



## NINTEX END USER LICENSE AGREEMENT FOR SERVICES PURCHASED FROM RESELLER

This Nintex End User License Agreement (“Agreement”) is between Nintex and the End User (“End User”) identified in the Order Form with Reseller. End User purchases Services from Reseller, but Nintex provides the Services directly to End User under this Agreement. The Order Form between End User and Reseller references this Agreement and describes the terms that apply to the provision and use of the Services. Each of Nintex and End User is a “Party” and together they are the “Parties.”

End User acknowledges that Nintex’s obligation to provide Services is conditioned on and subject to a valid and binding order between Nintex and Reseller for those Services. End User is responsible (and assumes all risk for any inconsistency) for verifying with Reseller that the Service details in the Order Form match the Service details in the order between Reseller and Nintex. This includes verifying: (i) the subscription term, delivery method, Purchased Volumes, and Service Specific Terms for Software Services; (ii) the level of Support; and (iii) the description of Professional Services and Deliverables. End User is responsible for maintaining active licenses and complying with all applicable agreements for all Connected Services and Deployment Environments.

By accepting this Agreement, the individual user represents either: (i) they are authorized to bind End User to this Agreement, or (ii) End User will ratify this acceptance within ten (10) days of the acceptance date. End User ratifies this Agreement by: (a) express written confirmation to Nintex, (b) payment of fees to Reseller for the Services, or (c) continued use of Services beyond ten (10) days after initial user acceptance. End User’s continued use of Services constitutes acceptance of this Agreement regardless of whether End User takes express ratification action.

**1. SOFTWARE SERVICES.** The following additional terms apply to Software Services:

**1.1 Provision of Software Services.** Software Services are provided by Nintex on a subscription basis in accordance with the Product Definitions.

**1.2 Use License.** Nintex owns all rights, title and interest in and to Software Services. Nintex hereby grants End User a non-exclusive, non-transferable, right to access and use Software Services, solely for its own Internal Business Purposes during the applicable Subscription Term, subject to the terms and conditions of this Agreement and any restrictions and limitations designated in the applicable Order Form. Subject to the limited rights expressly granted hereunder, Nintex reserves all rights, title, and interest in and to Software Services, including all related Intellectual Property Rights. End User shall retain ownership of its End User Content, defined below. No other rights are granted to End User hereunder other than as expressly set forth herein.

**1.3 Affiliate Use.** Nintex may permit End User’s Affiliates to access and use the Software Services under this Agreement through either of the following arrangements:

(a) **Affiliate Designation.** End User may designate Affiliates to use the Software Services provided that: (i) End User expressly identifies each Affiliate in its agreement with Reseller; (ii) End User remains fully responsible and liable for all Affiliate use; and (iii) Nintex may terminate the Software Services and this Agreement in accordance with Section 7.2 for any unauthorized use or breach by an Affiliate; or

(b) **Separate Affiliate Orders.** An Affiliate may place a separate order with Reseller for Software Services.

**1.4 Restrictions.** End User must not (a) modify, copy or create any derivative works based on the Software Services; (b) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Software Services available to any third party; (c) frame or mirror any content forming part of the Software Services, other than on End User’s own intranet for End User’s Internal Business Purposes as permitted in this Agreement; (d) use the online Software Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (e) use the online Software Services to store or transmit Harmful Code, (f) interfere with or disrupt the integrity or performance of the online Software Services; (g) remove any proprietary notices from the Software Services or Documentation; (h) use the online Software Services for an unlawful purpose or in violation of applicable law; (i) attempt to gain unauthorized access to the online Software Services or its related systems or networks including any attempt to probe, scan, or test the vulnerability of the online Software Services or to breach any security measure used by Nintex; (j) permit direct or indirect access to or use of the Software Services in a way that circumvents the Purchased Volumes; (k) reverse engineer or decompile any portion of the Software Services, including but not limited to, any software utilized by Nintex in the provision of the online Software Services, except to the extent required by applicable law; (l) access the Software Services in order to build any commercially available product or service or otherwise commercially exploit the Software Services; or (m) copy any features, functions, integrations, interfaces, or graphics of the Software Services. End User’s use of the online Software Services is subject to the Acceptable Use Policy.

