



CodeSonar Software License

AdaCore

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UNLESS THE CUSTOMER HAS ENTERED INTO A SEPARATE, DULY SIGNED LICENSE AGREEMENT WITH AN ENTITY OF THE ADACORE GROUP (INCLUDING ADA CORE TECHNOLOGIES INC., ADACORE SAS, AND CODESECURE INC.) OR AN AUTHORIZED DISTRIBUTOR, IT WILL BE BOUND BY THE TERMS OF THIS SOFTWARE LICENSE AGREEMENT, WITHOUT EXCEPTION, BY INSTALLING, COPYING, OR OTHERWISE USING THE SOFTWARE. IF YOU DO NOT ACCEPT ALL OF THE TERMS OF THIS SOFTWARE LICENSE, YOU ARE NOT PERMITTED TO POSSESS, INSTALL, OR USE THE SOFTWARE IN ANY MANNER.

This Software License (“Agreement”) is between the person or legal entity accepting this Software License (the “Customer”) and the entity of the AdaCore group or authorized distributor (the “Seller”) that issued the applicable quotation. Together with the quotation and/or invoice (“Purchase Documents”), it forms a legal contract between the Customer and the Seller. It limits what you may do with the licensed Seller software and its documentation, printed or electronic (collectively the “Software”).

It does not extend to or include any parent, subsidiary, or affiliated organization or entity unless otherwise agreed with the Seller. If you are using the Software as an employee, your employer is the licensee and may have already accepted a version of this Software License. In all other circumstances, you are binding your employer to this Software License. In such case, if you are not authorized to bind your employer, you are not permitted to install and/or use the Software.

How this Agreement permit the Software to be used and the applicability of certain terms thereof depends on whether the Customer has paid for a “Commercial License” or been provided an “Evaluation License” by the Seller. If the Customer has paid the Seller for software maintenance services (“Maintenance”), the terms of *Software Maintenance Services* also applies.

1 License

1.1 License Granted

In consideration for the timely payment of the fees specified in the Purchase Documents in the case of a Commercial License, or the opportunity for future paid contracts in the case of an Evaluation License, the Seller grants to the Customer a non-exclusive, non-transferable, non-sublicensable, worldwide license to use, in the form delivered, the Software, including a right to make a reasonable number of copies of the Software only for backup and recovery purposes, for the term set forth herein, or until terminated.

The Customer has the right:

- (a) in the case of a Commercial License, to use the software to analyze its source or binary code for the purpose of assessing, correcting, or improving its code; or
- (b) in the case of an Evaluation License, to assess the feasibility and utility of potentially purchasing the Software to analyze its source or binary code. Any output produced during such evaluation shall not be used in connection with the development or production of any software, nor shall it be retained after the termination of the Evaluation License.

1.2 limitations on Software Use

The Customer may not:

- (1) use the Software in any manner unless the Seller or its authorized distributor have provided a Software license key;
- (2) rent, lease, sell, lend, license, transfer, or otherwise permit any person or entity other than it to use the Software in any manner;
- (3) disclose Software, its documentation, or its output, including, but not limited to, the results of any benchmark test of the Software, to any third party without the Seller's prior written approval;
- (4) use the Software as part of a commercial service in which it reviews the code of third parties;
- (5) make any copy of the Software or Software output without including the copyright or any other intellectual property notices and any other restrictive legends contained in the Software as it was furnished to it by the Seller or produced by the Software.
- (6) reverse engineer, decompile, disassemble, decipher, or modify the Software, create derivative works from the Software, or attempt to do any of the following:
 - (a) retarget the Software for other source languages or instruction set architectures;
 - (b) use the Software to implement a compiler (direct translation to machine code); or
 - (c) circumvent, or any manner interfere, with the operation of any license management functionality or configuration of the Software, including, but not limited to, the handling of license keys.

Notwithstanding this [Section 1.2](#) and without limiting any other term of the Agreement, the Customer may provide access to the Software, Software output, and Software documentation to third-parties requiring access to the Software, Software output, or Software documentation ("Authorized Parties") who are legally obligated to strictly comply with the terms of this Agreement, including confidentiality obligations and applicable export controls, solely for the benefit of the Customer, provided that:

- (a) The Customer is responsible for all acts and omissions of Authorized Parties with respect to the Software licensed under this Agreement, including, but not limited to, any breach thereby and indemnification of the Seller, without limit, including, but not limited to any reasonable attorneys fees as they are incurred, with respect to any and all claims arising from or related to the Authorized Parties' use or access to the Software, Software output, or Software documentation; and
- (b) The Customer ensures any Authorized Parties destroy all copies of the Software, Software output, and Software documentation immediately upon the earlier of the completion of the term of the Agreement, the completion of the Authorized Parties' services on the Customer's behalf, or the need for the access permitted under this provision.

