

## End User License Agreement

**IMPORTANT:** PLEASE READ THIS EULA CAREFULLY. WE ARE WILLING TO LICENSE THE SOFTWARE AND/OR PROVIDE THE SERVICES TO YOU ONLY UPON THE CONDITION THAT YOU ACCEPT AND AGREE TO ALL THE TERMS CONTAINED IN THIS AGREEMENT THROUGH ONE OF THE METHODS DESCRIBED HEREIN. YOU REPRESENT THAT YOU HAVE READ AND UNDERSTAND ALL OF THE PROVISIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT DOWNLOAD, INSTALL, ORDER, RECEIVE OR USE THE SOFTWARE OR SERVICES. THIS EULA AND THE DOCUMENTATION (AS DEFINED BELOW) (COLLECTIVELY, THE "AGREEMENT") IS BETWEEN ASHTBIT OR ASHTBIT AFFILIATE ("ASHTBIT," "WE," OR "US") AND THE INDIVIDUAL OR LEGAL ENTITY ("YOU," OR "YOUR") DOWNLOADING, INSTALLING, ORDERING, RECEIVING OR USING ASHTBIT SUPPLIED SOFTWARE OR SERVICES, OR THAT AUTHORIZES TO CLICK THE "ACCEPT" BUTTON OR CHECK BOX DISPLAYED AS PART OF THE PROCUREMENT, INSTALLATION, UPGRADE OR UPDATE PROCESS. YOU MAY ENTER THIS AGREEMENT WITH MULTIPLE ASHTBIT ENTITIES WITH RESPECT TO DIFFERENT SOFTWARE AND SERVICE ORDERS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY. IF YOU HAVE ANY QUESTIONS REGARDING THIS EULA, PLEASE CONTACT US AT [support@ashtbit.com](mailto:support@ashtbit.com) OR ON +91 522-4102737.

---

1. DEFINITIONS: All capitalized terms have the meanings as defined in this Agreement. In addition, the following terms shall be defined as set forth below:
  - 1.1. "Ashtbit" means Ashtbit companies which include Ashtbit Technologies Pvt. Ltd., Ashtbit Courseware Pvt. Ltd. and Ashtbit IPR Holdings LLP.
  - 1.2. "Ashtbit Client Software" means the proprietary software that is installed, transmitted, distributed, or otherwise made available from time-to-time by us for relevant use on a desktop or laptop computer or mobile device or media player.
  - 1.3. "Ashtbit Entity(ies)" means Ashtbit, and all affiliates, officers, employees, consultants, and agents of Ashtbit.
  - 1.4. "Ashtbit Server Software" means the centralized proprietary software that resides in a server connected to multiple clients on the network and that is required to enable Ashtbit Client Software components to function.
  - 1.5. "Ashtbit Software" means Software that is manufactured by Ashtbit.
  - 1.6. "Airtime Service" means wide-area wireless network services and any other network services (including cellular, wireless local area network, satellite services and Internet services) required for your use of the service that enables communications between Ashtbit Client Software and Ashtbit Server Software.
  - 1.7. "Airtime Service Provider" means the Airtime Services provider selected by you.
  - 1.8. "Affiliate" means any entity whose business initiatives are directly or indirectly controlled by shared management; or common use of facilities, equipment, and employees. Notwithstanding the foregoing, for the purpose of this Agreement, Ashtbit shall not be deemed to be an Affiliate of you, and you shall not be deemed an Affiliate of Ashtbit.
  - 1.9. "API" means the software application interfaces and workflow methods made generally available by us to enable integration, implementation, and interoperability with third-party hardware and software.
  - 1.10. "Authorized Machine" means a machine in the Territory on which the Software resides, and which meets the license restrictions herein and the Documentation requirements and for which you have paid.
  - 1.11. "Authorized User(s)" means any individual who is entitled to use the Software or access the Services, pursuant to the terms and conditions of this Agreement, including any of your employees, consultants, Third-Party Customers or independent contractors.
  - 1.12. "Customer Data" means any and all of your data, information and materials that are uploaded by or for you or that are accessed by us in connection with your use or our

## End User License Agreement

provision of the Software or Services, including Personal Information, but excluding Usage Data.

- 1.13. "Confidential Information" means information that is: a) designated in writing as "confidential" at the time of disclosure; b) constitutes the trade secrets of a party; or c) comprises Ashtbit Software and/or its pricing. Notwithstanding the foregoing, Confidential Information does not include information that the receiving party can demonstrate: (a) is in the public domain or is generally publicly known through no improper action or inaction by the receiving party; (b) was rightfully in the receiving party's possession or known by it prior to receipt from the disclosing party; (c) is rightfully disclosed without restriction to the receiving party by a third-party without violation of obligation to the disclosing party; or (d) is independently developed by the receiving party without use of the Confidential Information of the disclosing party.
- 1.14. "Documentation" means any documentation Ashtbit or our authorized distributors or remarketers make generally available to our customers pertaining to the Software or Services, as may be updated or amended from time to time. Documentation also includes the Ashtbit EULA and applicable Order Form(s) and SOW(s).
- 1.15. "Handheld Product" means any wireless mobile handheld communications device for which the Software has been designed, developed and made publicly available.
- 1.16. "Hosted Environment" means an Ashtbit or third-party owned computer system on which Ashtbit Software is installed and made available for remote use by you or your Third-Party Customers.
- 1.17. "Marks" means any service marks, trademarks, logos, symbols, and names which are owned or licensed by an Ashtbit Entity.
- 1.18. "Order Form(s)" or "Quote" means the form detailing an order which is incorporated into and becomes a part of this Agreement. Depending on the Software or Services ordered, the Order Form or Quote may be completed online or may be our business proposal approved by you or your invoice, billing statement or SOW.
- 1.19. "On-Premise" means Software that is not deployed in a Hosted Environment.
- 1.20. "Personal Information" or "PI" means any information or data that can be used to identify or contact, you and/or your Authorized Users or any third-party.
- 1.21. "Restricted Territory" means any country subject to embargo or sanctions by the Director General of Foreign Trade ("DGFT") – Ministry of Commerce and Industry, Government of India.
- 1.22. "Service(s)" means (a) the Ashtbit services set forth in the applicable Documentation and may include but is not limited to professional services, maintenance services and Software as a Service (SaaS) provided in a Hosted Environment.
- 1.23. "Software" means Ashtbit Proprietary Software or Ashtbit-distributed Software, including any Software as a Service (SaaS) provided by Ashtbit, and the associated Documentation, but does not include any open source software which is subject to its own license.
- 1.24. "SOW(s)" means a mutually agreed and executed statement of work, work order, or other similar document which sets forth Services to be performed by us.
- 1.25. "Territory" means the geographic region where Software and Services may be deployed and used as specified in the Order Form. If no Territory is specified in the Order Form or Quote, the Territory is world-wide.
- 1.26. "Third-Party Client" means a person or entity to whom you provide information technology services through use of the Software or Services where such services provided by you have sufficient added value so that in each case the Third-Party Client would otherwise have purchased or acquired the Software or Services directly from us.