**1.5 Support.** During the applicable Subscription Term, Nintex will provide applicable Support for the Software Services in accordance with and subject to the Nintex Subscription Support Policy.

**1.6 Purchased Volumes.** The Software Services are subject to the Purchased Volumes. Nintex may share data about usage of the Software Services with Reseller to manage the provisioning of the Software Services (e.g., to enable Reseller's billing of End User for excess usage).

**1.7 Usage Monitoring and Compliance.** Nintex has unrestricted rights to monitor, collect, and analyze all usage data, telemetry, and analytics related to the Software Services for compliance, operational, and business purposes. End User acknowledges Nintex may suspend access for usage exceeding Purchased Volumes until compliance is restored through additional purchases from Reseller or usage reduction.

**1.8 End User Responsibilities and End User Content.** End User will use Software Services solely for its Internal Business Purposes and not for the benefit of any third parties. End User shall (a) be responsible for Users' compliance with this Agreement, the Documentation, and the Order Forms, (b) be responsible for the accuracy, quality, appropriateness, and legality of any and all End User Content used in the Software Services, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Software Services, and notify Nintex and Reseller promptly of any such unauthorized access or use, and (d) use the Software Services only in accordance with the terms of this Agreement, the Documentation, the Order Forms, and applicable laws and government regulations. In the event the use of Software Services is in breach of this Agreement, the Documentation, or Order Form by End User or Users, Nintex may immediately suspend the Software Services until the violation or threat has been cured, or if remained uncured, Nintex may terminate the Software Services. Nintex shall not be liable for any refund or damages arising out of such suspension or termination. Notice of such violation or threat shall be provided by Nintex to Reseller to the extent practicable. End User is the sole and exclusive owner of all End User Content. End User hereby grants Nintex a worldwide, non-exclusive, royalty-free right and license to host, transfer, display, perform, reproduce, modify, analyze, and distribute End User Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed) but only for the sole purpose of providing or improving the Software Services and addressing any service or technical problems.

**1.9 Nintex Responsibilities.** For the duration of the applicable Subscription Term, Nintex shall implement and maintain administrative, physical, and technical safeguards for the online Software Services that meet then-current and relevant industry standards related to the privacy, security, confidentiality, integrity, and availability of End User Content, including, without limitation, by maintaining a written information security program that includes applicable policies, procedures, training, and technology controls designed to protect End User Content from unauthorized access, use, disclosure, alteration, or destruction. The online Software Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications provided by third parties outside this Agreement. Nintex is not responsible for any delays, delivery failures, or other damage resulting from such problems.

**1.10 LIMITED SOFTWARE SERVICES WARRANTY.** Nintex represents and warrants that during the applicable Subscription Term, the Software Services shall operate in substantial conformity with the applicable Documentation. For any breach of this limited warranty, End User's sole and exclusive remedy and Nintex's sole liability shall be, in Nintex's sole discretion, the correction of the non-conformity or, if Nintex cannot substantially correct such non-conformity, Nintex may terminate End User's use of the applicable Software Services and refund to Reseller any prepaid but unused fees covering the remainder of the applicable Subscription Term for those Software Services.

**2. PROFESSIONAL SERVICES.** The following additional terms apply to Professional Services in addition to any terms provided in the Order Form between Nintex and End User:

**2.1 Deliverable Ownership and License.** Nintex shall own all right, title and interest in any deliverables or other materials developed as part of the Professional Services, excluding any information or other materials provided by the End User to Nintex as part of the Professional Services (the "Deliverables"). Nintex hereby grants to the End User a nontransferable nonexclusive license to use such Deliverables for its Internal Business Purposes. End User hereby grants Nintex a worldwide, non-exclusive, royalty-free right and license to host, transfer, display, perform, reproduce, modify, analyze, and distribute End User Content, in whole or in part, in any media formats and through any media channels (now known or hereafter developed) but only for the sole purpose of providing or improving the Services and addressing any service or technical problems. Notwithstanding the foregoing, Reseller shall have no right title or interest in any Deliverables.

