MILLER ELECTRIC MFG. LLC. SOFTWARE LICENSE AGREEMENT

READ CAREFULLY: The accompanying Miller Insight Centerpoint 10 solution software ("Software") is provided by Miller Electric Mfg. LLC. ("Miller"), 1635 W. Spencer St, Appleton, WI 54914, to your company or institution as a qualified purchaser ("Customer" or "You" or "Your") for use in conjunction with welding equipment. Upon agreeing to all of the terms and conditions contained in this Agreement, You can use the Software in accordance with the terms set out in the Agreement. The Software may be used to configure and monitor welding equipment, and to collect, store and analyze data from welding events (the "Welding Data").

BY DOWNLOADING, INSTALLING, COPYING, ACCESSING, OPERATING, COPYING OR USING ALL OR ANY PORTION OF THIS SOFTWARE, YOU AGREE TO BE LEGALLY BOUND BY THE TERMS OF THIS AGREEMENT WITH RESPECT TO THE SOFTWARE.

This Software License Agreement ("Agreement") is a legal agreement between You (either an individual or a single entity) and Miller. If You are accepting this Agreement on behalf of an entity, You represent and warrant that You have full authority to bind such entity. BY INSTALLING, UPLOADING, ACCESSING, COPYING OR USING ALL OR ANY PORTION OF THE SOFTWARE, YOU ARE AGREEING TO BE LEGALLY BOUND BY THE TERMS OF THIS AGREEMENT. This license Agreement authorizes You or Your company to use the Software under the terms and conditions set forth below.

If You do not agree to the terms of this Agreement and do not wish to be so bound, or to bind the entity You represent to this Agreement: (a) do not install, upload, access, or otherwise copy or use the Software; (b) select the "Cancel" button or other indication which demonstrates your refusal to be bound by this this Agreement (which will cancel the loading of the software); and (c) within thirty (30) days from the date of acquisition, return the Software, any unopened Software packet(s), any Miller hardware, and all accompanying documentation, items and materials and binders or other containers to the company from which you acquired the software for a refund.

If You install, access, or otherwise copy or use all or any portion of this Software without first agreeing to the terms of this Agreement, you are violating copyright and other intellectual property laws. You may be liable to Miller and its licensors for damages and may potentially be subject to criminal penalties.

If the Software is obtained from third parties that have not been authorized or allowed by Miller, directly or indirectly, to supply the Software, then Miller will not issue an activation code or otherwise permit you to install or use the software or provide any updates, repair or maintenance to the Software.

1 **DEFINITIONS**

- 1.1 "Access" means to use or benefit from using the functionality of the Software.
- 1.2 "Miller Materials" is the collective term for the Software and User Documentation.
- 1.3 "Computer" means a single electronic device with one or more central processing units (CPUs) that accepts information in digital or similar form and manipulates and/or executes the information for a specific result based on a sequence of instructions.
- 1.4 "Equipment" means a Miller or Customer welder, welding equipment, welding product, welding equipment accessory, data acquisition device, or welding power source compatible or capable of interacting or interfacing with Miller's Insight Welding IntelligenceTM system.
- 1.5 "Install" means to place a copy of Software onto a hard disk or other storage medium through any means (including, but not limited to, use of an installation utility application accompanying the Software).
- 1.6 "License Parameters" means the definition and limitation of the applicable license scope in Section 2.2 hereof.
- 1.7 "Permitted Number" means a number relevant for the applicable License Parameters that Miller may specify in the applicable User Documentation. The Permitted Number is one (1) unless otherwise provided for in such User Documentation.
- 1.8 "Site" means a single physical location designated by one individual address in the purchasing documentation, invoice or purchase order issued by Miller.
- 1.9 "Software" means the computer program in which this Agreement is embedded or that is Delivered, prepackaged with this Agreement. If programs are delivered to You as part of a bundled package, suite, or series, the term Software shall include all programs delivered to You as part of that bundled package, suite, or series and described in the

User Documentation.