## End User License Agreement

- 1.27. "Third-Party Materials" means software, interfaces, and firmware, licensed by us from third parties and are incorporated into and distributed as a part of the Software. Third-Party Materials included in the Software may be subject to other specific terms and conditions defined by the Third-Party. If you do not agree to such terms, you agree not to use the Software or Third-Party Materials.
- 1.28. "Updates" also known as "Releases" in software parlance mean bug fixes, hot-fixes or other minor modifications to the Software which are not deemed by us in our sole discretion to be an Upgrade.
- 1.29. "Upgrades" also known as "Versions" in software parlance mean any modifications to the Software or Services which are determined in our sole discretion to provide enhanced functionality or performance, or that otherwise improve, add to, delete or otherwise materially modify any aspect of the Software or Services.
- 1.30. "Usage Data" means any non-Personal Information relating to or arising from the capabilities, problems, successes, statistics, diagnostics, inventory, composition, configuration, content, performance (or lack thereof) of: (a) the Software or Services; (b) Authorized Machines or any network to which an Authorized Machine is connected; or (c) any software or hardware loaded on, comprising, or used in connection with or otherwise related to any of the foregoing.
- 1.31. "Website" means Ashtbit websites which include <http://www.ashtbit.com> and related microsite(s).

2. LICENSE AND RIGHT TO ACCESS. Conditioned upon your and/or your Third-Party Client's acceptance and compliance with the terms and conditions of this Agreement, Ashtbit grants to you and your Third-Party Clients, during the Term, a non-exclusive and non-transferable license to download, install and use the Software and access the Services for which you have paid the required fees.

3. ACQUISITION MODELS. As set forth in the Documentation, we offer different acquisition models (sometimes in combination with each other), including the following:

- 3.1. **Perpetual.** Under this model we grant you a perpetual, non-revocable (except in the event of a material violation of this Agreement) license to the applicable On-Premise Software.
- 3.2. **Subscription (On-Premise or Hosted Environment).** Under this model, you are granted a license to access the applicable Software or Service during the Term either On-Premise or in a Hosted Environment. You understand that portions of the Software (e.g. Software Agents, SDKs) may still be deployed on your servers even if you are in a Hosted Environment.

4. RESTRICTIONS. You agree to the following restrictions:

- 4.1. **General.** You acknowledge that the Software and Services contain trade secrets of Ashtbit or its suppliers or licensors. You agree not to disclose, provide, or otherwise make available trade secrets contained within the Software or Services in any form to any third-party and you further agree to reasonably protect such trade secrets. You agree not to reverse engineer, decompile, disassemble, translate, observe, test the functioning of or attempt to learn the source code of the Software or Services (or any part thereof), except and only to the extent that such restriction is prohibited under applicable law. Unless expressly set forth in this Agreement, you may not use, copy, modify, combine, merge, create derivative works of, distribute, sell, assign, pledge, sublicense, lease, loan, rent, timeshare, deliver, or otherwise transfer, directly or indirectly, the Software (in whole or in part) or any rights in the Services. You may not remove from the Software or Services, or alter or add, any Marks or copyright notices or other proprietary rights markings. You shall not: (a) create Internet "links" to the Software or Service or "frame" or "mirror" any Software or Service on any other machine; or (b)

## End User License Agreement

reverse engineer or access the Service or Software in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions or graphics of the Software or Service, or (iii) copy any ideas, features, functions or graphics of the Software or Service. Your license to the Software and rights to the Services may terminate, without notice, in the event of a material breach by you under this Agreement.