2 Use of Confidential Information

- (1) During the term of this Agreement, either party (the “Disclosing Party”) may disclose Confidential Information to the other party (the “Receiving Party”).
- (2) “Confidential Information” means any and all technical and non-technical information or know-how of a proprietary, confidential, or trade secret nature held by the Disclosing Party, in whatever form including, but not limited to, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software, programs, software source documents, manuals and documentation related to software programs, license keys or passwords, methods and concepts embodied in software, and formulae related to current and future proposed products and services parties, including, without limitation, information concerning research, experimental work, development, design details and specifications, engineering, pricing, including that contained in any quotation or invoice, financial information, procurement requirements, purchasing, manufacturing, customer lists, business forecasts, sales and merchandising, and marketing plans provided that it has been marked or designated as confidential. Whether or not so marked or designated, Software and Software output are considered Confidential Information, as is source code sent to the Seller as part of Maintenance.
- (3) Confidential Information does not include information which can be demonstrated by the Receiving Party to be:
 - (a) available to the public without restriction at the time of disclosure or subsequently;
 - (b) known to it at the time of disclosure without restrictions on its use;
 - (c) independently developed by it without reference to or use of the Confidential Information;
 - (d) disclosed without restriction to it from a source other than the Disclosing Party and that is not under any obligation of confidentiality with respect to such information; or
 - (e) information that the Disclosing Party notifies it that it may disclose.
- (4) The Receiving Party agrees that it shall treat the Confidential Information with the same degree of care as it accords to its own Confidential Information, but with no less than reasonable care.
- (5) Except as otherwise permitted below, the Receiving Party will not disclose the Confidential Information to any third party. The Receiving Party shall not use Confidential Information except as necessary to exercise the rights granted herein or to evaluate opportunities to license additional Software.
- (6) The Receiving Party is permitted to disclose the Confidential Information to one of the following entities provided that each such entity has signed a confidentiality agreement or are otherwise obligated to maintain the confidentiality of the Confidential Information:
 - (a) the Receiving Party’s employees, directors, officers, and agents or those of its affiliates;
 - (b) in the case of the Seller where the Customer has purchased Maintenance, the Seller’s partners in supplying those services (“Support Contributors”); and
 - (c) suppliers of IT cloud services of Receiving Party or its affiliate.
- (7) If the Receiving Party receives a governmental or judicial order to disclose the Confidential Information, it is permitted to disclose only such portion of the Confidential Information as required by that order, provided that it shall promptly notify the Disclosing Party sufficiently in advance of the disclosure, if not prohibited from doing so by said order, so that the Disclosing Party has the opportunity to protect the Confidential Information with a confidentiality order or other treatment prior to the disclosure. Notwithstanding disclosure as permitted in this subsection, the Disclosing Party’s Confidential Information shall remain Confidential Information to the extent not entered into the public record.
- (8) The Customer agrees that the Seller and its affiliates may collect and use technical information gathered as part of the product support services provided to it, if any, related to the Software. The Software also includes functionality that collects a limited set of general Software usage information and sends it to the Seller to be used for improvement of the product and customer support process. The information collected includes, but

is not limited to, the operating system on which the Software is running, compiler information, and counts of pre-selected events.

This functionality is turned off by default and requires the affirmative opt-in of the Customer at the time of installation of the Software. The functionality is **not** designed to collect personal data or personally identifiable or sensitive information including, but not limited to, information about the code being analyzed, company or user names, or customizations that may have been made to the Customer's installation. The Seller, without any form of remuneration, may use, for any purpose and in perpetuity, this information for any purpose, including, but not limited to, suggest functionality or features, improve its products and/or provide customized services or technologies to the Customer or other Customers and will not disclose this information in a form that identifies the Customer or any of its information.

