END USER LICENSE AGREEMENT

BY OPENING THE PACKAGE, DOWNLOADING OR INSTALLING, PRESSING “AGREE” OR “YES” OR USING THE PRODUCT, THE ENTITY OR INDIVIDUAL ENTERING INTO THIS AGREEMENT AGREES TO BE BOUND BY THE FOLLOWING TERMS. IF YOU DO NOT AGREE WITH ANY OF THESE TERMS, DO NOT INSTALL OR USE THE PRODUCT, PROMPTLY RETURN THE PRODUCT TO BMC OR YOUR BMC RESELLER. IF YOU REJECT THIS AGREEMENT, YOU WILL NOT ACQUIRE ANY LICENSE TO USE THE PRODUCT.

This Agreement ("**Agreement**") is between the entity or individual entering into this Agreement (“**Customer**”) and the BMC contracting entity set forth in the applicable Order (“**BMC**”). This Agreement was last updated on November 17, 2026. For Customer’s convenience, prior versions of this Agreement are available at https://www.bmc.com/legal/end-user-license-agreements.html.

1. **GENERAL DEFINITIONS**.

1.1 “**Affiliate**” is an entity that controls, is controlled by or shares common control with BMC or Customer, where such control arises from the legal power to direct or cause the direction of the general management and policies of the company, partnership or legal entity.

1.2 “**Authorized User**” means Customer, Customer Affiliate(s), and their employees, consultants, contractors and agents that are acting under the instructions and control of Customer or Customer Affiliate(s) and are bound by the terms and conditions no less restrictive than those contained herein and for whom Customer takes full responsibility. Notwithstanding the foregoing, Authorized Users do not include service providers or outsourcers.

1.3 "**Documentation**" means the technical publications relating to the software, such as release notes, license entitlement descriptions, reference, user, installation, systems administrator and technical guidelines, included with the Product.

1.4 “**IP Rights**” means all intellectual property or other proprietary rights worldwide, including patents, trade secrets, copyrights, trademarks, moral rights, and any other intellectual or industrial property including registrations, applications, renewals, and extensions of such rights.

1.5 “**Licensed Capacity**” is the amount of each Product licensed as established in the Order. Any Units of Measure and License Restrictions related to the Licensed Capacity will be set forth in the Order.

1.6 “**Order**” is an agreed written or electronic document, subject to the terms of this Agreement that identifies the Products to be licensed and the Licensed Capacity and/or the Support to be purchased and the fees to be paid.

1.7 “**Product**” is the object code of all generally available software and accompanying Documentation delivered to Customer, including all items delivered by BMC to Customer under Support.

1.8 “**Support**” is the support services program as further specified in this Agreement.

1.9 “**Territory**” means the country(ies) where Customer is licensed to install the Product as specified in the Order.

2. **SCOPE**. Licenses are granted, and Support is obtained, solely by execution of Orders. Each Order is deemed to be a discrete contract, separate from each other Order, unless expressly stated otherwise therein, and in the event of a direct conflict between any Order and the terms of this Agreement, the terms of the Order will control only if the Order is agreed to by each party. Neither execution of this Agreement, nor anything contained herein, shall obligate either party to enter into any Orders. In the event an Order is proposed by BMC and is deemed to constitute an offer, then acceptance of such offer is limited to its terms. In the event Customer proposes an Order by submitting a purchase order, then regardless of whether BMC acknowledges, accepts or fully or partially performs under such purchase order, **BMC OBJECTS** to any additional or different terms in the purchase order.

3. **LICENSE**. Subject to the terms, conditions, payment requirements and restrictions set forth in this Agreement, BMC grants Customer a non-exclusive, non-transferable, non-sub-licensable term license to install in the Territory, access and use the Product (i) by Authorized User(s), (ii) up to the Licensed Capacity, (iii) for Customer’s and its Affiliates internal business operations, (iv) in accordance with the Documentation and the applicable Order, and (v) make a reasonable number of copies of the Product and the Documentation for archival purposes only (collectively a "**License**"). Affiliates may use and access the Products and Support under the terms of this Agreement, and Customer is responsible for its Affiliates compliance with the terms of this Agreement.