- 4.2. **Authorized Machines.** Where applicable, the maximum number of Authorized Machines on which the Software may be installed and used is set forth in the Order Form. You may only install and use Ashtbit Server Software on Authorized Machines owned by you or your Affiliates. You may install and use copies of other Ashtbit Software on Authorized Machines owned by you or your Affiliates and on third-party Authorized Machines owned by your Third-Party Clients. You agree that you will not make the Software or Services available or accessible for use by any other third person or entity other than your Affiliates or your Third-Party Clients, either by means of a Hosted Environment or otherwise. Subject to the foregoing limitations and except as otherwise set forth in the Documentation, a copy of any Ashtbit Software may be moved to a different Authorized Machine, provided you are only using the maximum number of copies of the Ashtbit Software for which you are licensed.
- 4.3. **Named Users.** For Software licensed under the Named User model, Named User licenses cannot be shared among multiple entities. You may re-assign a Named User license to a new user if the former Named User is terminated and not involved in further use of the Software.
- 4.4. **Territory.** You will be billed as per pricing applicable to the Territory for the Software or Service. Ashtbit may have agreed to special pricing which might not otherwise be applicable outside the Territory. Therefore, if you deploy or use the Software or Services outside the Territory, you agree to pay Ashtbit for the entire Term the list price applicable to such geographic region(s), including any amounts above the amount(s) otherwise paid.
- 4.5. **Client Access License (CAL).** You understand and agree that the applicable Software functionalities are enabled through the use of CALs. For so long as you are not in breach or default with respect to any of your obligations to us, we will provide you with all CALs necessary to enable normal use of the applicable Software or Services that you have acquired. You agree that at any time we may disable or refuse to renew or replace CALs, rendering some or all aspects of the applicable Software or Services unusable, to enforce our rights hereunder.
- 4.6. **Automated Tracking.** You understand that the Software may be programmed to track the number of deployed copies of the Software, Authorized Machines, users, and other usage related data, and you consent to such operations. You at all times will enable, and will not hinder, impede, alter, prevent, or otherwise distort, the operation of such tracking, communication, and reporting functions.
- 4.7. **No Competitors.** You may not access or use the Software or Services if you are a competitor of Ashtbit or if you are working in conjunction with or on behalf of a competitor. You may not use the Software or Services to deploy or transition to a competing product. In addition, you may not access or use the Software or Service for purposes of monitoring availability, performance, or functionality, or for any other benchmarking or competitive purposes.
- 4.8. **Overage.** In the event that you exceed the number of permitted licenses, you agree to pay additional license fees at list price for any overage. Where you are permitted in accordance with this Agreement to allow a third-party or Affiliate to benefit from the Services and/or Software, you agree to ensure that all such use: (a) does not exceed your permitted use; (b) is controlled by you; and (c) is in accordance with the terms of this Agreement.

## End User License Agreement

- 4.9. **Microsoft Azure.** We are a licensee under a license granted by Microsoft Corporation with respect to Microsoft Azure. Under the Microsoft license, by using the Ashtbit Services in the Cloud, you agree to the Microsoft End User License Terms.
- 4.10. **Your Computer Systems and Airtime Services.** As applicable and except as the Parties expressly agree in writing, Ashtbit has no responsibility for the selection, implementation, interoperability and performance of third-party hardware (including Handheld Product(s)), software and services (including Internet connectivity, Notification Services, SMS services and Airtime Services) used in association with the Service or the Software. A subscription for Airtime Services may be required to use certain Software and Services, and you must acquire this subscription through an Airtime Service Provider directly. You are responsible for ensuring that the hardware, software and services with which you choose to operate the Service and the Software meet Ashtbit's minimum requirements, including the processing speed, memory, client software and the availability of dedicated Internet access.
- 4.11 **Viruses.** You agree to use, and ensure that your Authorized Users use, due care and diligence to avoid introducing any software virus or other contaminant (including any bugs, worms, logic bombs, Trojan horses or any other self-propagating or other such program) that may infect or cause damage to the Software, the Services or Ashtbit's systems, or otherwise disrupt the provision of the Services.
- 4.12 **Non-Production License Restrictions.** Software may be provided to you under a non-production license. Such software may only be deployed in a non-production, laboratory environment and is provided "as is" and without warranty of any kind.
- 4.13 **API License Restrictions.** Ashtbit may make APIs generally available for the Software. You may not use the APIs or incorporate the runtime component to develop a product or service that competes with those offered by Ashtbit.
- 4.14 **Third-Party Clients and Responsibility for Accounts Generally.** If you provide services to Third-Party Clients, you are responsible for ensuring that those Third-Party Clients agree to and comply with this Agreement. You agree: (a) that you shall only permit Authorized Users to access the Software or Services via the access method provided by Ashtbit; (b) that the security of accounts and of any networks or systems utilized by you or your Third-Party Clients is solely your responsibility, including maintaining the secrecy and security of passwords; (c) that data will be lost and irretrievable without passwords; (d) that you are fully responsible for all activities that occur on your accounts, regardless of whether such activities are undertaken by you or a third-party.
- 4.15 **General Restrictions.** You agree: (a) that if you believe that the security of your account, network, or system has been compromised in any way, you will notify Ashtbit immediately both by email and telephone; (b) not to interfere with the proper operation of any network or system utilized by us including any systems reachable through the Internet (e.g. defeating identification procedures, or obtaining access beyond that which you and Third-Party Clients are authorized); and (c) not to use the Software or Services or knowingly to permit any Third-Party Client to use the Software or Services for or in connection with any illegal or improper purpose or activities or in violation of this Agreement.

### 5. CHARGES AND PAYMENT.

- 5.1. **General Requirement.** You agree to pay us the applicable amounts when due in accordance with the Documentation for the entire Term, regardless of whether such Software or Services are actively used. You agree to be responsible for payment for all activity by third parties who access or use the Software or Services through you or on your account regardless of whether such activity was authorized by you. Except as otherwise set forth in this Agreement, all payment obligations are non-cancellable and all amounts paid are non-refundable and non-convertible. This Section 5 and all its subsections apply in all situations in which you directly pay Ashtbit. If you pay a company other than Ashtbit, then the charges and billing terms may be stated by the other company to the extent different than set forth herein. You are responsible for all

## End User License Agreement

incidental charges related to using the Software or Services such as charges for Internet access, third-party software licenses, text messaging, or other data transmission. All pricing terms are Confidential Information of Ashtbit.