3 Term and Termination

- (1) Unless otherwise specified, including, but not limited to, in a separate signed document, the term of this Agreement begins when the Customer has downloaded the Software and accepted the terms hereof (the "Effective Date"). This Agreement may be renewed for a period agreed upon by the Customer and the Seller by the Customer's payment of an invoice within thirty (30) days of issuance that references this Agreement. Any inconsistent and/or additional terms contained within any document the Customer provides to the Seller related to such renewal shall have no effect.
- (2) Unless otherwise specified, this Agreement shall automatically terminate:
 - (a) if the Seller has not received full payment for the license within the agreed-upon period (if no period is specified such period shall be thirty (30) days from invoicing);
 - (b) upon the expiration of the Software license key provided to the Customer by the Seller; or
 - (c) if the Seller has not received full payment for the license and:
 - (i) the Customer becomes insolvent or makes an assignment for the benefit of creditors;
 - (ii) a trustee or receiver is appointed for the Customer or a substantial part of its assets; or
 - (iii) bankruptcy, reorganization or insolvency proceedings is instituted by or against the Customer.
- (3) Without prejudice to any other rights, the Seller reserves the right to terminate an Evaluation License at any time. It may terminate a Commercial License if the Customer fails to comply with any provision of this Agreement.
- (4) The Customer may terminate this Agreement for convenience by providing the Seller with at least thirty (30) calendar days' prior written notice. In such case, the Seller shall refund ninety percent (90%) of the prepaid fees corresponding to the unused portion of the License beyond the termination date, calculated on a *pro rata temporis* basis. The remaining ten percent (10%) of such unused fees shall be retained by the Seller as a termination fee.
- (5) Upon termination of this Agreement for any reason:
 - (a) The Customer and Authorized Parties are no longer authorized to use the Software, or any derivative of the Software, in any manner whatsoever; and
 - (b) The Customer agrees to cease using the Software and to destroy or erase all copies, portions, extracts, and modifications of the Software, including Software documentation, in its possession, custody, or control and that of any Authorized Parties.
- (6) Upon termination of this Agreement for any reason other than the expiration of a Commercial License time-limited Term (e.g., one year):
 - (a) The Customer and Authorized Parties may no longer use the Software output in any manner whatsoever; and

- (b) The Customer agrees to destroy or erase all copies, extracts, and modifications of the Software output in the possession, custody, or control of it or any Authorized Parties. Upon the termination of the Commercial License by expiration of a time-limited Term, the Customer may retain and use the Software output.
- (7) *Section 1.2 (limitations on Software Use), Section 2 (Use of Confidential Information), Section 4 (Ownership/Proprietary Rights), Section 5 (Warranties and Disclaimers), Section 7 (Export), , and Section 11 (Applicable Law/Venue)* shall survive the termination of this Agreement.

4 Ownership/Proprietary Rights

The Customer acknowledges and agrees that:

- (1) The Seller and, as applicable, the Seller's suppliers and licensors, reserve all rights in the Software not expressly granted to the Customer by this Agreement. The Software is licensed, not sold, and remains the exclusive property of the Seller and, as applicable, its suppliers and licensors who retain the title, copyright, and all other intellectual property rights in the Software. This Agreement gives the Customer no rights to the content of the Software.
- (2) The Software is protected by copyright and other intellectual property laws and treaties, including, but not limited to, those of the United States of America. The Customer agrees to abide by copyright law and all other applicable laws of the United States including, but not limited to, export control laws.
- (3) The Software in source code form remains a confidential trade secret of the Seller and, as applicable, its suppliers and its licensors and therefore the Customer may not modify the Software or attempt to decipher, decompile, disassemble, or reverse engineer the Software, except to the extent applicable laws may specifically prohibit such restrictions.
- (4) CodeSonar is a registered trademark of the Seller or its affiliates.
- (5) Unless the Customer has purchased Maintenance, the Seller has no obligation to maintain the Software. If it chooses to maintain the Software, it has no obligation to the Customer related thereto. In any event, the Seller has no obligation to maintain versions of the Software that have reached the end of lifecycle, as determined by the Seller.
- (6) The Customer represents and warrants that it has the right, title, or grant of license to analyze, modify, and/or use the Software in conjunction with the source and/or binary code to which it applies the Software. The Customer shall defend, indemnify, and hold the Seller, its officers, directors, employees, licensors, and suppliers harmless from any and all suits, damages, costs, and expenses due to claims that the Customer does not have such right, title, or license, including reasonable attorneys fees as they are incurred.

In the event of such a claim, the Seller will:

- (a) promptly provide the Customer with a written request for indemnification or defense;
- (b) maintain sole control and authority over the defense or settlement thereof; and
- (c) at the Customer's expense, maintain all available information, assistance, and authority reasonably necessary to settle and/or defend any such claim or action.

Without the Seller's prior written consent, the Customer shall have no authority to enter into or acquiesce to any settlement containing any admission of or stipulation to any guilt, fault, liability or wrongdoing on the part of the Seller or which would otherwise adversely affect the Seller.

- (7) The Software may contain third-party software provided under separate license terms, including, but not limited to, free or open source terms. The applicable license terms associated with such are identified in the Software's documentation. Upon request, the Seller will provide such terms within a reasonable period of time. The Customer is permitted to use such third-party software in conjunction with the Software in a manner consistent with the terms of this Agreement. However, the Customer may also have broader rights under the applicable license(s) with respect to the separate use of such third-party software. Nothing in this Agreement is intended to impose further restrictions on the Customer's use of such third-party software as provided for in its separate license.