**2.2 Limited Professional Services Warranty.** Nintex represents and warrants that the Professional Services will be performed in a good, workmanlike manner in accordance with generally accepted industry standards. NINTEX DOES NOT WARRANT OR GUARANTEE THAT THE PROFESSIONAL SERVICES OR DELIVERABLES WILL MEET THE END USER'S REQUIREMENTS, THAT THE DELIVERABLES WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR THAT NINTEX WILL CORRECT ALL ERRORS IN THE PROFESSIONAL SERVICES OR ANY DELIVERABLE. TO THE EXTENT PERMITTED BY LAW, THESE WARRANTIES ARE EXCLUSIVE AND NINTEX EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OR CONDITIONS OF MERCHANTABILITY, TITLE, NON-INFRINGEMENT, QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. For any breach of the specified warranty, the End User's exclusive remedy and

Nintex's entire liability shall be, at Nintex's discretion, as applicable: (a) reperformance of the Professional Services; or (b) if Nintex cannot substantially correct such breach, Nintex may terminate the Professional Services and refund to Reseller any fees paid to Nintex for the deficient Professional Services as provided in the applicable Order Form. This warranty does not extend to defects or deficiencies resulting from changes, modifications, or alterations to the Professional Services performed by anyone other than Nintex; End User's failure to provide necessary cooperation, information, or resources as reasonably requested by Nintex for the performance of the Professional Services; or third-party products, software, or services not provided by Nintex.

### **3. FEES AND PAYMENT**

**3.1 Fees and Payment.** End User acknowledges all prices and payment terms for Services will be determined solely between Reseller and End User.

**3.2 Non-Payment and Suspension of Services.** If Reseller breaches its payment obligations to Nintex (including any obligation to pay for End User's usage of the Software Services in excess of the Purchased Volumes) with respect to the Services provided by Nintex under this Agreement, in addition to any other rights or remedies it may have under this Agreement or by law, Nintex reserves the right to suspend the provision of Services upon thirty (30) days written notice to Reseller without liability to End User, until such amounts are paid in full or terminate the Agreement without liability to End User.

### **4. CONFIDENTIALITY**

**4.1 Definition of Confidential Information.** "Confidential Information" means all information disclosed by a Party ("Disclosing Party") to the other Party ("Receiving Party"), whether orally or in writing, in connection with the Services, that is designated as confidential or that reasonably should be understood by the Receiving Party to be confidential given the nature of the information and the circumstances of disclosure. Nintex Confidential Information includes the Services, security reports, and Documentation. End User Confidential Information includes End User Content. Confidential Information includes the Disclosing Party's code, business and marketing plans, financial information, technology and technical information, inventions, know-how, product plans and designs, and business processes disclosed by the Disclosing Party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**4.2 Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

**4.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

**4.4. No Intellectual Property Rights.** THE RECEIVING PARTY ACQUIRES NO INTELLECTUAL PROPERTY RIGHTS FROM THE DISCLOSING PARTY UNDER THIS AGREEMENT, except for the restricted right to use disclosing Party's Confidential Information for the express, limited purposes described above.

### **5. LIMITATION OF LIABILITY.**

**5.1** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NINTEX PROVIDES THE SERVICES "AS IS", "WITH ALL FAULTS" AND "AS AVAILABLE" AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NINTEX MAKES NO (AND SPECIFICALLY DISCLAIMS ALL) REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, THAT THE END USER CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED, OR ANY IMPLIED WARRANTY OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY WARRANTY ARISING OUT OF ANY COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. SOME JURISDICTIONS DO NOT ALLOW THE FOREGOING EXCLUSIONS. IN SUCH AN EVENT, SUCH EXCLUSION WILL NOT APPLY SOLELY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THE LIMITED WARRANTIES PROVIDED IN SECTIONS 1.10 AND

2.2 ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO END USER IN CONNECTION WITH THE PROVISION OF THE SERVICES.