- 5.2. **Late Payments.** We may assess a late charge of 1.5% for any unpaid amount each month or the maximum rate that is permitted by law. You agree to pay for all reasonable costs we incur to collect any past due amounts which costs may include reasonable attorneys' fees. Any Ashtbit Entity may suspend, cancel or otherwise terminate your rights in whole or in part if you fail to pay in full on time any Software or Service purchased from any Ashtbit Entity.
- 5.3. **Subscription Changes.** Ashtbit may from time to time either increase or decrease the fee(s) for all or any portion of the Software or Services purchased on a Subscription basis. Any such adjustment shall become effective at the expiration of the current Term. If you do not wish to pay the adjusted fees, you may elect to terminate the Software or Service at the expiration of the current Term. If you add Subscription Software or Services in the middle of a billing period, you will be charged on a pro-rated basis for the additional Subscription Software or Services and such additions will be coterminous with the then current Term.
- 5.4. **Payment method; Credit Card Authorization.** Where applicable, until all amounts due have been paid in full, you authorize us to charge any credit card provided by you, all amounts due under this Agreement. You agree to keep your payment information current at all times. If the card cannot be verified, is invalid, is over-limit or is not otherwise acceptable, the Software or Services may be suspended or cancelled by us without notice and we may generate invoices for payment. All prices are given and must be paid in the currency indicated.
- 5.5. **Taxes.** Prices are exclusive of all taxes, fees, levies, duties, or similar charges arising out of or relating to this Agreement, and you are responsible for such payments, excluding taxes based solely on Ashtbit's income.
- 5.6. **Conversion of Trial Period Offers.** If you are participating in any trial period offer, you must cancel the service by the end of the trial period or you agree to be charged at standard rates.
- 5.7. **Invoices; Errors.** We may invoice you electronically or by paper invoice **YOU MUST NOTIFY US IN WRITING WITHIN NINETY (90) DAYS AFTER RECEIPT, OF ANY BILLING ERRORS ON YOUR INVOICE** If you do not notify us within this time, we will not be required to correct the error and/or make adjustments to your account and you waive any claim with respect to such invoice.
- 5.8. **Sale and Risk of Loss.** The parties acknowledge and agree that where applicable the sale, passage of beneficial ownership, all negotiations, and consummation of this Agreement occur in the Territory.

## 6. TERM AND TERMINATION.

### 6.1. Term and Auto-Renewal.

- 6.1.1. Under the Perpetual model, this Agreement and the rights granted herein shall remain effective in perpetuity unless terminated as set forth in this Agreement.
- 6.1.2. Under the Subscription model, the initial term shall be as set forth in the Documentation. Upon the expiration of the initial term, the Subscription will automatically renew for successive renewal terms equal in duration to the initial term at Ashtbit's then current fees. Either party may terminate any Subscription effective upon the expiration of the then current term by notifying the other party in writing at least thirty (30) but not more than sixty (60) days prior to the expiration date of the current term or, for monthly Subscriptions, at least five (5) business days prior to the expiration date of the current term. With respect to each Software or Service item, the current term shall be referred to as the "Term" herein.
- 6.1.3. Support and Maintenance. Where applicable, your Maintenance Services will automatically renew for additional annual periods unless you expressly notify us by an

## End User License Agreement

email sent to support@ashtbit.com of your election not to renew at least thirty (30) days before the expiration of the current Term. Regardless of payment method, you may not terminate your Maintenance Services prior to the expiration date of the current term as set forth above. Any attempt to do so will be a breach of this Agreement.

- 6.2. **Termination.** In addition to the rights otherwise set forth in this Agreement, either party may terminate this Agreement and the rights granted therein with respect to the affected Software or Services upon written notice in the event of material breach of this Agreement by the other party or a breach of your obligations to any Ashtbit Entity, provided that if the breach is curable, the termination shall be effective only if the breach is not cured within ten (10) days following receipt of such notice. Any free trial, or Pre-Release Software or Services may be terminated by either party at any time with or without notice to the other.
- 6.3. **Effect of Termination.** In the event of termination, cancellation, or expiration: (a) your rights to the Software or the Services shall immediately terminate; (b) you shall destroy and certify to the destruction of all copies of Software and Documentation in your possession or under your control; (c) except where you terminate for Ashtbit's breach, you agree to immediately pay all monies owed and will pay any future undisputed payments due for the remainder of this Agreement, as applicable, as consideration for pricing and other considerations and as a fair approximation of damages and not as a penalty.
- 6.4. **Service Suspensions.** In addition to our rights to terminate or suspend Services to you, you acknowledge that we shall be entitled, to suspend access to any portion or all of the Services at any time (i) for scheduled downtime, (ii) in the event of a denial of service attack or other attack on the Service or other event that we determine, in our sole discretion, may create a risk if the Service were not suspended, (iii) in the event that we determine that it is necessary or prudent to do so for legal or regulatory reasons, (iv) your usage is in excess of average customer usage parameters and such usage by you is or may adversely affect the performance or availability of the Services, Ashtbit's infrastructure or resources, or Ashtbit's other customers, (v) if you violate any of the terms or conditions in this Agreement; or (vi) in the event of any unauthorized use of the Services and/or Software by you or an Authorized User (all of the foregoing collectively referred to as "Service Suspensions"). Except as may be set forth in an applicable service level agreement, the Ashtbit Entities shall have no liability whatsoever for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that you may incur as a result of any Service Suspension. To the extent we are able; we will endeavour to provide you notice of any Service Suspension, but shall have no liability for the manner in which we may do so or if we fail to do so; it being further understood that Ashtbit may take any mitigating action without liability or notice to you in response to the situations described in (ii)-(vi) above.