4. **RESTRICTIONS**. Customer will not: (a) copy, operate or use any Product in excess of the applicable Licensed Capacity or other than as set forth in the License above; (b) modify, delete or remove any ownership, title, trademark, patent or copyright notices from any Product, or copy or partial copy of a Product; (c) disassemble, reverse engineer, decompile or otherwise attempt to derive any Product source code from object code, except to the extent expressly permitted by applicable law despite this limitation without possibility of contractual waiver; (d) distribute, rent, lease, sublicense or provide the Product to any third party; (e) use the Products in an outsourcing or service bureau environment on behalf of non-Affiliate third parties; (f) conduct penetration test or security vulnerability tests of any type on the Products without BMC’s prior written consent; (g) publish or make public any benchmark, security, or performance data or information about the Products without BMC’s prior written consent; or (h) attempt to disable or circumvent any of the licensing mechanisms within the Product.

5. **PRODUCT PERFORMANCE WARRANTY**. BMC warrants that (a) the Product will perform in substantial accordance with its Documentation for a period of one year from the date of the first Order, (b) BMC has used commercially reasonable efforts consistent with industry standards to scan for and remove software viruses, and (c) other than passwords that may be required for the operation of the Product, BMC has not inserted any code that is not addressed in the Documentation and that is designed to delete, interfere with or disable the normal operation of the Product in accordance with the License. This warranty will not apply to any problems caused by hardware, Computers, or software other than the Product, or misuse of the Product, use of the Product other than as provided by the applicable License, modification of the Product, or claims made either outside the warranty period or not in compliance with the notice and access requirements set forth below. No warranty is provided for additional Licensed Capacity, Product provided pursuant to Support or Product provided pursuant to Section 12.

6. **LIMITED REMEDIES**. BMC’s entire liability, and Customer’s exclusive remedy, for breach of the above warranty is limited to: BMC’s use of commercially reasonable efforts to have the Product perform in substantial accordance with its Documentation, or replacement of the non-conforming Product within a reasonable period of time, or if BMC cannot have the Product perform in substantial accordance with its Documentation replace the Product within such time period, then BMC will refund the amount paid by Customer for the License for that Product. Customer agrees to provide BMC during the warranty period (a) full cooperation and access to the Product in resolving any claim; and (b) written

notice that includes notice of the claim, a complete description of the alleged defects sufficient to permit their reproduction in BMC's development or support environment, and a reference to the Documentation to which such alleged defects are contrary.

7. **DISCLAIMER OF WARRANTIES**. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, THE PRODUCT IS PROVIDED WITH NO OTHER WARRANTIES WHATSOEVER, AND BMC, ITS AFFILIATES AND LICENSORS DISCLAIM ALL OTHER WARRANTIES, INCLUDING, FITNESS FOR A PARTICULAR PURPOSE AND IN THE UNITED STATES AND CANADA, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND NON-INFRINGEMENT. BMC DOES NOT WARRANT THAT THE OPERATION OF THE PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL DEFECTS CAN BE CORRECTED.

8. **SUPPORT**. The Order will include BMC support services ("**Support**") for the total Licensed Capacity of the Products. A description of Support is located at www.bmc.com/support/review-policies, and is incorporated herein by this reference. BMC will notify Customer that it is time to renew at least 60 days prior to the end of the applicable prepaid Support period and Customer will provide notice to BMC if it does not intend to renew. BMC may change its Support terms to be effective at the end of any prepaid Support period. BMC reserves the right to discontinue Support for a Product where BMC generally discontinues such services to all licensees of that Product. For perpetual Licenses only, if Customer stops being enrolled in Support and then re-enrolls in Support, BMC may charge Customer a reinstatement fee.