**5.2** IN NO EVENT SHALL NINTEX'S AGGREGATE LIABILITY FOR ANY CLAIM ARISING OUT OF OR RELATING TO THE SERVICES AND/OR THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY END USER TO RESELLER FOR THE SERVICES DURING THE TWELVE (12) MONTHS PRIOR TO THE DATE OF THE CLAIM. IN NO EVENT SHALL NINTEX BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGES OR COSTS OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, GOODWILL, USE, OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICES AND/OR THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION. NINTEX WILL NOT BE LIABLE FOR DAMAGES UNDER THIS AGREEMENT TO THE EXTENT END USER HAS A CLAIM FOR DAMAGES AGAINST RESELLER WITH RESPECT TO THE SAME EVENT OR SERIES OF EVENTS. NINTEX IS NOT A PARTY TO, NOR LIABLE FOR ANY VIOLATIONS OF ANY ORDER FORMS BETWEEN END USER AND RESELLER NOR OTHERWISE LIABLE FOR THE ACTS AND OMISSIONS OF RESELLER. THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS.

## **6. MUTUAL INDEMNIFICATION**

**6.1 Indemnification by Nintex.** Nintex will defend, indemnify and hold End User harmless against any loss, damage, or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against End User by a third party alleging that the use of the Services as contemplated hereunder infringes a copyright, a patent issued as of the date End User accepted this Agreement, or a trademark of a third party; provided, however, that End User: (a) promptly gives written notice of the Claim to Nintex; (b) gives Nintex sole control of the defense and settlement of the Claim (provided that Nintex may not settle any Claim unless it unconditionally releases End User of all liability); and (c) provides to Nintex, at Nintex's cost, all reasonable assistance. Nintex will not be required to indemnify End User in the event of: (w) modification of the Services by End User, or Users in conflict with End User's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Services in a manner inconsistent with this Agreement, the Documentation, and the Order Forms; (y) use of the Services in combination with any other product or service not provided by Nintex; or (z) use of the Services in a manner not otherwise contemplated by this Agreement. If End User is enjoined from using the Services or Nintex reasonably believe it will be enjoined, Nintex will have the right, at its sole option, to obtain for End User the right to continue use of the Services or to replace or modify the Services so that they are no longer infringing. If neither of the foregoing options is reasonably available to Nintex, then use of the Services may be terminated at the option of Nintex and Nintex's sole liability will be to refund any prepaid, but unused, fees for such Services.

**6.2 Indemnification by End User.** End User will defend, indemnify, and hold Nintex harmless from any Claims made or brought by a third party: (i) based upon breach of this Agreement by End User, its employees and Users resulting in the unauthorized disclosure of Confidential Information; (ii) alleging that the End User Content infringes the rights of, causes harm to, a third party; or (iii) in connection with a claim arising from use of the Services in breach of this Agreement, the Documentation, or one or more Order Forms, provided, however, that Nintex: (a) promptly gives written notice of the Claim to End User; (b) give End User sole control of the defense and settlement of the Claim (provided that End User may not settle any Claim unless it unconditionally releases Nintex of all liability); and (c) provides to End User, at End User cost, all reasonable assistance.

## **7. TERM AND TERMINATION**

**7.1 Term of Agreement.** This Agreement commences on the date of the End User's acceptance of these terms and continues for as long as such End User has the contractual right to access or use the Services. The term of each Software Services subscription will be as specified in the applicable Order Form between End User and Reseller.

**7.2 Termination.** Nintex may terminate this Agreement: (a) upon thirty (30) days prior written notice to End User and/or Reseller of End User's or a User's material breach of this Agreement, the Documentation, or any Order Form if such breach remains uncured at the expiration of such notice period; (b) upon 10 days' prior written notice to Reseller if Reseller breaches its payment obligations to Nintex (including any obligation to pay for End User's excess usage of the Software Services) with respect to the Services and such breach remains uncured at the expiration of such notice period; or (c) immediately in the event Reseller or End User becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors. End User may terminate this Agreement upon thirty (30) days prior written notice to Nintex of Nintex's material breach of this Agreement if such breach remains uncured at the expiration of such notice period.