- 1.10 "Territory" means the country in which You acquire the Software, unless (i) You acquire the Software in a member country of the European Union or the European Free Trade Association, in which the case "Territory" means all the countries of the European Union and the European Free Trade Association; or (ii) otherwise specified in the User Documentation.
 - 1.11 "Uninstall" means to destroy or remove or permanently erase.
- 1.12 "User Documentation" means the explanatory printed or electronic materials that Miller or its authorized distributor incorporates in or delivers in or on a package with the Software or sends to You on an invoice, via email, facsimile, or otherwise when or after You acquire or Install the Software, including, but not limited to, license specifications, activation code, license files, instructions on how to use the Software, and/or technical specifications.
- 1.13 "Welding Data" means information collected, stored and or analyzed by the Equipment or Software including, among other information, weld count, weld sequence, weld duration, wire feed speed, Arc-on time, power source, pulse frequency, short circuit frequency, voltage, amperage, wire feed speed, gas flow, travel speed, temperature, work cell identification, etc.
- 1.14 "You" or "Your" means the company or other legal entity for which you acquire the Software (but not the affiliates, subsidiaries or other related legal entities of such company or legal entity).

2 **SOFTWARE LICENSE**

- 2.1 **Software License.** The Software is licensed to You pursuant to this Agreement, not sold. You have purchased a license to use the Software pursuant to this Agreement, and therefore You do not own the Software. Except as expressly provided herein, You agree and acknowledge that this license Agreement does not grant and shall not be construed as granting You any claim to ownership, title or interest in or to the Miller Materials. All license rights not expressly granted to You are reserved by and to Miller.
- License Grant. Miller grants You a non-sublicensable, non-exclusive, non-transferable, limited license to Install and use machine-readable object code copies of the Software and User Documentation in Your Territory, only for purposes of configuring and monitoring welding equipment and capturing welding data, all of the foregoing for Your internal use only, in accordance with the applicable User Documentation and within the scope of the License Parameters. Any of Customer's employees may use the installed Software, provided, however, that their use of the Software in accordance with the terms and conditions of this Agreement shall always remain Customer's sole responsibility. Customer shall be liable for any use of the Software by its employees in violation of the terms and conditions of this Agreement. Miller's license grant (and, with that grant, Your right to Install and use the Software and User Documentation) is conditioned on Your continuous compliance with all license limitations, restrictions and other terms in this Agreement. If You violate any of these limitations, restrictions or other terms, the license grant will automatically and immediately terminate. Any usage of the Software or User Documentation outside the scope of the applicable license grant or otherwise not in accordance with this Agreement constitutes a violation and infringement of Miller's intellectual property rights as well as a material breach of this Agreement. No license is granted under the terms of this Agreement if You did not lawfully acquire the Software from Miller or from a third party authorized by Miller to supply the Software or Miller Materials either directly or indirectly.
- 2.3 **License Parameters.** Miller's license grant is subject to one or more of the License Parameters defined in this Section 2.3 (License Parameters) as specified in the User Documentation. Unless Miller expressly specifies or agrees otherwise in the User Documentation, all Software shall be governed solely by the license for Stand-alone (Individual) Versions set forth below in Section 2.3.1.
 - 2.3.1 **Stand-alone Seat License (Individual) Version.** If Miller identifies the Software as a "Stand-alone Version" or as an "Individual Version" or "Individual Seat License" or if the purchasing documentation, invoice or purchase order from Miller does not identify the Software as a "Multi-seat (Site) Version", You may only Install and Access one (1) copy of the Software on *one* (1) individual Computer, solely for Your internal business needs . You may not allow the Software to be Accessed, operated, or viewed from, or Installed or uploaded to, other Computers through any electronic, digital or network connection (except from another licensed Computer). Except as otherwise explicitly permitted by Miller, You are not authorized to Install or Access the Software other than on one (1) Computer at a time.
 - 2.3.2 **Multi-Seat (Site) Version.** If the Miller purchasing documentation, invoice or purchase order identifies the purchased Software as a "Multiseat (Site) Version", You may Install and Access the Permitted Number of purchased copies of the Software on (i) a number of individual Computers that equals the number of purchased copies of the Software, (ii) only at the single Customer Site designated in the Miller Software purchasing

documentation, invoice or purchase order and (iii) solely for Your internal business needs.. You are not authorized to Install, Access, operate or view from or Install or upload the Software to a Customer Computer where the total number of Customer Computers having the Software Installed on them at the Customer Site exceeds the number of purchased Software copies specified in the Software purchasing documentation, invoice or purchase order. You are not authorized to allow the Software to be Accessed, operated or viewed from, or Installed or uploaded to, other Computers through an electronic, digital or network connection at locations not at the Customer Site, except as otherwise permitted by Miller in writing.

