner in which Client obtains access to this and any other proprietary information.

9.2   The term Confidential Information shall not include, and Client shall not be under any obligation to maintain in confidence or not use, any information (or any portion thereof) disclosed to it by Nevelex Labs to the extent that such information:

9.2.1   Is in the public domain at the time of disclosure; or

9.2.2   Following disclosure, becomes generally known or available through no act or omission on the part of Client; or

9.2.3   Is known, or becomes known, to Client from a source other than Nevelex Labs or its Representatives (as defined herein), provided that disclosure by such source is not in breach of a confidentiality agreement with Nevelex Labs; or

9.2.4   Is independently developed by Client without violating any of its obligations under this Agreement; or

9.2.5   Is legally required to be disclosed by judicial or other governmental action; provided, however, that prompt notice of such judicial or other governmental action shall have been given to Nevelex Labs, and Nevelex Labs shall be afforded the opportunity to exhaust all reasonable legal remedies to maintain the Confidential Information in confidence.

9.3   The Confidential Information Allowed Use

9.3.1   Confidential Information may be used by Client solely in connection with the furtherance of Client's business; and

9.3.2   Will be kept confidential and not disclosed by Client to any other person, except that Confidential Information may be disclosed to any of Client's attorneys, accountants, consultants, advisors and agents (collectively, his "**Representatives**") who require access to such Confidential Information in connection with the evaluation of potential business transactions between Nevelex Labs and Client. Client agrees that any of his Representatives to whom Confidential Information is disclosed will be informed of the confidential or proprietary nature thereof and of Client's obligations under this Agreement, and that Client shall be responsible for any use or disclosure of Confidential Information by any of his Representatives. Client further agrees to provide its Representatives who will or may come in contact with such Confidential Information a copy of this Agreement, and/or a summary document disclosing the terms of this Agreement.

9.4   Nondisclosure and Disallowed Use of Confidential Information

9.4.1   Client agrees that so long as it Licenses Software from Nevelex Labs or receives services from any affiliate of Nevelex Labs, and for a period lasting indefinitely after the termination of this Agreement with Client, Client shall not use for any purpose or disclose to any person or entity any Confidential Information acquired from Nevelex Labs. Client shall not, directly or indirectly, copy, take, or remove from Nevelex Labs' premises or online database, any of Nevelex Labs' books, records, customer lists, or any other documents or materials.

9.4.2   Client agrees that it shall not directly or indirectly, nor shall it aid or assist any third party to, reverse engineer, reconfigure, decompile, disassemble any Confidential Information or any element of Confidential Information nor perform any similar processes on any Confidential Information in order to derive and/or appropriate Confidential Information, in whole or in part, for its own use ("**Reverse Engineer**"). If however, applicable law prohibits enforcement of the foregoing, Client may Reverse Engineer Confidential Information solely for purposes of obtaining such information as is necessary to achieve interoperability of independently created software within the Confidential Information, or as otherwise and to the limited extent permitted by directly applicable law, but only if Reverse Engineering is strictly necessary to obtain such information and Company first requests such information from Nevelex Labs and Nevelex Labs fails to provide the information under reasonable terms and conditions ("**Allowed Information**"). Any and all Allowed Information supplied by Nevelex Labs or obtained by Client under this section is still considered Confidential Information subject to all requirements, prohibitions, and protective obligations of this Section, may only be used by Client for the purpose described in this Section 4.2, and will

not be disclosed to any third party or used to create any product, software, code, or firmware which is substantially similar to the Confidential Information.

9.5   Return of Confidential Information - Upon the date that Client is no longer Licensing Software from Nevelex Labs, Client will deliver to Nevelex Labs all written and tangible material in Client's possession incorporating the Confidential Information or otherwise relating to Nevelex Labs' business including but not limited to any and all devices, records, data, notes, reports, proposals, lists, correspondence, specifications, drawings, blueprints, sketches, materials, equipment, manuals, letters, notebooks, models or other materials or property, or copies or reproductions of any aforementioned items belonging to Nevelex Labs, its successors or assigns. Client will not retain or deliver to anyone else any written or other tangible material containing any information concerning or disclosing any of the Confidential Information of Nevelex Labs and its clients or suppliers.

ARTICLE X
REMEDIES

10.1   The Parties acknowledge and agree that the covenants set forth in this Agreement are reasonable and necessary for the protection of their respective business interests, that the agreed upon terms will not interfere with either Party's ability to earn revenue, that irreparable injury will result to an aggrieved Party if the other Party breaches the terms of this Agreement, and that in the event of an actual breach by a Party of any provision contained in this Agreement the aggrieved Party will have no adequate remedy at law.