9. **PAYMENT, DELIVERY AND TAXES.** The fees payable for Licenses and Support and the payment period for such fees will be set forth in and paid in accordance with the Order. All payments are due within 30 days of the date of the invoice. Customer will pay taxes imposed in connection with the fees paid for the License and/or Support, which are exclusive of these taxes. If Customer disputes an invoice in good faith, it will notify BMC within 30 days of receiving the invoice. The parties will seek to resolve such dispute over a 15-day discussion period. Customer is not required to pay disputed amounts during the discussion period, but will timely pay all undisputed amounts. After the discussion period, either party may pursue all available remedies. For Products that are delivered electronically, upon request from BMC, Customer agrees to provide BMC with documentation supporting that the designated Product was received electronically. If Customer accepts any Product in a non-electronic format, it is the sole responsibility of Customer to bear any sales/use tax obligation, penalties, and interest. Late balances may, at BMC's sole election, bear interest at a rate equal to the lesser of 1% per month or the maximum amount permitted by law. All Products are licensed FCA ("Free Carrier" as per Incoterms 2000) shipping point. The Products are accepted on the date BMC delivers the Product to the Customer either physically or by providing access codes for electronic download, whichever occurs first, however, such acceptance will not affect the Product Performance Warranty provided in this Agreement. With regard to Products acquired by Customer through an authorized reseller ("**Solution Provider**") of BMC, notwithstanding anything to the contrary herein, Customer will have no direct payment obligations to BMC for such fees.

10. **PROPRIETARY RIGHTS AND CONFIDENTIALITY**.

10.1 **Proprietary Rights**. BMC, its Affiliates or licensors retain all right, title and interest to the Product, Support and all related intellectual property and proprietary rights. The Product and all third party software provided with the Product are protected by applicable copyright, trade secret, industrial and other intellectual property laws. BMC reserves any rights not expressly granted to Customer in this Agreement.

10.2 **Confidentiality**. "**Confidential Information**" means all proprietary or confidential information that is disclosed to the recipient ("**Recipient**") by the discloser ("**Discloser**"), and includes, among other things (i) any and all information relating Discloser financial information, customers, employees, products or services, including, without limitation, software code, BMC product vulnerabilities, flow charts, techniques, specifications, development and marketing plans, strategies, forecasts, and proposal related documents and responses; (ii) as to BMC, and its licensors, the Product (excluding portions of the Documentation that BMC makes publicly available) and any third party software provided with the Product; and (iii) the terms of any Orders, including without limitation, Product pricing information. Confidential Information does not include information that Recipient can show: (a) was rightfully in Recipient's possession without any obligation of confidentiality before receipt from the Discloser; (b) is or becomes a matter of public knowledge through no fault of Recipient; (c) is rightfully received by Recipient from a third party without violation of a duty of confidentiality; or (d) is independently developed by or for Recipient. Recipient may not disclose Confidential Information of Discloser to any third party or use the Confidential Information in violation of this Agreement. The Recipient (i) will exercise the same degree of care and protection with respect to the Confidential Information of the Discloser that it exercises with respect to its own Confidential Information and (ii) will not, either directly or indirectly, disclose, copy, distribute, republish, or allow any third party to have access to any Confidential Information of the Discloser. Notwithstanding the foregoing, Recipient may disclose Discloser's Confidential Information to Recipient's employees and agents (if Recipient is BMC) and to Authorized User(s) (if Recipient is the Customer)who have the need to know provided that such employees, agents and Authorized User(s) have legal obligations of confidentiality substantially the same (and in no case less protective) as the provisions of this Agreement.

10.3 **Notification Obligation**. If the Recipient becomes aware of any unauthorized use or disclosure of Discloser's Confidential Information, then Recipient will promptly and fully notify the Discloser of all facts known to it concerning such unauthorized use or disclosure. In addition, if the Recipient or any of its employees or agents are required (by oral questions, interrogatories, requests for information, or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to disclose any of Discloser's Confidential Information, the Recipient will not disclose the Discloser's Confidential Information without providing the Discloser with commercially reasonable advance prior written notice to allow Discloser to seek a protective order or other appropriate remedy or to waive compliance with this provision. In any event, the Recipient will exercise its commercially reasonable efforts to preserve the confidentiality of the portion of the Discloser's Confidential Information that Recipient is bound to furnish, including, without limitation, cooperating with Discloser to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to the portion of the Discloser's Confidential Information that is furnished.