- 2.3.3 **License Term.** Subject to the terms and conditions of this Agreement and/or Section 2.4 (Termination), the license to use the Software is perpetual.
- 2.4 **Termination.** Without prejudice to any other rights, Miller may terminate this Agreement if You fail to comply with the terms and conditions of this Agreement. Upon termination of the license grant or this Agreement, (i) You must immediately cease any and all use of Miller Materials and Uninstall all copies of the Software; and (ii) destroy all Miller Materials or, upon request by Miller, return all Miller Materials to Miller or the company from which they were acquired. Miller reserves the right to require You to provide satisfactory written proof that all copies of the Software have been Uninstalled and all Miller Materials have been destroyed or returned to Miller.

3 PERMITTED AND PROHIBITED ACTIONS

3.1 **Permitted Actions.**

- 3.1.1 Backup Copy.
- (a) **Backup for All Versions Other than Network Versions.** With respect to any version of the Software, You may make one (1) backup copy of the purchased Software solely for backup purposes in the event that Your primary copy of the purchased Software becomes inoperable. You will ensure that the backup copy replicates and includes any trademark, copyright, attribution or other proprietary or restrictive marking or legend appearing on or used in conjunction with the Software. You may Install and Access such backup copy of the Software only in the event that the primary copy of the Software becomes inoperable and You are otherwise unable to Access the Software.
- (b) **Copies of User Documentation.** So long as required and used solely for Your internal business needs, You are permitted to make reasonable and necessary (i) partial copies of the User Documentation, including an owner's manual, instruction manual, operators guide, etc.; and (ii) copies of specific training embedded content in the Software specifically relating to training in Accessing, using and operating the Software, including training videos, presentations, etc. and authorized on-line training. You are not authorized to make complete or entire copies of the User Documentation, whether such is in printed or electronic form, without prior written approval from Miller, which approval shall not be unreasonably withheld.
- 3.2 **Prohibited Actions.** Miller does not permit any of the following actions, directly or indirectly, and You acknowledge that You will act in accordance so as not to violate the following prohibited actions:
 - 3.2.1 **Use.** You shall not, and shall not permit any third party to, Install, Access, or otherwise copy or use the Miller Materials, unless expressly authorized under this Agreement.
 - 3.2.2 **Applicable Laws.** You shall not use, provide or disclose the Miller Materials, Software or related documentation in violation of any applicable laws, orders or regulations.
 - 3.2.3 **Reverse Engineering.** You shall not, and shall not permit any third party to, reverse engineer, decompile, or disassemble or otherwise attempt to discern the source code of the Software.
 - 3.2.4 **Transfers.** You shall not distribute, rent, loan, lease, sell, sublicense, loan, disclose or otherwise transfer all or any portion of the Miller Materials, or any rights granted in this Agreement, to any other person or legal entity or third party without the prior written consent of Miller.
 - 3.2.5 **Third Party Computers.** You shall not, and shall not permit any third party to, facilitate or allow installation and use of the Software on any computer, personal computer, laptop, tablet, smartphone or other computer owned or controlled by any third party or person other than Customer.
 - 3.2.6 **Hosting or Third Party Use.** You shall not Install or Access, or allow the Installation or Access of, the Miler Materials over the Internet or any other communications medium, including, without limitation, use in connection with a Web hosting, commercial time-sharing, provide it on a subscription basis, or use it in connection with a service bureau, or similar service, or make the Miller Materials available to third parties via the Internet on Your computer system or otherwise.

- 3.2.7 **Notices.** You shall not remove, relocate, alter or obscure any notices, labels, markings, attribution, trademark, copyright, or other proprietary or restrictive marking or legend from or on the Miller Materials, Software or related documentation or any copies thereof.
- 3.2.8 **Modifications.** You shall not modify, translate, adapt, arrange, update, or create derivative works based on the Miller Materials for any purpose.
- 3.2.9 **Circumvention.** You may not utilize any equipment, device, software, or other means designed to circumvent or remove any form of copy protection used by Miller in connection with the Software, or use the Software together with any authorization code, serial number, or other copy-protection device not supplied by Miler directly or through an authorized distributor.
- 3.2.10 **Export.** You may not export the Miller Materials in violation of this Agreement, or U.S., or other applicable export control laws.
- 3.2.11 **Exceptions from Prohibitions.** The prohibitions contained in this Section 3.2 (Prohibited Actions) shall apply to the extent that applicable law (including laws implementing European Union Directive 91/250/EEC 2009/24/EC on the legal protection of computer programs) allows such prohibition to be enforced. You will bear the burden of proof in demonstrating that applicable law does not allow enforcement of any such prohibition.

