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- 11.3. As used herein, the term "direct damages" means those damages which arise naturally or ordinarily and/or can reasonably be expected to result from a breach of this EULA or any agreement in which the EULA is incorporated. Direct damages specifically exclude indirect damages and consequential damages.
- 11.4. As used herein, the terms "indirect damages" and "consequential damages" mean damages which do not flow directly or immediately from a breach of this EULA or any agreement in which the EULA is incorporated, but only from a consequence or result of such breach. Indirect damages and consequential damages include, but are not limited to, loss of revenue or profits.

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- 13.1. This EULA is written and construed in the English language and its interpretation in any judicial or arbitration proceedings shall be in accordance with the meaning of the words and phrases in Canada, and performance of the Parties is construed and governed in accordance with the laws of the Province of New Brunswick, Canada, excepting its laws and rules relating to conflict of law. Neither (a) the United Nations Convention on Contracts for the International Sale of Goods, (b) the 1974 Convention on the Limitation Period in Contracts for the International Sale of Goods (hereinafter referred to as the "1974 Convention"), nor (c) the Protocol Amending the 1974 Convention done at Vienna, Austria, on April 11, 1980, apply in any manner to the interpretation or enforcement of this EULA.

14. DISPUTES AND ARBITRATION

- 14.1. The Parties shall attempt to resolve any dispute, controversy, or claim arising under or relating to this EULA, including its interpretation, performance, or termination. If the Parties are unable to resolve such dispute, either Party may refer the dispute to arbitration. The arbitration shall be conducted in English and in accordance with the ADRI Arbitration Rules of the ADR Institute of Canada, Inc., which shall administer the arbitration and act as appointing authority. The arbitration, including the rendering of the decision and/or award, shall take place in Fredericton, New Brunswick, Canada, and shall be the exclusive forum for resolving the dispute, controversy, or claim. The arbitrator shall make the final

determination as to any discovery disputes between the Parties. Examination of witnesses by the Parties and by the arbitrator shall be permitted. A written transcript of the hearing shall be made and furnished to the Parties. The cost of this transcript shall be borne equally by the Parties. The award and/or decision of the arbitrator shall (a) state the reasons upon which the award is based and (b) shall be final and binding upon the Parties. The expense of the arbitration, including, but not limited to, the award of attorneys' fees to the prevailing Party, shall be paid as the arbitrator determines. Both Parties waive their right to any appeal under any system of law. The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. The arbitrator shall be instructed that no award may be made of consequential, punitive or multiple damages.

14.2. The Licensee consents to the operation of this Section and irrevocably waives its sovereign immunity from all actions or proceedings in connection with any arbitration or post-arbitral enforcement.