## 7. CUSTOMER DATA

### 7.1. Account Information and Customer Data.

- 7.1.1. You hereby grant to us a nonexclusive, worldwide, royalty-free, fully-paid, transferable license to host, cache, record, copy, view, and display Customer Data for the purpose of providing the Software or Services including: (a) internal use by any Ashtbit Entity(ies); (b) any purpose related to the billing, activation, provision, maintenance, Upgrades, Updates, deactivation and/or use of the Service or the Software and/or related products and/or services; (c) any purposes permitted by any applicable law. You understand, acknowledge and agree that Customer Data may be stored, transferred and processed as part of Cloud Hosting. You consent to any such storage, transfer, and processing of PI outside of your country in accordance with the Privacy Statement and applicable privacy laws. Except as set forth in this Agreement, as between you and us, you retain all right, title, and interest in and to Customer Data.
- 7.1.2. You, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use Customer Data,

## End User License Agreement

and you agree that, except for Ashtbit's gross negligence or wilful misconduct, we shall not be responsible or liable for the unauthorized access to, alteration of, or deletion, correction, destruction, corruption, damage, loss or failure to secure or store Customer Data. You acknowledge that you bear sole responsibility for adequately backing up your Customer Data. We strongly encourage you, where available and appropriate, to (a) diligently protect Customer Data from unauthorized access, and (b) routinely archive Customer Data. Ashtbit reserves the right to refuse to post or to remove any information or materials, in whole or in part, that Ashtbit believes in good faith to be unacceptable, undesirable, or in violation of this Agreement.

7.1.3. Except for a termination for cause by Ashtbit, for 30 (thirty) days after termination of the applicable Term, Ashtbit will continue to make available to you Customer Data or other reports that are normally made available through the Software or Service. Other than as set forth in the preceding sentence, Ashtbit has no obligation to provide any information (including Customer Data) to you in any specific format. Ashtbit reserves the right to withhold, remove and/or discard Customer Data or other reports without notice for any breach, including, your non-payment.

7.2. **Representations and Warranties about Customer Data.** You represent, warrant and covenant that: (a) you are the owner or authorized licensee of Customer Data and have the right to grant the rights set forth herein; (b) you warrant that you have obtained all consents necessary under applicable law to disclose Customer Data to any Ashtbit Entity; and (b) you will not publish, post, upload, record, or otherwise distribute or transmit any data or other material that: (i) infringes or would infringe any copyright, patent, trademark, trade secret or other proprietary right of any party, or any rights of publicity or privacy of any party; (ii) violates any law, statute, ordinance, or regulation; (iii) is inappropriate, profane, defamatory, libellous, obscene, indecent, threatening, harassing, or otherwise unlawful; (iv) is harmful to minors or otherwise pornographic; (v) contains any viruses, Trojan horses, worms, time bombs, cancelbots, corrupted files, or any other similar software, data, or programs that may damage, detrimentally interfere with, surreptitiously intercept, or expropriate any system, data, Personal Information, or property of another; (vi) is materially false, misleading, or inaccurate; and/or (vii) contains information for which you do not have the right to permit us to collect and process as set forth in the Privacy Statement.

7.3. **Submissions.** You may submit questions or feedback to Ashtbit from time to time. Ashtbit reserves the right to edit and post such questions or feedback along with answers, if any. All such communications and any comments, feedback, suggestions, scripts, software, ideas, and other submissions related to the Software and/or Services submitted to Ashtbit (collectively, "Submissions") will be and remain Ashtbit's property, and all worldwide right, title, and interest in all copyrights and other intellectual property in all Submissions are hereby assigned (and in the future deemed to be assigned) by you to Ashtbit.

## 8. TRIAL AND PRE-RELEASE SOFTWARE AND SERVICES.

You acknowledge and agree that any Pre-Release Software and Services (defined as any Software or Services that are not generally released to the public for purchase) may not be at the level of performance or compatibility of a final, generally available Software or Service offering. Furthermore, you understand that, for promotional purposes, from time to time, Ashtbit may enable new functionality for a trial period to show you what is available or new in the Software and Services, and you agree to accept these new functionalities on a trial basis as they are provided to you. Pre-Release Software or Services may not operate correctly and may be substantially modified prior to commercial shipment, or withdrawn in whole or in part. During the term of this Agreement, if requested by Ashtbit, you will provide feedback to Ashtbit regarding testing and use of the Pre-Release Software or Services, including error or bug reports. If you have been provided the Pre-Release Software or Services pursuant to a separate written agreement, your use of the Pre-Release Software or Services is also governed by such agreement. Upon receipt of a later unreleased version of

## End User License Agreement

the Pre-Release Software or Services or release by Ashtbit of a publicly released commercial version of the Pre-Release Software or Services, whether as a stand-alone product or as part of a larger product, you agree to return or destroy all copies of earlier Pre-Release Software or Services received from Ashtbit and to abide by the terms of the applicable user agreement for any such later versions of the Pre-Release Software or Services. You hereby agree that the features and functions of Pre-Release Software or Services are confidential, and you will not disclose any such features and functions until such time as the Pre-Release Software or Services are publicly available. All Pre-Release Software and Services offered on a trial basis are provided "AS IS" without warranty of any kind. The entire risk arising out of the use or performance of Pre-Release or trial Software or Services remains with you. In no event shall any of the Ashtbit Entities be liable for any damage whatsoever arising out of or related to any Pre-Release or trial Software or Services even if Ashtbit has been advised of the possibility of such damages and your sole and exclusive remedy will be to terminate use of the Pre-Release or trial Software or Service.

### 9. ASHTBIT INTELLECTUAL PROPERTY.

Ashtbit is the exclusive owner of the Intellectual Property Rights, inventions, copyrights, know-how and other proprietary rights associated with the Ashtbit Software and Services, the Usage Data and Marks, and is the sole beneficiary of the goodwill therewith. You agree that: (a) you hereby acknowledge the premise of ownership and will not seek to acquire any right, title or interest in the Marks, the Usage Data or the Ashtbit Software; and (b) you will not register, adopt or use any name, trademark, domain name or other designation that includes all or part of any Mark, or any term that is confusingly similar to a Mark, or a translation of a Mark, and (c) you will not direct, re-direct, or cause to be directed or re-directed communications network traffic to any network address associated with you or with any other third-party.