4. INTELLECTUAL PROPERTY RIGHTS AND OWNERSHIP

Miller and its licensors retain all rights, title to and ownership of the Miller Materials and all copies thereof, and all other rights and interest, including, without limitation, patents, copyrights, trademarks, trade secrets, and other intellectual property rights, in or relating to the Miller Materials and any copies thereof. By accepting this Agreement, You do not become the owner of the Miller Materials or any copyright, trade secret, patent or other intellectual property right relating thereto. You have only limited rights with respect to the Miller Materials expressly set forth in this Agreement and You have no other rights, implied or otherwise. All license rights not expressly granted to You are reserved by and to Miller. The structure, organization, and code of the Miller Materials include, without limitation, valuable confidential and proprietary information and trade secrets of Miller and its licensors and You shall keep such confidential and proprietary information and trade secrets confidential. You agree not to transfer the Software to any third party without the prior written consent of Miller or to disclose any confidential information or trade secrets of Miller that may be contained in the Software to any third party without the prior written consent of Miller. You will use Your best efforts and take all appropriate steps to protect such confidential information and trade secrets from unauthorized use, modification, reproduction, publication, disclosure or distribution.

5. COPYRIGHT AND TRADEMARKS

The entire contents of the Miller Materials (including all information, text, displays, images, and audio made available through or in connection with the Software) and the design, selection, and arrangement thereof, are proprietary to Miller or its licensors and are protected by United States and international laws regarding copyrights, trademarks, trade secrets and other proprietary rights. Miller's name and logos, and all related names, logos, product and service names, designs and slogans contained in the Miller Materials and Software are trademarks of Miller, its affiliates, licensors, suppliers, distributors and/or contractors unless otherwise clearly specified in writing. You may not use such marks without the prior written permission of Miller. All other names and marks are used for identification purposes only and may be the trademarks of their respective owners.

6. WELDING DATA. Miller recognizes that You own Customer Welding Data that is generated, produced or outputted by, or as a result of Your use of, the Software. At Your option and mutual agreement with Miller, You may provide copies of Customer Welding Data or permit Miller to directly or remotely access, retrieve, store, use, modify, process or analyze the Welding Data where You desire Miller to conduct service, analytics, trouble shooting, bug-fixes, security patch installation, etc. on the Welding Data or to the Software. Miller shall not sell, distribute, transfer, or otherwise share or disclose Your Welding Data with any third party without your written approval.

7. OPEN SOURCE LICENSE NOTICE

The Software may contain software from the open source community that must be licensed under a respective open source software license having terms applicable to such open source software. The open source software and copies

of corresponding open source licenses are identified and referenced in the Software materials provided to You by Miller and can be found online at https://www.millerwelds.com/cp10software. Open source software is not subject to the terms and conditions of this Agreement. Instead, each item of open source software is licensed under the terms of a corresponding open source license. Nothing in this Agreement limits your rights under, or grants you rights that supersede, the terms of any an applicable open source software license. Where there is a conflict between any term of this Agreement and any term of an applicable open source software license, the terms of the open source software license shall control and supersede the terms of this Agreement.