5 Warranties and Disclaimers

The Seller makes no representations about the suitability of the Software for any purpose or about any content, information, or output made accessible by the Software, including modifications to the Customer's source or binary code. The Seller does not warrant that operation of the Software will be uninterrupted or error-free, that functions contained in the Software shall operate in the combination that the Customer may select, or that the Software will meet its requirements. The Seller is not responsible for problems caused by use of the Software, by changes in the operating characteristics of computer hardware or computer operating systems that are made after the release of the Software, or for problems in the interaction of the Software with software not provided by the Seller. This Agreement does not change the Customer's rights, if any, under applicable mandatory local law.

The Software shall be deemed accepted upon delivery to the Customer.

5.1 Provisions Applicable Only to Commercial Licenses

- (1) The Seller warrants to the Customer (and only to the Customer and not any Authorized Parties) for the first thirty (30) days following its downloading of the Software or until the Software is modified by the Customer, whichever period is shorter, that the Software will perform substantially the functions described in the Software documentation. The Customer's sole remedy under the warranty during the thirty (30) day period is that the Seller will undertake to correct, within a reasonable period of time, as determined by the Seller, any reported failure of the Software to perform substantially the functions described in the documentation ("Software Error") and correct errors in the documentation ("Documentation Error") (collectively "Errors"). The Seller does not warrant that all Errors will be corrected. If, within the above noted period, the Seller is unable to provide corrected Software or documentation, the Seller will, at its sole and exclusive option, either replace the Software with a functionally-equivalent program at no charge to the Customer or refund the license fee paid for the Software. THERE IS NO WARRANTY OR CONDITION OF ANY KIND FOR ANY ERRORS DISCOVERED AFTER THE THIRTY (30) DAY PERIOD.
- (2) THE ABOVE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. THE SELLER AND, IF ANY, ITS SUPPLIERS AND/OR LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES RELATING TO THE RELIABILITY, AVAILABILITY, ACCURACY, OR COMPLETENESS OF RESULTS, WORKMANLIKE EFFORT, LACK OF VIRUSES OR OTHER MALWARE, LACK OF NEGLIGENCE, CONDITION OF TITLE, QUIET TITLE OR POSSESSION, CORRESPONDENCE TO DESCRIPTION, OR NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR REPRESENTATION GIVEN BY THE SELLER'S EMPLOYEES, DISTRIBUTORS, DEALERS, OR AGENTS SHALL INCREASE THE SCOPE OF THE ABOVE WARRANTIES OR CREATE ANY NEW WARRANTIES.
- (3) IN THE EVENT THAT MANDATORY APPLICABLE LOCAL LAW PROHIBITS THE EXCLUSION OF IMPLIED WARRANTIES, ANY IMPLIED WARRANTIES ARE LIMITED TO THE MINIMUM PERIOD OF TIME AND/OR SCOPE PERMITTED BY SUCH APPLICABLE LAW.
- (4) REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS TO ACHIEVE ITS ESSENTIAL PURPOSE, IN NO EVENT WILL THE SELLER BE LIABLE TO THE CUSTOMER FOR ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, INDIRECT, OR SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY LOST PROFITS OR DATA, ARISING OUT OF OR RELATED TO ANY ALLEGED BREACH OF THIS AGREEMENT AND/OR THE USE OR INABILITY TO USE THE SOFTWARE OR ANY DATA SUPPLIED THEREWITH, EVEN IF THE SELLER OR ANYONE ELSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, OR STRICT LIABILITY OR FOR ANY CLAIM BY ANY OTHER PARTY, INCLUDING THIRD-PARTIES. ADACORE'S SUPPLIERS AND LICENSORS, IF ANY, DISCLAIM ALL LIABILITY TO THE CUSTOMER OR ANY THIRD-

PARTY FOR DAMAGES OF ANY KIND FOR ANY AND ALL CLAIMS ARISING FROM OR RELATING TO THIS AGREEMENT OR THE USE OF THE SOFTWARE.