### 10. CONFIDENTIALITY.

- 10.1. Each party agrees to hold the other party's Confidential Information in confidence and not to use it for any purpose other than to provide or receive the Software and Services under this Agreement as applicable. Each party agrees to use the same standard of care to protect Confidential Information as it uses to protect its own similar confidential and proprietary information, but not less than a reasonable standard of care. The terms of this Agreement constitute Confidential Information.
- 10.2. Confidential Information of the other party may only be disclosed to those Affiliates, employees, contractors and advisors of you or of the Ashtbit Entities, as applicable, on a need-to-know basis and who agree to be bound by confidentiality restrictions at least as restrictive as those contained in this Agreement; provided, that nothing shall prevent or prohibit a party from using or disclosing Confidential Information as may be required by law, rule, regulation or legal process.
- 10.3. Confidential Information remains at all times the property of the disclosing party. Further the parties hereby acknowledge and agree that all derivative works of confidential information can only be created for the exclusive use and benefit of the disclosing party and become the property of the disclosing party. Unless otherwise explicitly set forth herein, no licenses or rights under any patent, copyright, trademark, or trade secret are granted or are to be implied with respect to Confidential Information.

### 11. LIMITED WARRANTY; DISCLAIMER; INTERNET DELAYS; EXCLUSIONS; LIMITATIONS.

- 11.1. **Limited Warranty.** Ashtbit warrants that the Software when shipped or transmitted to you will operate substantially in accordance with the Documentation for a period of ninety (90) days from delivery to you. Any Software instance provided as a Service by Ashtbit in a Hosted Environment will operate substantially in accordance with the Documentation for the full term of this Agreement. Your sole and exclusive remedy and the entire liability of Ashtbit under this limited warranty will be, at Ashtbit's option, to

## End User License Agreement

repair, replace, or refund the purchase price of the affected Software or Service (or if the Software or Service provides the functionality intended by Ashtbit and the error is in the Documentation Ashtbit will promptly correct the Documentation), provided that any material error or defect in the Software is reported to Ashtbit within the limited ninety (90) day warranty period and that any material error or defect in the Services is reported to Ashtbit promptly. This warranty does not apply with regard to any Software or Service if the Software or Service, or any other equipment upon which the Software is authorized to be used: (a) has been altered, except by Ashtbit or its authorized representative; (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Ashtbit; (c) has been subjected to abnormal physical or electrical stress, abnormal environmental conditions, misuse, negligence, or accident; (d) is licensed for beta, evaluation, testing or demonstration purposes; or (e) is Software or equipment for which Ashtbit does not receive a license fee. Ashtbit warrants that the Services shall be performed in a professional manner in accordance with industry standards.

- 11.2. **Disclaimer of Warranties.** EXCEPT AS SET FORTH IN SUBSECTION 11.1, ALL SOFTWARE AND SERVICES ARE PROVIDED "AS IS", "AS AVAILABLE", AND "WITH ALL FAULTS" AND WITHOUT ANY WARRANTY. ALL THE ASHTBIT ENTITIES HEREBY DISCLAIMS ALL WARRANTIES, CONDITIONS, AND DUTIES OF ANY KIND, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, ACCURACY, SYSTEM INTEGRATION OR COMPATIBILITY, ENJOYMENT, TITLE AGAINST INTERFERENCE, OR NON-NEGLIGENT PERFORMANCE. THE FOREGOING DISCLAIMERS INCLUDE, WITHOUT LIMITATION, ANY WARRANTY, DUTY, OR CONDITION THAT; THE SOFTWARE OR SERVICES WILL BE SECURE, ERROR-FREE, VIRUSFREE, OR CORRESPOND TO ANY CONDITION; THAT DEFECTS WILL BE CORRECTED; OR THAT THE SOFTWARE, SERVICES, ANY CONTENT, SYSTEMS OR SERVERS WILL BE FREE FROM HARMFUL ASPECTS.
- 11.3. **Internet and Fault Tolerance.** ASHTBIT ENTITIES ARE NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, SECURITY BREACHES OR OTHER DAMAGE RESULTING FROM PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. THE SOFTWARE AND SERVICES CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND IS NOT DESIGNED, MANUFACTURED, WARRANTED, OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING WITHOUT LIMITATION, APPLICATIONS IN WHICH THE FAILURE OF THE SOFTWARE OR SERVICES COULD LEAD TO DEATH, PERSONAL INJURY, PROPERTY OR ENVIRONMENTAL DAMAGE.
- 11.4. **Exclusion of Certain Damages.** NEITHER PARTY SHALL BE ENTITLED TO ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES; DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, OR FOR NEGLIGENCE OR NEGLIGENT MISREPRESENTATION; AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER EXCEPT AS DESCRIBED BELOW. THE FOREGOING DAMAGES WILL BE EXCLUDED EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT OR PRODUCT LIABILITY, AND/OR BREACH OF CONTRACT, AND EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. YOU AGREE THAT THESE EXCLUSIONS AND THE BELOW LIMITATION ON LIABILITY WILL APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.
- 11.5. **Limitation of Liability.** YOU AGREE THAT ALL DAMAGES ARE EXCLUDED EXCEPT FOR: (A) DAMAGES THAT ARE REQUIRED BY LAW TO BE PAID; (B) DAMAGES WHICH CANNOT BE LIMITED BY CONTRACT; AND (C) DIRECT DAMAGES THAT ARE ACTUALLY INCURRED BY YOU. IN NO EVENT SHALL YOU BE ENTITLED TO DAMAGES EXCEEDING THE GREATER OF THE PRICE THAT YOU ACTUALLY PAID OR IS PAYABLE FOR THE AFFECTED SOFTWARE OR SERVICES DURING THE TWELVE MONTHS IMMEDIATELY PRECEDING THE FILING OF SUCH CLAIM REGARDLESS OF THE FORM OF ACTION OR CLAIM (E.G. CONTRACT, WARRANTY, TORT, STRICT LIABILITY, NEGLIGENCE, FRAUD, OR OTHER LEGAL THEORY).