**7.3 Termination of Reseller's Agreement with Nintex.** After termination of Reseller's agreement with Nintex other than for Reseller's breach or a Reseller insolvency event, each Service in effect at the time of that termination will continue for the remainder of the then-current applicable Subscription Term (not including any renewals or extensions that are scheduled to become effective after the termination of Reseller's agreement with Nintex) unless

otherwise terminated earlier under this Agreement and provided End User is not in breach of this Agreement, the Documentation, or any Order Forms and Nintex has received all payments due from Reseller for that Service.

**7.4 Effect of Termination; Survival.** Upon any termination of this Agreement, End User must, as of the date of such termination, immediately cease accessing or otherwise utilizing the Services and Nintex Confidential Information. Rights and obligations under Sections 4, 5, and 6 shall survive the termination of this Agreement.

**7.5 Termination of End User's Agreement with Reseller.** End User shall notify Reseller of any termination of this Agreement and notify Nintex of any termination of End User's agreement with Reseller.

**8. CONNECTED ENVIRONMENTS.** The following terms apply to online Software Services:

**8.1 Applications on AppExchange.** Online Software Services may be provided as a managed package for the End User's Salesforce Organization. Salesforce.com is a third-party service provider and Nintex makes no representations or warranties regarding the functionality, operability, or End User's access to Salesforce.com. End User's access to its online Software Services on AppExchange is subject to the availability of End User's Salesforce Organization and proper performance of the End User's obligations to Salesforce.com. Should End User's access to its Salesforce Organization be suspended due to non-payment of any amounts owed to Salesforce.com by or for End User or a breach of End User's agreement with Salesforce.com, End User's access to the related online Software Services shall also be accordingly suspended or terminated. Nintex shall not be liable to End User for any refund or damages arising out of such suspension or termination. Nintex shall not be liable for performance issues or downtime of online Software Services to the extent caused by Salesforce.com or other factors outside Nintex's control.

**8.2 Applications on Other Third-Party Environments.** Nintex offers online Software Services that utilize connected environments provided by third parties. End User is required to maintain active licenses for the third-party environments which connect to the online Software Services. If End User utilizes these third-party service providers, Nintex makes no representations or warranties regarding the functionality, operability, or End User's access to these third-party environments. End User's access to such application on a third-party environment is subject to the availability of End User's third-party platforms and proper performance of the End User's obligations to such third parties. Should End User's access to its third-party platforms be suspended due to non-payment of any amounts owed to the third-party by End User or a breach of End User's agreement with the third-party service provider, End User's access to the related online Software Services shall also be accordingly suspended or terminated. Nintex shall not be liable to End User for any refund or damages arising out of such suspension or termination. Nintex shall not be liable for performance issues or downtime of the online Software Services to the extent caused by the third-party service provider or other factors outside Nintex's control.

**8.3 End User Content.** End User's use of the online Software Services with connected environments may result in End User directing transmission of End User Content outside End User's Deployment Environments, and/or to unaffiliated third parties or third-party applications, in each case as a result of End User's configuration of the online Software Services. Upon such transmission of End User Content by End User, Nintex shall not be responsible for the privacy, security or integrity thereof. Nintex shall not be responsible or liable for failure to store, deletion, correction, destruction, damage, or loss of any End User Content on the third-party environment.

## **9. NINTEX ESIGN®**

**9.1** Nintex eSign is an electronic signature online Software Service which will allow End User to display, deliver, acknowledge, and electronically sign documents. A person signing a document utilizing Nintex eSign must either have a Nintex eSign account or have received a request for signature in their email account.

**9.2 Third-Party products with Nintex eSign.** End User is solely responsible for the use of such integration or third-party service. End User warrants that it has the rights/permissions to share the data between the Nintex eSign Services and the third party services. Third-party platforms may result in access to third party content and to third party products that have access End User's instance of the Nintex eSign Services and export, delete or otherwise alter End User Content (including End User's Confidential Information). Nintex disclaims all responsibility and liability as related to third-party access to Nintex eSign Services, including any third-party modification, deletion, disclosure or collection of End User Content.