- (5) IN THE EVENT THAT MANDATORY APPLICABLE LOCAL LAW PROHIBITS THE LIMITATION OR EXCLUSION OF LIABILITY FOR DAMAGES, INCLUDING BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES, THE SELLER'S, AND ITS SUPPLIERS' AND/OR LICENSORS', IF ANY, LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES SHALL BE THE MINIMUM PERMITTED BY LAW.
- (6) IN NO CASE SHALL THE SELLERS', ITS SUPPLIERS', AND/OR LICENSOR'S AGGREGATE LIABILITY FOR ANY CLAIM OR ANY TYPE OF DAMAGES EXCEED THE PRICE ACTUALLY PAID BY THE CUSTOMER TO THE SELLER FOR THE SOFTWARE GIVING RISE TO THE CLAIM. THIS LIMITATION OF LIABILITY IS AN ESSENTIAL CONDITION OF THE SELLER'S COMMITMENT AND FORMS THE BASIS ON WHICH THE SOFTWARE WAS MADE AVAILABLE. THIS LIMITATION SHALL NOT APPLY IN CASE OF FRAUD (DOL), GROSS NEGLIGENCE (FAUTE LOURDE), OR LIABILITY FOR DEATH OR PERSONAL INJURY.

5.2 Provisions Applicable Only to Evaluation Licenses

- (1) GIVEN THAT IT IS PROVIDED AT NO COST, THE SOFTWARE IS PROVIDED "AS IS" AND "WITH ALL FAULTS". THE SELLER, ITS SUPPLIERS, AND LICENSORS DISCLAIM ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT, NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTIES RELATING TO THE RELIABILITY, AVAILABILITY, ACCURACY, OR COMPLETENESS OF RESULTS, WORKMANLIKE EFFORT, LACK OF VIRUSES OR OTHER MALWARE, LACK OF NEGLIGENCE, CONDITION OF TITLE, QUIET TITLE OR POSSESSION, CORRESPONDENCE TO DESCRIPTION, OR NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR REPRESENTATION GIVEN BY ADACORE'S EMPLOYEES, DISTRIBUTORS, DEALERS, OR AGENTS SHALL INCREASE THE SCOPE OF THE ABOVE WARRANTIES OR CREATE ANY NEW WARRANTIES.
- (2) IN NO CASE SHALL THE SELLER, ITS SUPPLIERS, OR ITS LICENSORS BE LIABLE TO THE CUSTOMER, ITS EMPLOYER, OR TO ANY THIRD-PARTY FOR DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, PUNITIVE, SPECIAL, CONSEQUENTIAL, INDIRECT, OR SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO, ANY LOST PROFITS OR DATA, ARISING OUT OF OR RELATED TO ANY ALLEGED BREACH OF THIS AGREEMENT AND/OR THE USE OR INABILITY TO USE THE SOFTWARE OR ANY DATA SUPPLIED THEREWITH, EVEN IF THE SELLER OR ANYONE ELSE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH CLAIM OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, IN THE EVENT OF FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, OR STRICT LIABILITY, OR FOR ANY CLAIM BY ANY OTHER PARTY, INCLUDING THIRD-PARTIES.
- (3) IN NO CASE SHALL THE SELLER'S, ITS SUPPLIERS', AND/OR LICENSORS' AGGREGATE LIABILITY FOR ANY CLAIM OR ANY TYPE OF DAMAGES EXCEED AN AMOUNT OF 10,000 USD (OR ITS COUNTERPART IN LOCAL CURRENCY). THIS LIMITATION OF LIABILITY IS AN ESSENTIAL CONDITION OF THE SELLER'S COMMITMENT AND FORMS THE BASIS ON WHICH THE SOFTWARE WAS MADE AVAILABLE. THIS LIMITATION SHALL NOT APPLY IN CASE OF FRAUD (DOL), GROSS NEGLIGENCE (*FAUTE LOURDE*), OR LIABILITY FOR DEATH OR PERSONAL INJURY.

6 United States Government License Rights

The Software is “Commercial Computer Software” as defined in DFARS 252.227-7014 and, pursuant to DFAR 227.7202, licensed to the U.S. Government under terms customarily provided to the public. If the DFAR is not applicable, and to the extent not inconsistent with the terms of this Agreement, use, disclosure, or duplication is subject to the restrictions enumerated in FAR 52.227-19(b)(2). Any use, modification, reproduction, or disclosure of the Software by the U.S. Government shall be solely in accordance with the terms of this Agreement. The manufacturer is CodeSecure Inc., 6903 Rockledge Drive, Suite 1250, Bethesda, MD 20817.

7 Export

The Customer may not download, use, or otherwise export or re-export the Software or any underlying information or technology except in full compliance with all United States, European Union, and other applicable laws and regulations, including, but not limited to, those dealing with nuclear, chemical, or biological weapons proliferation. These laws include, among other things, restrictions on import/export destinations, end-users, and end-use. In particular, but without limitation, none of the Software or underlying information or technology may be downloaded or otherwise exported or re-exported:

- into Embargoed Countries or Area Controlled List Countries;
- to anyone on the US Treasury Department’s list of Specially Designated Nationals or the US Commerce Department’s Table of Deny Orders; or
- to the People’s Republic of China for a use that is in whole or in part a military use including the use, development, or production of military items, as prohibited by US Export Administration Regulations section 744.21.