11. **DISCLAIMER OF DAMAGES**; **LIMITS ON LIABILITY**.

11.1 **DISCLAIMER OF DAMAGES**; **LIMITS ON LIABILITY**. NEITHER PARTY OR ITS AFFILIATES OR BMC'S LICENSORS ARE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES RELATING TO OR ARISING OUT OF THIS AGREEMENT, SUPPORT, THE PRODUCT OR ANY THIRD PARTY CODE OR SOFTWARE PROVIDED WITH THE PRODUCT, OR ANY OUPUT FROM ANY AI OFFERING (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST COMPUTER USAGE TIME, AND DAMAGE TO, OR LOSS OF USE OF DATA), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND IRRESPECTIVE OF NEGLIGENCE OF A PARTY. FURTHER, NEITHER PARTY OR ITS AFFILIATES OR BMC'S LICENSORS SHALL HAVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, SUPPORT, THE PRODUCT, ANY THIRD PARTY CODE OR SOFTWARE PROVIDED WITH THE PRODUCT, OR ANY OUTPUT FROM ANY AI OFFERING EXCEEDING THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE LICENSE TO THE APPLICABLE PRODUCT GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS FOR THE PRODUCTS OR SUPPORT.

11.2 **SPECIAL CAP ON LIABILITY**. NOTWITHSTANDING ANYTHING IN THE FOREGOING LIMITS ON LIABILITY TO THE CONTRARY, FOR BREACHES OF THE OBLIGATIONS OF CONFIDENTIALITY SET FORTH IN SECTION 10.2 OF THIS AGREEMENT AND BREACHES OF THE OBLIGATIONS SET FORTH IN THE DATA PROCESSING AGREEMENT(S) BETWEEN THE PARTIES, NEITHER PARTY OR ITS AFFILIATES OR BMC'S LICENSORS SHALL HAVE AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, SUPPORT, OR THE PRODUCT EXCEEDING TWO TIMES THE TOTAL AMOUNTS PAID AND PAYABLE BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE LICENSE TO THE APPLICABLE PRODUCT GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE.

11.3 **EXCLUSIONS**. THE DISCLAIMERS AND LIMITATIONS IN THIS SECTION 11 WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE DISCLAIMERS AND LIMITATIONS IN THIS SECTION 11 DO NOT APPLY TO BMC'S OBLIGATIONS UNDER SECTION 13, INFRINGEMENT BY A PARTY OF THE OTHER PARTY'S IP RIGHTS, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, DEATH OR BODILY INJURY, ACTS OF FRAUD, OR ANY LIABILITY WHICH MAY NOT BE EXCLUDED OR LIMITED BY LAW.

12. **TRIAL LICENSE**. BMC may determine, in its sole discretion, to make products available to Customer without an Order and without charge. Such products are deemed to be "Products" pursuant to this Agreement except that (a) they are provided to Customer solely so that Customer may evaluate internally whether to acquire a license to the products for a fee, (b) the license term for such products is 30 days; (c) the Products are provided "AS IS" and without any warranty or support, and (d) the products cannot be put into productive use or included as part of Customer's business processes in any manner, unless or until they are expressly licensed and paid for under an Order. BMC may terminate all of Customer's rights and licenses to these Products for BMC's convenience upon notice to Customer.