8. LIMITED WARRANTY, REMEDY AND DISCLAIMER

- 8.1 **Limited Warranty**. Miller agrees to abide by any written warranty terms, conditions and obligations set out in a commercial services or support agreement agreed to between You and Miller.
- Bisclaimer. EXCEPT FOR THE EXPRESS LIMITED WARRANTY PROVIDED IN SECTION 8.1 HEREOF, MILLER AND ITS LICENSORS MAKE NO WARRANTIES, EXPRESS OR IMPLIED WITH RESPECT TO THE MILLER MATERIALS OR SOFTWARE. ANY STATEMENTS OR REPRESENTATIONS ABOUT THE MILLER MATERIALS OR SOFTWARE AND ITS FUNCTIONALITY IN THE USER DOCUMENTATION OR ANY COMMUNICATION WITH YOU CONSTITUTE TECHNICAL INFORMATION AND NOT AN EXPRESS WARRANTY OR GUARANTEE. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, MILLER AND ITS LICENSORS SPECIFICALLY DISCLAIM ANY OTHER WARRANTY INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, LACK OF VIRUSES, ACCURACY OR COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT AND LACK OF NEGLIGENCE. WITHOUT LIMITING THE FOREGOING, MILLER DOES NOT WARRANT THAT THE OPERATION OF THE MILLER MATERIALS OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. ALSO, EXCEPT FOR THE EXPRESS LIMITED WARRANTY AND REMEDY PROVIDED IN SECTION 8., THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE MILLER MATERIALS OR SOFTWARE AND ANY SUPPORT SERVICES REMAINS WITH YOU.

9. EXCLUSON OF CERTAIN DAMAGES AND LIMITATION OF LIABILITY

- 9.1. **EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES.** IN NO EVENT SHALL MILLER OR ITS LICENSORS HAVE ANY LIABILITY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, 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, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE MILLER MATERIALS OR SOFTWARE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF MILLER OR ANY SUPPLIER, AND EVEN IF MILLER OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 19.2 LIMITATION OF LIABILITY AND REMEDIES. NOTWITHSTANDING ANY DAMAGES THAT YOU MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED ABOVE AND ALL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE MILLER MATERIALS OR SOFTWARE, USER DOCUMENTATION, OR THIS AGREEMENT), THE ENTIRE LIABILITY OF MILLER AND ANY OF ITS LICENSORS UNDER ANY PROVISION OF THIS AGREEMENT AND YOUR EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE. THE LIMITATION OF LIABILITY IN THIS SECTION 9 SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW TO ANY DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY, WHETHER DERIVED FROM CONTRACT, TORT OR OTHERWISE (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE) OR OTHERWISE, EVEN IF MILLER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE.
- 9.3 **EXCLUSION FOR LOSS OR THEFT OF SOFTWARE.** MILLER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER ARISING FROM LOSS OR THEFT OF THE MILLER MATERIALS, SOFTWARE OR THE MEDIA ON WHICH THE SOFTWARE IS FURNISHED TO YOU. MILLER SHALL NOT BE OBLIGATED TO REPLACE ANY LOST OR STOLEN MILLER MATERIALS OR SOFTWARE OR SOFTWARE MEDIA. YOU ARE SOLELY RESPONSIBLE FOR SAFEGUARDING THE MILLER MATERIALS

OR SOFTWARE AND THE MEDIA ON WHICH THE SOFTWARE IS FURNISHED AND FOR BACKING UP ANY DATA.

10. CUSTOMER INDEMNIFICATION

You agree to indemnify and hold harmless Miller and its partners, affiliates, directors, officers, subsidiaries, employees, agents, suppliers, distributors, third party information providers, licensors, licensees, distributors, contractors, from and against any and all liabilities, expenses, damages and costs, including reasonable attorneys' fees and other legal expenses, arising from any violation by You of this Agreement or Your use of the Software or Miller Materials.

11. U.S. GOVERNMENT RESTRICTED RIGHTS

All Software provided to the U.S. Government pursuant to solicitations issued on or after December 1, 1995 is provided with the commercial license rights and restrictions described in this section and elsewhere in this Agreement. All Software provided to the U.S. Government pursuant to solicitations issued prior to December 1, 1995 is provided with "Restricted Rights" as provided for in FAR, 48 CFR 52.227-14 (JUNE 1987) or DFAR, 48 CFR 252.227-7013 (OCT 1988), as applicable. The terms and conditions of this Agreement shall apply and pertain to the U.S. Government's use and disclosure of the Software or Miller Materials, and shall supersede any conflicting contractual U.S. Government terms or conditions. If this license fails to meet the U.S. Government's needs or is inconsistent in any respect with any applicable Federal law or regulations, the Government agrees to return the Software or Miller Materials, unused, to the seller. If a government agency has a need for rights not granted under these terms, it must negotiate with Miller to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