## End User License Agreement

11.6. **Allocation of Risk.** The parties acknowledge and agree that they have entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an informed and voluntary allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and are an essential basis of the bargain between the parties and apply to risks both known and unknown that may exist in connection with this Agreement.

### 12. THIRD-PARTY INFRINGEMENT CLAIMS.

Ashtbit will defend you, in an Indian court, against any claim that the Software, as provided by Ashtbit to you, directly infringes any third-party patent or copyright governed by Intellectual Property and Copyright laws of India, provided that: (a) Ashtbit is notified in writing of the claim within thirty (30) days after you obtain actual knowledge of it, (b) Ashtbit is given full control over the defence of such claims, and (c) you give Ashtbit reasonable assistance and cooperation in its defence of the claim. If your use of the Software is determined in a final, enforceable judgment to infringe a third-party patent or copyright, Ashtbit, at its own expense and sole option, shall either (x) procure for you the right to continue using the Software, or (y) modify the Software so that it becomes non-infringing but continues to provide materially comparable performance, or (z) in the event that neither of the foregoing options are reasonably available to Ashtbit, terminate this Agreement with respect to the infringing Software (and/or any related Services) and provide a pro rata refund of any prepaid amounts for the remainder of the Term. In the case of Perpetual Software, Ashtbit will refund you an amount equal to the amount actually paid by you for the affected Software. Notwithstanding anything to the contrary in this Agreement, Ashtbit will have no obligation to you with respect to any third-party claim of infringement that results from (i) any use by you of the Software in violation of this Agreement, (ii) any damage to, or misapplication or misuse of the Software by you; (iii) your combination of all or any portion of the Software with software or applicable hardware not supplied or recommended by Ashtbit; (iv) your use of any superseded, altered, or allegedly infringing version or release of all or any portion of the Software if such alleged infringement could be avoided by the use of a different version or Upgrade made available to you by Ashtbit; or (v) your use of any information, design, specification, instruction, software, data, hardware or material not furnished or recommended by Ashtbit. You agree to defend, indemnify and hold harmless the Ashtbit Entities against any claims of infringement by third parties resulting from any of the circumstances listed in the immediately preceding sentence. The foregoing states Ashtbit's entire responsibility with respect to intellectual property claims and your sole and exclusive remedy.

### 13. INDEMNITY.

You agree to defend, indemnify, and hold harmless each of the Ashtbit Entities from and against any and all claims, liabilities, damages, and/or costs (including attorneys' and expert witness fees, costs and other expenses) arising out of or related to: (a) any actual or alleged violation of this Agreement or applicable law, rule or regulation by you or any person or entity accessing or using the Software or Services by or through you (including Third-Party Clients); (b) any actual or alleged infringement or violation by you or any person or entity accessing or using the Software or Services by or through you, of any intellectual property or privacy or other right of any person or entity (including Third-Party Clients); (c) any claims by Third-Party Clients (except claims of infringement by Ashtbit), or arising out of or relating to your relationship with any Third-Party Client; or (d) Customer Data.

### 14. MISCELLANEOUS.

14.1. **Independent Contractor.** The relationship between Ashtbit and you is that of independent contractors, and nothing contained in this Agreement shall be construed to: (a) give either party the power to direct and control the day-to-day activities of the other; (b) constitute the parties as partners, joint venturers, co-owners, agents, employer

## End User License Agreement

and employee, franchisor and franchisee or otherwise; or (c) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. All financial and other obligations associated with each party's business are the sole responsibility of such party. You represent and warrant that you: (x) will not make any representation, warranties, or guarantees on behalf of Ashtbit, and (y) will not disparage Ashtbit in any manner or otherwise harm Ashtbit's business or reputation.

- 14.2. **Choice of Law and Waiver.** This Agreement shall be governed by the laws of India, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Software or Services and shall be subject to the exclusive jurisdiction of the courts located in Mumbai, India. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to this Agreement. This choice of jurisdiction and venue does not prevent either party from seeking injunctive relief with respect to a violation of intellectual property rights, confidentiality obligations or enforcement of recognition of any award or order in any appropriate jurisdiction. In addition, the parties agree that they may only bring claims against the other in their individual capacities and not as a plaintiff, class representative or member in any purported class or representative proceeding. The parties hereby agree that each is waiving all respective rights to a trial by jury regarding any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Software or Services. Any claim by either party arising out of or related to this Agreement must be brought no later than one (1) year after it has occurred. If Ashtbit commences litigation in connection with this Agreement, it will be entitled to recover its reasonable attorneys' fees, costs, and other expenses.
- 14.3. **Assignment.** No party may assign this Agreement, or any rights or obligations hereunder, whether by contract, operation of law, or otherwise without the express written consent of the other party to this Agreement, except: (a) in the case of Ashtbit, Ashtbit may assign this Agreement without your prior consent to: (i) one or more of the Ashtbit Entities, (ii) an acquirer of assets, or (iii) a successor by merger; and (b) in the case of you, you may assign all of your rights in connection with a sale of all or substantially all of your assets or in connection with a merger or other third-party acquisition of all or substantially all of your business in which the Software or the Services are used, and then only if (i) you retain no further rights under this Agreement, (ii) your assignee or transferee expressly agrees in writing to assume all of your obligations under this Agreement, (iii) your assignee or transferee is no less capable of performing this Agreement than are you; and (iv) the assignee is not a competitor of any Ashtbit Entity as determined in Ashtbit's sole discretion. Notwithstanding the foregoing, any actual or proposed assignment to a competitor of Ashtbit or change in control that results or would result in a competitor of Ashtbit directly or indirectly owning or controlling 50% or more of you, shall entitle Ashtbit to terminate this Agreement immediately without cause. Any purported assignment in violation of this section shall be void.
- 14.4. **Force Majeure.** Ashtbit's performance of this Agreement (including the Privacy Statement) is subject to existing laws and legal process, and you agree that Ashtbit may comply with law enforcement or regulatory requests or requirements notwithstanding any contrary term of this Agreement. Each party's obligation (other than your obligation to pay fees when due) shall be suspended during any period that the party is rendered incapable of performing by virtue of any criminal acts of third parties, war, viruses, acts of public enemies, severe weather conditions, utility failures, strikes or other labour disturbances, fires, floods, other natural disasters, other acts of God, unforeseeable acts of employees, telecommunication or interruption of Internet service, or any causes of like or different kind beyond any reasonable control of the party.
- 14.5. **Waiver.** The failure of either party to insist in any instance upon any payment or performance when due by the other party, shall not relieve such other party of any of its obligations with respect to such performance, or constitute a waiver of such party's