13. **INFRINGEMENT CLAIMS**. If a third party asserts a claim against Customer asserting that Customer's use of a Product in accordance with this Agreement violates that third-party's IP Rights ("**Infringement Claim**"), then BMC will, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify Customer for any damages finally awarded or settled upon against Customer based on infringement by the Product. BMC's obligations under this Section will not apply if: (a) BMC's legal department does not receive prompt, detailed written notice of the Infringement Claim from Customer, (b) BMC is not able to retain sole control of the defense of the Infringement Claim and all negotiations for its settlement or compromise, or (c) BMC does not receive all reasonable assistance. BMC will not bind Customer to a monetary obligation in a settlement or compromise, or make an admission on behalf of Customer, without obtaining Customer's prior consent. Customer must promptly install all Product updates BMC provides to mitigate any Infringement Claim. If BMC believes that use of the Product should be stopped because of an Infringement Claim or potential Infringement Claim, if a court of competent jurisdiction enjoins Customer from using a Product as a result of an Infringement Claim and BMC is unable to have such injunction stayed or overturned, or if BMC settles an Infringement Claim on terms that would require Customer to stop using the Product, then BMC will, at its expense and election: (a) modify or replace the Product, (b) procure the right to continue using the Product, or (c) if in BMC's reasonable judgment, neither (a) or (b) is commercially reasonable, terminate Customer's License to the Product and (i) for any perpetual licenses, issue a refund based upon the applicable license fees paid, prorated over 48 months from the date of the Order under which the Products were initially licensed; and (ii) for any non-perpetual licenses, release Customer from its obligation to make future payments for the Product or issue a pro rata refund for any fees paid in advance. This Section contains Customer's exclusive remedies and BMC's sole liability for Infringement Claims.

14. **TERMINATION**. Upon thirty days advance written notice, either party may terminate this Agreement for its convenience on a prospective basis; however, such termination will have no effect on Orders placed prior to its effective date and such Orders will remain in full force and effect under the terms of this Agreement. Either party may terminate this Agreement and/or an Order for cause on 30 days' written notice for material breach if the other party fails to cure the breach within 30-day-notice period. Upon any termination of a License, Customer will immediately uninstall and stop using the relevant Product, and upon BMC's request, Customer will immediately return such Product to BMC, together with all related Documentation and copies, or certify its destruction in writing. Any terms in this Agreement which by their nature extend beyond termination of this Agreement will remain in effect until fulfilled.

15. **AUDIT**. If requested by BMC, and not more than once a year, Customer agrees to deliver to BMC, within 30 days of such request, as specified by BMC, the prior 12 months of (a) Product usage reports generated from specific Products, (b) third party usage reports related to the Products (*e.g.,* SCRT reports) and (c) written Product usage reports, to be provided solely when the Product does not generate reports (together, "**Reports**"). Additionally, if requested by BMC not more than once a year and upon at least 10 (ten) days prior written notice to Customer, Customer agrees to allow BMC to perform an audit ("**Audit**") to ensure compliance with the terms of this Agreement at the locations where the Products are installed, during normal business hours. Customer agrees to cooperate during any such Audit and to provide reasonable access to its information and systems. If Customer is found to have exceeded its Licensed Capacity for a Product based on such Reports or Audit, BMC will issue a quote for the additional capacity through the end of the term of the applicable Order and Customer agrees to pay the applicable fees for such additional capacity.

16. **EXPORT CONTROLS**. Both parties agree to comply with applicable export regulations, including but not limited to U.S. Export Administration Regulations and the OFAC embargoes and sanctions lists. More information on BMC's export compliance program may be found here: https://www.bmc.com/legal/export-compliance.html.

17. **COMPLIANCE WITH LAWS**. Each party shall comply with all applicable laws in the performance of its obligations under this Agreement.

18. **GOVERNING LAW AND DISPUTE RESOLUTION**. Any controversy, dispute or claim arising out of or relating to this Agreement, or to the formation, interpretation, breach, termination, or validity thereof (each, a "**Controversy**") will be resolved as follows:

(i) **UNITED STATES**. If both parties to this Agreement are entities incorporated under the law of any state in the United States, the Controversy shall be tried in either state or federal court located in Houston, Texas and the laws of the State of Texas shall govern. Both parties hereby submit to the exclusive jurisdiction of the courts in Houston, Texas and waive all defenses based on forum non conveniens. Notwithstanding the foregoing, if Customer is a state or local governmental entity or higher education institution and legally required to apply state law, then Customer's state law will apply to the Controversy, without reference to conflict of law principles.