**9.3 End User responsibilities.** End User is responsible for ensuring the confidentiality of any passwords for the Nintex eSign Services. If End User's authorized User ceases employment, End User is responsible for terminating that individual's access to its Nintex eSign account. End User is responsible for any and all actions taken using its and its users' accounts, passwords or access credentials. End User shall notify Nintex immediately of any breach of security or unauthorized use of its account. End User acknowledges and agrees that: (i) End User maintains exclusive control of and responsibility for the content of all End User Content, including its documents used with the Nintex eSign Services; and, (ii) certain types of documents, agreements, or contracts may be excluded from general electronic signature laws (such as wills, trusts, court orders, or family law matters), or may have specific regulations that are applicable to them; and, (iii) End User is solely responsible for ensuring that the documents, agreements or contracts it uses with the Nintex eSign Services are appropriate for electronic signatures, and Nintex is not responsible or liable for any such determination or use; and, (iv) Consumer protection laws or regulations may impose specific requirements

for electronic transactions involving consumers, End User is solely responsible for ensuring it complies with all such laws/regulations, and Nintex has no obligations to make such determination or assist with fulfilling any requirements therein. If End User is using an API or third-party service that allows End User to perform any end user/participant/signer authentication in connection with use of the Nintex eSign Services, then End User is solely responsible and liable for such authentication.

## 10. GENERAL PROVISIONS

**10.1 Data Protection.** Nintex may process End User Content submitted to its online Software Services. Except during free, trial, or evaluation access to the Software Services (“**Trial Access**”), Nintex’s handling of End User Content submitted to its online Software Services will be consistent with Nintex’s Data Protection Addendum located at <https://www.nintex.com/legal/> (and all references in the Data Protection Addendum to “Customer” will be deemed a reference to “End User”). Nintex will maintain industry appropriate administrative, organizational, and technical safeguards of End User Content submitted to the online Software Services. End User remains responsible for taking appropriate steps at all times to maintain the security, protection, and backup of all End User Content and complying with applicable laws and regulations. End User shall not submit any data that End User does not have the right and authority to submit for the collection, use, and processing of the data by the online Software Services. Nintex will limit access to End User Content to only employees and agents who are responsible for implementing, monitoring, and managing the online Software Services for the End User. End User Content may be separately analyzed by Nintex; however, such use and access is limited to (a) identifying trends and patterns to improve the functionality and performance of the online Software Services; (b) conducting research and development to enhance existing products or develop new products; or (c) generating statistical reports and insights for internal use.

**10.2 Export Compliance.** The Software Services and other technology Nintex makes available, and derivatives thereof, may be subject to export control and economic sanctions laws and regulations of the United States and the import laws and regulations of foreign governments. End User represents that it is not named on any U.S. government denied-party list. End User agrees that: (a) all use, exports, and imports related to this Agreement will be in compliance with these laws and regulations and (b) End User shall not allow any third party to export, re-export, or transfer any part of the Services in violation of these laws and regulations. The foregoing obligations include but are not limited to End User or a third party exporting, transferring, or importing the Services to: (i) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. or foreign governments; (ii) to any person or entity on any of the U.S. Government’s Lists of Parties of Concern (<https://www.bis.doc.gov/index.php/12-policy-guidance/list-parties-of-concern>) or applicable international specially-designated parties or economic sanctions programs; (iii) to any end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (iv) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.

**10.3 End User Refunds.** Notwithstanding anything in this Agreement to the contrary, End User will receive any monetary refunds described in Sections 1.10, 2.2, and 6.1 of this Agreement from Reseller only (and End User shall notify Reseller if End User is entitled to any refunds under Sections 1.10, 2.2, or 6.1 this Agreement).

**10.4 Use of Name, Logo, and Nintex Experience.** By entering into this Agreement, End User consents to Nintex’s use of End User’s tradename, trademark, service mark, or design mark in connection with Nintex’s marketing and/or promotional materials shared with the public in any medium. End User may provide written notice to Nintex to remove its consent at any time. Nintex will procure End User’s consent prior to any publication regarding End User’s use-case of Nintex’s services.