## End User License Agreement

right to insist upon the full and timely performance in the future of any of the other party's obligations under this Agreement.

- 14.6. **Severability.** If any of the provisions of this Agreement are held by a court of competent jurisdiction to be unenforceable by reason of being excessively broad, narrow or limited, in its scope or duration, the offending provision(s) automatically shall be deemed amended so as to be as broad as is permissible (if the unenforceability is due to excessive breadth) or as narrow or limited (if the unenforceability is due to excessive narrowness or limitation) as is permitted by applicable law. The unenforceability or invalidity of any one provision shall not affect the remainder of this Agreement, which shall continue in full force and effect.
- 14.7. **Verifying Compliance.** You grant to Ashtbit the right to monitor usage by all Authorized Users and to audit your records, at Ashtbit's expense, during your normal business hours to verify compliance with this Agreement, and you agree to make available to Ashtbit or its representatives any and all records pertaining to this Agreement. If any audit reveals that any additional fees are owed in excess of five percent (5%) of the total license fees paid, then such fees owed will be paid immediately and the cost of such audit shall be reimbursed by you. If any password has been provided to an individual that is not an Authorized User, you agree to disable any such passwords without delay and to notify Ashtbit immediately.
- 14.8. **Interpretation.** In this EULA, unless the context otherwise requires: the singular includes the plural and vice versa; references to sections or subsections are to sections and subsections of this EULA; references to persons include individuals, trusts, partnerships, unincorporated bodies, government entities, companies and/or corporations (in each case whether or not having separate legal personality); references to including and include(s) shall be deemed to mean respectively including without limitation and include(s) without limitation; section headings are for convenience and do not affect the interpretation of this EULA; and a reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being, in force, made under it.
- 14.9. **Notices and Electronic Communications.** Ashtbit may give notice by means of a general notice on the Software or Service, by electronic mail (email) to your email address on record in Ashtbit's account information, or by written communication sent by registered post or courier service to your address on record in Ashtbit's account information. Such notice shall be deemed to have been given 48 hours after being sent by registered post or courier service or 12 hours after sending by email. You may give notice to Ashtbit (such notice shall be deemed given when received by Ashtbit) by email or confirmed mail delivery at the address set forth on our Website. The Services and Software are conducted and provided electronically and you agree that Ashtbit may communicate electronically with you for matters relating to the Services and Software, including notifications regarding product updates, incentive and reward programs, training programs and ways to more efficiently use the Software and Services. The parties agree that this Agreement is to be written and interpreted in English only. If Ashtbit chooses, in its sole discretion to release any part of this Agreement in any language other than English, Ashtbit does so for informational purposes only and the English language version shall govern and control in all cases.
- 14.10. **Compliance with Law and Export Control.** You shall abide by all applicable local, state, national and foreign laws, rules, treaties and regulations in connection with your use of the Software and Service, including those related to data privacy, international communications and the transmission of technical or personal data. You acknowledge that Ashtbit may discontinue provision or performance of the Services or terminate your rights to the Software following any changes in any relevant applicable law, which in the sole discretion of Ashtbit, makes performance impossible, economically impracticable, or illegal. You further acknowledge that the Software, Services and related technology and technical data (collectively "Controlled Technology") may be

## End User License Agreement

subject to the import and export laws of any country where Controlled Technology is imported or re-exported. You agree not to export, re-export, import or provide any Controlled Technology to any restricted territory, entity, or person (such as designated nationals) for which a license or other governmental approval is required or is otherwise prohibited. You further agree that you will not use, export, or sell any Controlled Technology for use in connection with weapons and/or delivery systems of mass destruction.

- 14.11. **Entire Agreement.** The terms of this EULA govern your access to and use of the Software and Services. This Agreement (including the Documentation and the other items referenced herein and therein) and any amendments thereof constitutes the entire agreement between Ashtbit and you with respect to the Software and Services and supersedes all other communications on the matter, whether electronic, oral, or non-electronic. You agree that this Agreement is the only covenant between Ashtbit and you regarding the Software and Services and may only be amended as set forth herein. A printed version of this Agreement and of any notice given to you in electronic form will be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form.
- 14.12. **Amendments.** Any amendment to the Agreement proposed by you may only be accepted by Ashtbit in writing, signed by authorized representatives of the parties. Except to the extent there is an applicable amendment signed by authorized representatives of the parties, if the Software has Upgrades or Updates or if you make follow-on purchases, you agree by your installation and use of such Upgrades, Updates or new Software or Services: (a) that the current EULA as available at <http://www.ashtbit.com> applies to all of your Software or Service purchases; and (b) that you will not continue to use the earlier version of the Software or transfer it to another person or entity.
- 14.13. **Survival.** All sections of this Agreement other than the license grant in Section 2 shall survive termination, cancellation, or expiration.