(ii) **CANADA.** If Customer is located in Canada (outside Quebec), then the law of the Province of Ontario law apply, without reference to conflict of law principles. If Customer is located in Quebec, then the laws of the Province Quebec will apply, without reference to conflict of law principles.

(iii) **EMEA**. If both parties to this Agreement are entities incorporated in countries in the Europe, Middle East, or Africa regions, the Controversy shall be tried in the District Court located in Amsterdam, the Netherlands and the substantive laws of the Netherlands shall govern. Both parties hereby submit to the exclusive jurisdiction of the District Court in Amsterdam, the Netherlands and waive all defenses based on forum non conveniens.

(iv) **ASIA PACIFIC**. If both parties to this Agreement are entities incorporated in countries in the Asia Pacific region, the arbitration shall be held in Singapore under the then-applicable rules of the Singapore International Arbitration Centre and the substantive laws of Singapore will govern.

(v) **OTHER REGIONS**. In all other instances, the arbitration shall be held in New York City, New York, under the then-applicable international rules of the American Arbitration Association and the substantive laws of the State of Texas will govern.

For all arbitrations conducted hereunder: (a) the arbitration shall be conducted in English; (b) the relevant arbitral institution shall determine the number of arbitrators, but any Controversy in which the amount in dispute is greater than $10 million USD shall be decided by three arbitrators, with each party having the right to select one arbitrator; (c) the costs of such arbitration shall be borne equally, pending the arbitrator's award; (d) the arbitration award rendered shall be final and binding on the parties, shall not be subject to appeal to any court and shall be enforceable in any court having jurisdiction over the parties; (e) the arbitration proceedings, award and pleadings shall all be confidential, unless disclosure of particular information is required for purposes of enforcing/challenging the award or to meet local securities law requirements; and (f) the party prevailing in arbitration shall be entitled to recover its reasonable attorneys' fees and the necessary costs incurred in connection with the arbitration.

The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Nothing in this Agreement shall be deemed as preventing either party from seeking immediate injunctive relief from any court having jurisdiction over the parties and the subject matter of the dispute.

19. **ASSIGNMENT AND TRANSFERS**. Customer has the right to assign this Agreement or a License in whole to an Affiliate, or to a successor in connection with (i) the sale of all or substantially all of the assets of that party or (ii) a merger by operation of law by providing written notice to BMC. The assignee may not be a known direct competitor of BMC. The successor or Affiliate must agree in writing with BMC (in advance of the assignment) to be bound by the terms of this Agreement. Any Customer transfer or assignment except as expressly authorized above will be null and void.

20. **DATA PROTECTION**. The processing of personal data under this Agreement is governed by the Data Processing Agreement set forth on the Order, unless BMC already has a signed Data Processing Agreement with Customer for such BMC offerings; in which case, the signed version governs the processing of personal data. In the event there is no signed Data Processing Agreement or no reference to the applicable Data Processing Agreement in the Order, BMC and Customer agree that the Data Processing Agreement applicable on the date of the Order, a copy of which may be viewed at https://www.bmc.com/content/dam/bmc/corporate/bmcdpa.pdf, applies to the BMC offerings under this Agreement.

21. **NOTICES**. Any demand, notice, consent, or other communication required by this Agreement must be given in writing and shall be deemed delivered upon receipt when delivered personally or upon confirmation of receipt following delivery by internationally recognized overnight courier service to the addresses specified on the applicable Order.

22. **CONDUCTING BUSINESS WITH HONEST AND INTEGRITY**. BMC is committed to conducting business with honesty and integrity. BMC's Code of Conduct set forth in https://www.bmc.com/legal/code-of-conduct.html governs the conduct of all officers, directors, and employees of BMC, and contingent workers and business partners acting on BMC's behalf. BMC demonstrates its commitment to environmental stewardship by its global accreditation for ISO 14001:2015.