By downloading or possessing the Software, the Customer is agreeing to the foregoing and is representing and warranting that it is not located in, under control of, or a national or resident of any such country or on any such list. The Export Control Classification Number (ECCN) applicable to the Software will be provided by the Seller upon request.

8 Rights Reserved by the Seller

Except as otherwise provided herein, the Seller reserves the right to:

- (1) alter the general availability of the Software; and
- (2) alter prices, features, specifications, capabilities, functions, licensing terms for subsequent purchases, releases or updates, release dates, or other characteristics of the Software.

9 Subsequent Software Versions

To the extent that the Seller may provide the Customer with any Error Corrections, Updates, Upgrades, or any other software, including any new versions of the licensed Software, all such software shall constitute Software as defined by this Agreement and shall be subject to all of the terms and conditions specified in this Agreement. Use of any Software, including subsequent versions or modifications, licensed to the Customer is limited to the number of licensing units; e.g., lines of code, in any combination between the versions, and remaining time for which it has paid.

10 Usage Audit

The Customer agrees to provide the Seller with written certification of Software usage information as requested by the Seller and confirming that, during the term of this Agreement, the Software is being used in accordance with its terms. Upon at least thirty (30) days prior written notice, the Seller, at its expense, may audit the Customer's use of the Software to ensure it is in compliance with the terms of this Agreement. Any such audit will be conducted during regular business hours by the Seller or its appointed representative at the Customer's facilities. The Customer agrees to provide the auditor with access to the relevant records, equipment, and facilities to perform the audit. If an audit reveals that the Customer has underpaid fees to the Seller, exceeded Software usage limitations, and/or otherwise engaged in conduct resulting in an underpayment during the period audited, the Customer shall promptly pay the Seller, when invoiced, for such fees based on its price list in effect at the time the audit is completed. If the fees invoiced as a result of the audit exceed five percent (5%) of the fees paid by the Customer for the Software, the Customer will also pay any and all costs and expenses arising from or relating to the audit, including reasonable attorneys fees if collection action is undertaken.

11 Applicable Law/Venue

If the Seller is Ada Core Technologies Inc. or CodeSecure Inc., the validity, construction, and performance of this Agreement will be governed by the law of the State of New York, as if this Agreement were executed in, and fully performed within, the State of New York and without regard to its principles of conflicts of laws. The parties expressly agree that the Uniform Commercial Code (UCC), the United Nations Convention on Contracts for the International Sale of Goods (UNCISG), and the Uniform Computer Information Transactions Act (UCITA), including any version of UCITA adopted by a state, shall not apply. Any legal action or proceeding arising from and/or related to this Agreement shall be brought exclusively in the federal and/or state court of New York that is geographically closest to the Seller's New York, NY offices. Both parties expressly consent to the personal jurisdiction and exclusive venue therein.

If the Seller is AdaCore SAS, the validity, construction, and performance of this Agreement will be governed by the law of France, as if this Agreement were executed in, and fully performed within, France and without regard to its principles of conflicts of laws. Any legal action or proceeding arising from and/or related to this Agreement shall be brought exclusively in the *Tribunal de Commerce of Paris* (France). Both parties expressly consent to the personal jurisdiction and exclusive venue therein. As a condition precedent to any such legal action or proceeding, if the amount in dispute is less than 5,000 (five thousand) euros, the parties agree to first attempt an amicable resolution through conciliation conducted by a *conciliateur de justice* appointed by the Seller. If the conciliation does not result in a settlement within thirty (30) days from the appointment of the conciliator, either party may initiate legal proceedings before the competent court as provided above.

12 Non-Exclusive Remedy

Except as set forth herein, the exercise by either party of any of its remedies will be without prejudice to any other remedies provided herein or otherwise available at law or in equity.

A breach or threatened breach of this Agreement may result in irreparable harm to the Seller and impair its value in such a way that is difficult or impossible to calculate. Therefore, the Customer acknowledges and agrees that the Seller is entitled to seek, in addition to any other remedy provided for at law, equitable relief to protect its interests, without the necessity of posting bond or surety, including, but not limited to, injunctive relief, as well as money damages.

13 Assignment

This Agreement is personal to the Customer and is not assignable or transferable without the express prior written consent of the Seller, which shall be provided at its sole discretion. The Seller may assign this Agreement at its sole discretion.