**10.5 AI Features and Services.** The Software Services may incorporate artificial intelligence, machine learning, generative AI, and similar technologies (“AI Features”) to provide, enhance, or improve functionality. Nintex retains unrestricted rights with respect to input and output, usage, telemetry, analytics, and other like data related to AI Features for service improvement, product development, and AI model enhancement purposes. If Nintex engages in model training or fine-tuning, Nintex will offer End User an opt-out mechanism. End User acknowledges that AI Features may generate responses, recommendations, or other outputs that are provided “AS IS” without warranties as to accuracy, completeness, or fitness for any particular purpose. End User is solely responsible for reviewing, validating, and determining the appropriateness of any AI-generated content before relying on it for business decisions or operations. End User will ensure that its use of AI Features complies with applicable laws and regulations, and End User acknowledges that the AI Features are not intended for any use cases classified as “high-risk” under Regulation (EU) 2024/1689 (the “EU AI Act”) or any other applicable law. Nintex may use third-party AI technologies to provide AI Features, and End User’s use of such features may be subject to additional third-party terms.

**10.6 Assignment.** Neither Party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other Party’s prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety, without the other Party’s consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, in which case the assignee

must be capable of performing the obligations under this Agreement and must agree to be bound by the terms and conditions of this Agreement. Notwithstanding the foregoing, if a Party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other Party, then such other Party may terminate this Agreement upon written notice. Any purported assignment in breach of this section will be void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

**10.7 Relationship of the Parties.** The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.

**10.8 Waiver.** No failure or delay by either Party in exercising any right under this Agreement will constitute a waiver of that right.

**10.9 Severability; Entire Agreement.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect. This Agreement, including the Acceptable Use Policy, Nintex Privacy Policy, and the Nintex Subscription Support Policy, constitutes the entire agreement between End User and Nintex regarding the Services and supersedes all prior agreements and representations. In the event of a conflict between this Agreement and an Order Form, this Agreement will control. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the Party against whom the modification, amendment or waiver is to be asserted. The Services hereunder are not contingent on the delivery of any future functionality or features, or dependent on any oral or written comments made by Nintex regarding future functionality or features.

**10.10 Force Majeure.** Neither Party will be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that Party's reasonable control and occurring without that Party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Nintex or End User employees, respectively), computer attacks or harmful acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**10.11 Choice of Law; Jurisdiction; Applicable Nintex Entity.** Excluding conflict of laws rules, this Agreement shall be governed by and construed under (a) the laws of the State of Washington, U.S. if End User is located in North or South America, (b) the laws of the state of Victoria, Australia if End User is located in Asia or Australia, or (c) the laws of England and Wales if End User is located outside of North or South America, Asia and Australia. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the courts of (i) Seattle, Washington when the laws of Washington apply, (ii) Melbourne when the laws of the State of Victoria, Australia apply, or (iii) London when the laws of England and Wales apply. Nothing in this section shall restrict Nintex's right to bring an action (including for example a motion for injunctive relief) against End User in the jurisdiction where End User's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Agreement. For purposes of this Agreement, the Nintex entity entering into this Agreement shall be (i) Nintex USA, Inc. if Reseller is located in North or South America, (b) Nintex Pty. Ltd. if Reseller is located in Asia or Australia, or (c) Nintex UK Ltd. if Reseller is located outside of North or South America, Asia and Australia.

**10.12 Notices.** All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement must be in writing and addressed to the parties at the addresses set forth below (or to such other address that may be designated by the receiving party from time to time). All notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a notice is effective only if the party giving the notice has complied with the requirements of this Section.

To Nintex: Nintex USA, Inc. ATTN: General Counsel, 411 108th Ave NE, 6th Fl., Bellevue, WA 98004 with CC to: Nintex.Legal@Nintex.com

To End User: To the email address associated with your Nintex account, the information provided by End User to the Reseller, or such other address as you may designate in writing to Nintex. You consent to receive certain communications from us electronically, including notices and other information concerning Services. We may provide electronic notice by posting a notice on the online Software Services or by sending an email to the address associated with your account.