23. **U.S. GOVERNMENT END USER RIGHTS**. This Section applies only to acquisitions of the commercial Product and Documentation subject to this Agreement by or on behalf of the United States Government, or by any prime contractor or subcontractor (at any tier) under any contract, grant, agreement or other activity with the United States Government. When Products are delivered or provided to the United States Government, the United States Government agrees that this commercial license Agreement and the Products governed by this Agreement are defined in accordance with and qualify as "commercial items" consisting of "commercial computer software" and "commercial computer software documentation" as outlined in FAR 12.211, FAR 12.212 and DFARS 227.7202-3, as applicable. The terms and conditions of this Agreement shall pertain to the United States Government's use (including documentation or technical data), duplication, and disclosure of the Product, and shall supersede any conflicting contractual terms and conditions.

24. **AI TERMS OF USE**. The parties agree to comply with BMC's AI Terms of Use, a copy of which is located here:

https://www.bmc.com/legal/aiterms.html.

25. **HIGH RISK USE**. Customer is responsible for determining the scope of use of the Products. BMC has not specifically designed the Products for use in high-risk environments such as nuclear facilities, aircraft systems, air traffic control, life support machines, or weapons systems, where failure could cause death, injury, or serious damage, or any other use defined as high-risk by applicable laws (collectively, "**High Risk Activities**"). BMC disclaims all liability for Customer's use of the Products in direct connection with High Risk Activities.

26. **MISCELLANEOUS TERMS**. A waiver by a party of any breach of any term of this Agreement will not be construed as a waiver of any continuing or succeeding breach. Should any term of this Agreement be invalid or unenforceable, the remaining terms will remain in effect. The parties acknowledge they have read this Agreement and agree that it is the complete and exclusive statement of the agreement and supersedes and replaces (i) any prior or contemporaneous negotiations or agreements between the parties relating to the subject matter of this Agreement and (ii) terms contained on, provided in connection with or accessed through any customer portal or vendor onboarding website or process. There are no representations, promises, warranties, covenants, or undertakings between the parties other than those expressly set forth in this Agreement. This Agreement may not be modified or rescinded except in writing signed by both parties. There are no third-party beneficiaries to this Agreement; Customer is not entering into a contractual relationship with BMC's licensors and BMC's licensors have no liability to Customer. Any delay or failure of any party to perform any obligation under this Agreement caused by governmental restrictions, labor disputes, storms or natural disasters, emergency, or other causes beyond the reasonable control of the party, will not be deemed a breach of this Agreement; provided, however, this provision does not apply to failure to pay fees or any breach of Section 10. The BMC Products may contain third party software which is delivered to Customer as part of the Product and may not be taken out of the Product or used separately from the Product and for which additional terms may be included in the Documentation. The Product may contain hyperlinks to websites controlled by parties other than BMC. BMC is not responsible for and does not endorse the content or accept any responsibility for Customer's use of these websites. Customer should refer to the policies posted by other websites regarding data privacy and other topics before using them. Any additional documents presented to a BMC representative by Customer for signature as a condition for going on a Customer's site will be governed by this Agreement and to the extent that such document presents additional terms or conflicts with this Agreement, it shall be considered null and void. BMC may compile and use de-identified, aggregate or statistical information related to Customer's use of the Products for the purposes of enhancing and improving the Products, developing new products and services, and for other development, diagnostic, statistical and corrective purposes, provided that such information (a) does not incorporate Customer's personally identifiable information or personal data and (b) does not identify or describe the Customer. Les parties exigent que la présente convention ainsi que les documents qui s'y rattachent soient rédigés en anglais.

YOU AGREE THAT YOU HAVE READ THIS AGREEMENT AND INTEND TO BE BOUND, AS IF YOU HAD SIGNED THIS AGREEMENT IN WRITING. IF YOU ARE ACTING ON BEHALF OF AN ENTITY, YOU WARRANT THAT YOU HAVE THE AUTHORITY TO ACCEPT THE TERMS OF THIS AGREEMENT FOR SUCH ENTITY.