14 Amendment/Waiver

This Agreement may not be amended or modified, or any provision of it waived, except by a written instrument signed by an authorized representative of the Seller.

15 Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions will remain in full force and effect. In the event of invalidity, the parties further agree to substitute for the invalid provision a valid provision which most closely resembles the intent of the invalid provision.

16 Entire Agreement

Except as otherwise provided herein, the provisions of this Agreement and Purchase Documents constitute the entire agreement between the parties and supersede all prior agreements, oral or written, and all other communications relating to the subject matter hereof. If the terms of any purchase order or other document provided by the Customer to the Seller in connection with the license of the Software includes different or additional terms from this Agreement and/or Purchase Documents, the provisions of this Agreement and Purchase Documents shall prevail and such inconsistent and/or additional terms shall have no effect.

17 Payment Terms

Unless otherwise mutually agreed in writing, any payment made to the Seller must be by check or bank transfer to the Seller's account, in the currency specified in the quote, and received within thirty (30) days from the date of the invoice.

Notwithstanding any other legal remedy, in the event that the Customer fails to make payment within this period, the Seller reserves the right to apply an annual penalty rate of 12% interest, compounded yearly. The Seller is also entitled to obtain reasonable compensation from the Customer for any costs incurred due to its late payment. If the Seller is AdaCore SAS, this compensation will be at least the fixed sum of forty (40) euros.

18 Hardship

If the Seller is AdaCore SAS and there are unforeseeable changes in circumstances at the time of conclusion of the Agreement, in accordance with the provisions of Article 1195 of the French Civil Code, the party, whether it be the Customer or Seller, that has not agreed to assume an excessively onerous risk of performance may request a renegotiation of the Agreement from the other.

If the renegotiation is successful, both parties shall immediately draw up a new agreement formalizing the result of this renegotiation. If the renegotiation fails, both parties may jointly request the competent court, under [Section 11](#)

(*Applicable Law/Venue*), to terminate or adapt the Agreement in accordance with the provisions of Article 1195 of the French Civil Code.

In the event that the parties are unable to mutually reach an agreement to refer the matter to the competent court within thirty (30) days from the date of the disagreement, the most diligent party may refer the matter to the competent court, *Section 11 (Applicable Law/Venue)*, with a request for revision or termination of the Agreement.

19 Processing of Personal Data

(1) The following definitions shall apply for the purposes of this section:

- “Customer Information” means any data, information, or material provided or submitted by the Customer related to the use or maintenance of the Software.
- “GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council on the Protection of Natural Persons with regard to the processing of personal data and on the free movement of such data.
- “UK GDPR” has the meaning given to it in the GDPR as made part of United Kingdom law by virtue of section 3 of the United Kingdom’s European Union (Withdrawal) Act 2018.
- “Data Protection Laws” means all applicable data protection and privacy law, as may be amended or superseded from time to time, including, but not limited to:
 - (a) the GDPR;
 - (b) the UK GDPR;
 - (c) all applicable national data protection laws made under, pursuant to, or that apply in conjunction with any of the above; and
 - (d) any other applicable national or state-level data protection laws.
- “Personal Data” means any information relating to an identified or identifiable physical person (“Data Subject”) that is contained within Customer Information.
- “Controller”, “Joint Controllers”, “Processing” and “Sub-Processors” shall have the same meaning as given to them by the GDPR and the UK GDPR.

(2) The Customer acknowledges that for the purpose of the execution of the Agreement, the Seller and its Affiliates are collectively Joint Controllers in the Processing of Personal Data. The Customer also acknowledges that the collection and Processing of Personal Data is necessary to the proper execution of the Agreement. Any Processing of Personal Data shall be proceeded with in accordance and in compliance with the requirements of the Data Protection Laws. Specifically:

- (a) The Joint Controllers shall implement and maintain appropriate technical and organizational measures to protect Personal Data.
- (b) The Joint Controllers shall cooperate and provide reasonable support to respond to any requests from Data Subjects to exercise their rights under the Data Protection Laws. The AdaCore Group’s point of contact can be reached at: dpo@adacore.com
- (c) The Joint Controllers shall only transfer Personal Data outside the European Economic Area (EEA) or UK when appropriate safeguards are in place for these locations. Customer acknowledges that Personal Data will be transferred to the United States.