12. EXPORT RESTRICTIONS.

You acknowledge that the Software is subject to U.S. export jurisdiction. You agree to comply with all applicable international and national laws that apply to the Software, including the U.S. Export Administration Regulations, as well as end-user, end-use and country destination restrictions issued by U.S. and other governments. You shall not permit the import, re-import, export or re-export of the Miller Materials or Software by any person or entity (including without limitation any affiliate), nor permit access to or use of the Miller Materials or Software by any person or entity (including without limitation any affiliate) or in any location, in violation of any applicable export law, order, sanction or regulation, or any U.S. or U.N. embargo, nor take or permit any such action for which an export license or other governmental approval is required. In addition, the Miller Materials or Software may not be sold, leased or otherwise transferred to, or utilized by, an end-user engaged in activities related to weapons of mass destruction, including but not necessarily limited to, activities related to the design, development, production or use of nuclear materials, nuclear facilities, or nuclear weapons, missiles or support of missile projects, or chemical or biological weapons. By downloading or using the Miller Materials or Software You are certifying that You are not a national of Syria, Cuba, Iran, North Korea or any country Embargoed and Sanctioned by the United States and that You are not a person on the Table of Denial Orders, the Entity List, or the List of Specially Designated Nationals or other applicable government watch or denial list.

13. GENERAL

- 13.1 **No Assignment; Insolvency.** You shall not assign this Agreement or any rights hereunder (whether by purchase of stock or assets, merger, change of control, operation of law, or otherwise) and any purported assignment by You shall be void and grounds for termination of the Agreement and license. Further, the Agreement and the license granted hereunder shall immediately terminate without further notice or action by Miller if You become bankrupt or insolvent, make an arrangement with Your creditors, or go into liquidation.
- 13.2 **Choice of Law.** This Agreement and any disputes arising out of or in connection with this Agreement shall be governed by the laws of the State of Wisconsin, U.S.A., without reference to conflict-of-laws principles and excluding the UN Convention on Contracts for the International Sale of Goods. If this Software was acquired outside the United States, then local law may apply. To the extent allowed by law, exclusive jurisdiction over any cause of action arising out of this Agreement or Your use of the Software shall be in the state or federal courts located in the State of Wisconsin. You agree to submit to the jurisdiction of such courts.
- 13.3 **Entire Agreement.** This Agreement and the applicable User Documentation constitute the entire Agreement between You and Miller and supersede any other previous or contemporaneous communications, Agreements, representations, warranties or advertising with respect to the Software, Miller Materials and User Documentation. Any

modifications to this Agreement shall be invalid, unless made in writing and signed by a duly authorized representative of Miller.

- 13.4 **Severability.** If and to the extent any provision of this Agreement is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof shall be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability and shall be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction shall not in any way affect the legality, validity, or enforceability of such provision in any other jurisdiction or affect the legality, validity or enforceability of any other provision of this Agreement.
- 13.5 **No Waiver.** No term or provision hereof will be considered waived, and no breach excused, unless such waiver is in writing signed on behalf of the party against whom the waiver is asserted. No waiver (whether express or implied) will constitute a consent to, waiver of, or excuse of any other, different, or subsequent breach.
- Audits. To ensure compliance with this Agreement, You agree that upon reasonable notice, Miller or Miller's authorized representative shall have the right to inspect and audit Your Installation, Access, and use of the Miller Materials. Any such inspection or audit shall be conducted during regular business hours at Your facilities or remotely, or electronically, either by Miller or by representatives authorized by Miller for this purpose. If such inspections or audits disclose that You have Installed, Accessed, or permitted Access to the Miller Materials in a manner that is not permitted under this Agreement, then (i) You are liable to pay for any unpaid license fees (which shall be assessed as for each Computer and/or Equipment not licensed as a separate license and not as a "Site" license) as well as the reasonable costs of the audit; and (ii) without limitation of Section 2.2 (License Grant), and unless Miller otherwise elects in writing, the license grant with respect to the Software will terminate immediately. Any information obtained by Miller or Miller's authorized representative during the course of such inspection and audit will be used and disclosed by Miller solely for purposes of such inspection and audit and for enforcement of Miller's rights under this Agreement and applicable law, unless other uses or disclosures are required under applicable law. Nothing in this Section shall be deemed to limit any legal or equitable remedies available to Miller for violation of this Agreement or applicable law.
- 13.7 **Language.** The English language version of this Agreement is legally binding in case of any inconsistencies between the English version and any translations.