**10.13 United States Government Users.** If End User (or any of End User's Users) is an office, agency, or branch of the United States Government, the Services are provided to End User as commercial items and with only those rights as are stated in this Agreement, under 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227-7202-4 and corresponding sections of applicable and corresponding agency Federal Acquisition Regulations (FARs), and the

Services will not be provided with any additional rights except as specified in the applicable Order Form or a written addendum to this Agreement.

**11. DEFINITIONS.** In this Agreement, the following definitions apply:

**“Acceptable Use Policy”** means the Acceptable Use Policy, as updated from time to time, available at <http://www.nintex.com/legal>.

**“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**“Connected Service”** means any cloud service or external application that is called by the Software Services using a Nintex connector.

**“End User”** means the entity listed as the End User in the Order Form.

**“End User Content”** any electronic End User data or other business information submitted to the online Software Services.

**“Deployment Environment”** means the environment in which End User deploys its Purchased Volumes, including, but not limited to, Microsoft Office 365, Salesforce.com, or on-premise.

**“Documentation”** means the Acceptable Use Policy and the product information located at <https://help.nintex.com/Content/Home.htm>, as updated from time to time.

**“Harmful Code”** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

**“Intellectual Property Rights”** means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

**“Internal Business Purposes”** means the limited use of Services by End User for tasks directly related to End User's business activities, processes, or operations. Such activities may include management of End User data and information; conducting internal communications and collaboration; performing administrative tasks such as HR management and permit requests; supporting decision-making processes within the organization; and automating workflows and business processes to improve efficiency. Internal Business Purposes exclude activities such as reselling, sublicensing, providing the Services in connection with End User's provision of services to third parties, or use in violation of the restrictions herein.

**“Nintex”** means the Nintex entity designated in Section 10.11.

**“Nintex Subscription Support Policy”** means the Nintex Subscription Support Policy, as updated from time to time, available at <http://www.nintex.com/legal/subscription-support-policy>.

**“Order Form”** means the order form, statement of work, or other ordering document or agreement between End User and Reseller that specifically references this Agreement and contains the details of the Services resold by Reseller to End User, including any Service Specific Terms applicable to those Services (such as applicable Purchased Volumes).

**“Product Definitions”** means the product definitions available at <http://www.nintex.com/legal/product-definitions>, as updated from time to time.

**“Professional Services”** means consulting, implementation, training, customization, integration, or other services identified within the applicable Order Form. For the avoidance of doubt, the Software Services and Support do not include Professional Services.

**“Purchased Volumes”** means the applicable Workflows, Botflows, Processes, Document Generations, Users, each as provided in the Product Definitions, and any other usage limits set forth in the Order Form.

**“Reseller”** means the reseller authorized by Nintex to resell, and from whom End User orders, Services.

**“Salesforce Organization”** means the virtual space provided to an individual End User of Salesforce.com.

**“Services”** means the Software Services and associated Support when applicable, and Professional Services that are ordered from Nintex by Reseller and identified in an applicable Order Form to which this Agreement applies.

**“Service Specific Terms”** means additional terms (including Purchased Volumes) applicable to one or more particular Software Services or Professional Services that are required by Nintex. Where there is a conflict between a defined term herein and a Service Specific Term, the Service Specific Term shall prevail.

**“Software Services”** means software services delivered to End User: (a) as software to be installed on End User’s designated on-premises server; (b) for integration with End User’s designated Deployment Environment, and/or (c) as an online service.

**“Subscription Term”** means the set term for End User’s subscription to the Software Services designated in the applicable order between Reseller and Nintex for those Software Services, as renewed or extended by Reseller and Nintex.

**“Support”** means the assistance, assurance, new releases and related maintenance services for the Software Services described in the Nintex Subscription Support Policy and related Support Documentation, and includes all other associated material provided by Nintex in relation to the foregoing assistance, assurance, new releases and related maintenance services in any form, including online, including documents, reports, products, information, data, source code, and methodologies.

**“Support Documentation”** means any documentation provided by Nintex that is incorporated in or associated with Support.

**“Users”** means the individuals who are authorized by End User to have access to the Software Services.