(3) The Customer acknowledges and authorizes the Seller to engage third-party Sub-Processors for the Processing of Personal Data. The Seller maintains a list of Sub-Processors accessible at <https://www.adacore.com/trust-and-transparency/third-party-services-storing-customer-confidential-information>

(4) Further details on the Processing of Personal Data by the AdaCore Group are accessible at <https://www.adacore.com/privacy>

20 Software Maintenance Services

If, but only if, the Customer has purchased a license for the Software and paid the Seller for Maintenance, as shown on the Seller's Purchase Documents, the following additional terms and conditions shall apply. The Seller shall have no obligation to maintain the Software unless the Customer has paid for Maintenance as a separate purchase or as may have otherwise been required by the type of license purchased.

20.1 Support Requests

During the period for which Maintenance has been purchased and paid for in full:

- (1) The Seller will undertake to correct within a reasonable period of time, as determined by the Seller, any reported Software Error(s) and Documentation Error(s).
- (2) The Customer may report Errors in writing to the Seller. Such reports must contain a complete description of all aspects of the malfunction. The Seller's support engineers will evaluate such reports and attempt to identify and resolve the issue. The Seller will respond with a fix, a work-around, or an estimate of the time necessary to resolve the reported Error. The Seller shall be obligated to respond only to reports concerning failure of the Software to perform in conformance with documented functionality. The Seller shall not be obligated to respond to reports that, as determined by the Seller, are related to design work or the implementation of the Software or are "consulting" in nature.
- (3) The Seller shall provide the Customer, as they are made available for licensing to the public:
 - (a) such software modifications or additions that, when made or added to the Software, establish material conformity of the Software to the functional specifications identified in the Software documentation, and;
 - (b) any procedures or routines that, when observed in the regular operation of the Software, eliminate the practical adverse effect on the Customer of any such nonconformity.

The above are collectively "Error Corrections".

- (4) The Seller shall provide to the Customer, as they are made available for licensing to the public, such minor software modifications or additions that, when made or added to the Software, will materially improve its utility, efficiency, functional capability or application, but which do not constitute a new version of the Software ("Enhancements"). At the Seller's option, it may also include, as Enhancements, major modifications that are made generally available without charge to its other customers.

20.2 Limitations to the Seller Support Obligations

The Seller's obligation to provide Maintenance is contingent upon the Customer's proper use of the Software as described in the Software Documentation. The Seller shall be under no obligation to provide Maintenance if such service is required, in its opinion, as a result of:

- (a) the Customer's failure to maintain the Software at the Seller's most recent release level;
- (b) the Customer's failure to maintain site conditions within the environmental operating range specified by the Seller;
- (c) failure of the Software due to improper use, abuse, accident or neglect;
- (d) alterations, modifications, or attempts to repair the Software made without the Seller's consent; or
- (e) causes external to the Software, including, but not limited to, failure or fluctuations in electrical power, inadequate cooling, or natural disasters.

20.3 The Seller Support Site

If the Customer has purchased Maintenance, the Seller provides support to all users who receive a license to use the software (the “Supported Users”).

The Seller provides support services to Supported Users via access to a web interface (the “Seller Support Site”) that uses industry-standard encryption and permits:

- downloading software (including all Supported Releases and deliverables under development contracts) and its associated documentation, when published; and
- sending Support Requests; and
- reviewing and searching previous Support Requests.

The Seller will open the Customer’s account on the Seller Support Site as soon as possible after receiving the Customer Information described below, will provide credentials for each of the Customer’s Supported Users, and will employ reasonable efforts to keep the service available at all times. The provided credentials are strictly personal: the Customer and each of its employees, contractors, sub-contractors or any other person acting on its behalf must not disclose or share their credentials for the Seller Support Site to any other person, even if such person is another employee, contractor, or subcontractor of the Customer.

The Customer agrees to use the Seller Support Site either only manually or using tools that produce no more requests than manual usage, not to access it for purposes of developing similar services, not to reverse engineer it, and not to remove or modify a copyright or other proprietary rights notice in it. The Customer additionally agrees not to use it in violation of the law (including export or intellectual property law) or to use it to create, use, send, store, or run harmful computer code or engage in a malicious act or disrupt its security, integrity, or operation.

The Customer agrees to indemnify, defend, and hold harmless all Support Contributors and their employees, officers and directors from and against any and all claims, demands, suits, damages, liabilities, losses, and expenses (including reasonable attorneys’ fees and expenses) arising out of or in connection with any breach of the above paragraph.

21 Export Control of Customer Material

Any Customer material that requires a license under the Export Administration Regulations (EAR) of the US Bureau of Industry Standards (BIS) or regulation (EU) 2021/821 of 20 May 2021, is covered by the US Munitions List (ITAR), restricted under any other similar export-control regulations for military or dual-use goods, or is any other form of Controlled Unclassified Information shall not be sent using the Seller Support Site or e-mail. Specific guidance on how to transmit such information can be obtained through a Support Request.