10.2   Except for matters where a Party is seeking injunctive relief to prevent or remedy a breach of this Agreement, or any agreement between the Parties that tangentially relates to this Agreement, the Parties shall participate in mediation in accordance with Rule 114 of the General Rules of Practice for the District Courts of Minnesota if and where any dispute arises. Where the Parties mediate a dispute, the costs of the mediation shall be allocated equally between the Parties. The mediator shall be selected by the parties. In the event that the Parties are unable to agree to a mediator, a court of competent jurisdiction shall appoint a mediator who is a Qualified Neutral under Rule 114. Any Agreement reached during mediation shall be in writing and shall be enforceable against either Party.

10.3   If the mediated settlement is not reached during mediation, the Parties are free to pursue any claim or cause of action in the Federal District Court of Minnesota or Hennepin County District Court of Minnesota depending on which court has relevant jurisdiction.

10.4   Prior to mediation, the Parties agree that, in the event of any actual breach by a Party of any of the provisions of this Agreement, the aggrieved Party shall be entitled to injunctive and other equitable relief without:

> 10.4.1 The need to mediate the issue or cause of action upon which the aggrieved Party seeks injunctive relief;
> 10.4.2 The necessity of showing actual damages; and

10.4.3 The necessity of showing that monetary damages are an inadequate remedy.

10.5 The Parties agree that the prevailing Party in any dispute or litigation concerning

10.5.1 The terms of this Agreement;

10.5.2 A breach of the terms of the Agreement; or

10.5.3 Any other matter in which a court awards or denies injunctive or equitable relief with regard to the terms of the Agreement

shall be entitled to recover from the non-prevailing Party all costs, reasonable attorneys' fees and other expenses incurred by such prevailing Party.

10.6 All rights and remedies of each of the Parties under this Agreement will be cumulative, and the exercise of one or more rights or remedies will not preclude the exercise of any other right or remedy available under this Agreement or applicable law.

ARTICLE XI
MISCELLANEOUS PROVISIONS

11.1 This Agreement is contractual in nature, and not merely recitals by the Parties. By entering into this Agreement, each Party agrees that it contains the full and complete expression of their obligations and rights.

11.2 **Assignment**. This Agreement may not be assigned by either Party without the prior written consent of the non-assigning Party.

11.3 **Notices**. All notices, reports, records, or other communications that are required or permitted to be given to either Party under this Agreement shall be sufficient in all respects if given in writing and delivered in person, by overnight courier, or by registered or certified mail, postage prepaid, return receipt requested, to Nevelex Labs at 7900 International Drive, STE 305, Bloomington, MN 55425 and to Client at any address provided by Client to Nevelex Labs via electronic profile, email, or in writing, or if no address has been provided to Nevelex Labs, the address registered to Client at Client's respective Secretary of State office or equivalent state office of business registration.

11.4 **Costs**. The Parties shall pay all of their own respective costs and expenses incurred in negotiating and preparing this Agreement, including, but not limited to, legal and accounting fees and expenses.

11.5 **Waiver**. Neither this Agreement nor any of its provisions may be waived by either Party except in writing. The failure of either Party to enforce any right arising under this Agreement on one or more occasion(s) will not operate as a waiver of that or any other right on that or any other occasion.

11.6   **Post-Closing Obligations**. The Parties shall cooperate and execute and deliver, as requested by either Party, such additional documents and instruments as may be required to complete this Agreement and release any and all claims and liabilities as have been described herein.

11.7   **Non-Disparagement and Competition Provision**. Subject to the terms of this Agreement, the Parties agree not to make any statements, whether written or verbal, or cause or encourage others to make any statements, whether written or verbal, that defame, disparage, or in any way criticize the personal or business reputation, practices, or conduct of the other Party. Further, as of the effective date of this Agreement, Client represents that neither Client nor any of Client's representatives or employees are an employee, consultant, contractor, officer, director shareholder, member or any other representative of any Competitor of Nevelex Labs. "Competitor" means any person, firm, corporation, or other entity that provides products or services, or has any significant or material business, in either the network security orchestration and automation or the network security orchestration and automation industries.

11.8   **Entire Agreement and Modification**. This Agreement shall be the entire agreement of the Parties and supersede all prior oral or written agreements and understandings with respect to a settlement concerning the subject matter herein. This Agreement may not be amended or modified except in a writing signed by both of the Parties. The Parties declare that no promise or inducement has been made or offered for this Agreement except as set forth herein, and that this Agreement is executed without reliance upon any statements or representations made by or on behalf of either Party or their representatives concerning the nature or extent of loss, injuries and damages, or the probable or possible consequences thereof. While this Agreement and Additional Agreement shall be read in concert with one another, the terms of this Agreement shall control if the terms of this Agreement and either or both of the Additional Agreements shall conflict with the terms herein.

11.9   **Venue**. This Agreement shall be construed and enforced under, and in accordance with, the laws of the state of Minnesota.

11.10   **Severability**. Any term or provision of this Agreement which is invalid or unenforceable will be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms or provisions herein.

11.11   **Survival**. The representations, warranties, covenants and agreements of Nevelex Labs and Client will survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby regardless of any investigation that may have been made at any time by or on behalf of the party to which such representations, warranties, covenants and agreements are made.