Innowera Process Runner End User License Agreement

THIS END USER LICENSE AGREEMENT ("Agreement" or "EULA") is made effective between INNOWERA LLC, a Texas limited liability company ("INNOWERA") and You ("You" or "Your").

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the Parties, intending to be legally bound, hereby agree as follows

LICENSE

This Agreement is for INNOWERA's software known as Process Runner and all the components distributed along with such Process Runner software, (collectively, "SOFTWARE") which may be provided on diskette(s), compact disk(s), DVDs, via Web downloads or may be delivered by other electronic media or means.

INNOWERA owns or has rights to the SOFTWARE which are protected by copyright and are licensed, not sold. You obtain no rights other than those granted to You under this license. INNOWERA retains title to the SOFTWARE and all copies You make of them.

The SOFTWARE is protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties.

This EULA authorizes You to:

1. Use the SOFTWARE for a single computer, user or other agreed upon logical licensing unit at any time solely for the purpose of designing, developing, testing and running SOFTWARE. (The SOFTWARE is "in use" when it is loaded into RAM, installed on a hard disk or other storage device (other than a network server) or is otherwise available to the central processing unit of a computer). To install, test and use this SOFTWARE, You must have valid and appropriate SAP license(s);

2. SOFTWARE is licensed as a desktop use. To use this SOFTWARE on known server operating systems, a special license must be purchased.

3. SOFTWARE is licensed to run on physical hardware. Virtualization, Remote desktop, terminal, citrix or other sessions may be prohibited unless clearly approved by Innowera and/or a license was purchased specifically for the said purpose.

4. Install the SOFTWARE on a network server solely for the purpose of internally distributing the SOFTWARE, provided You have appropriate license for each single computer, user or other logical licensing units to which the SOFTWARE is distributed to;

5. Copy the SOFTWARE for backup, or archival purposes; and

6. You may allow Your third-party agents, contractors and consultants to access and use the SOFTWARE solely for use in Your internal business operations in accordance with this Agreement, provided that You indemnify INNOWERA for any breach by such third party of (i) INNOWERA’s intellectual property rights in the SOFTWARE; and (ii)
Your confidentiality obligations hereunder with regard to the SOFTWARE.

You may NOT:

1. Merge, copy, modify, execute, distribute or transfer (limited transfer is allowed in accordance with the Assignment Section herein) the SOFTWARE;

2. Reverse assemble, reverse compile, decode, or translate the SOFTWARE or any components distributed along with SOFTWARE;

3. Sublicense, rent, lease, or assign (limited assignment is allowed in accordance with the Assignment Section herein) SOFTWARE; or

4. Use SOFTWARE or component(s) of the SOFTWARE in development environment to create another software or application.

Export Compliance

You further confirm that:

- You are not a citizen, national, or resident of, and are not under control of, the government of Cuba, Iran, Sudan, Libya, North Korea, Syria, nor any country to which the United States has prohibited export.

- You will not download or otherwise export or re-export the SOFTWARE, directly or indirectly, to the above mentioned countries nor to citizens, nationals or residents of those countries.

- You are not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and Specially Designated Narcotic Traffickers, nor are You listed on the United States Department of Commerce Table of Denial Orders.

- You will not download or otherwise export or re-export the SOFTWARE, directly or indirectly, to persons on the above mentioned lists.

- You will not use the SOFTWARE for, and will not knowingly allow the SOFTWARE to be used for, any purposes prohibited by United States law, including, without limitation, for the development, design, manufacture or production of nuclear, chemical or biological weapons of mass destruction.

Export Restrictions

You agree that U.S. export control laws and other applicable export and import laws govern Your use of the SOFTWARE.

You agree that neither the SOFTWARE nor any direct product thereof will be exported, directly, or indirectly, by You in violation of these laws, or will be used by You for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation.
COPYRIGHTS

All title and copyrights in and to the SOFTWARE (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE), the accompanying printed materials, and any copies of the SOFTWARE are owned by INNOWERA or in case of third party components, by its suppliers. The SOFTWARE is protected by copyright laws and international treaty provisions. Therefore, You must treat the SOFTWARE like any other copyrighted material except that You may install the SOFTWARE on a single computer, provided You keep the original solely for backup or archival purposes. You may not copy the printed materials accompanying the SOFTWARE.

WARRANTY

INNOWERA warrants that for, 30 days after date of delivery of the SOFTWARE to You, the disks or CD-ROM will be free of defects in materials and workmanship. Your exclusive remedy for breach of this warranty is replacement of the SOFTWARE. INNOWERA and suppliers of components distributed with SOFTWARE MAKE NO WARRANTY, REPRESENTATION, PROMISE OR GUARANTEE, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE SOFTWARE, USER DOCUMENTATION OR RELATED TECHNICAL SUPPORT, INCLUDING THEIR QUALITY, PERFORMANCE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

The warranty and remedies set forth above is exclusive and in lieu of all others, oral or written, express or implied. No INNOWERA distributor, agent or employee is authorized to make any modification or addition to this warranty. This warranty gives You specific legal rights, and You may also have other rights which vary from state to state.

LIMITATION OF LIABILITY

Because SOFTWARE is inherently complex and may not be completely free of errors, it is Your responsibility to verify Your work and to make backup copies, and INNOWERA will not be responsible for Your failure to do so. IN NO EVENT WILL INNOWERA BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT OR OUT OF THE USE OF OR INABILITY TO USE INNOWERA PRODUCTS OR SERVICES, INCLUDING, WITHOUT LIMITATION, DAMAGES OR COSTS RELATING TO THE LOSS OF PROFITS, BUSINESS, GOODWILL, DATA OR COMPUTER SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO CASE SHALL INNOWERA’S LIABILITY FOR MONEY DAMAGES EXCEED THE AMOUNT PAID BY YOU FOR THE SOFTWARE OUT OF WHICH SUCH CLAIM AROSE.

ASSIGNMENT

Neither Party may assign this Agreement, in whole or in part, or any of its rights, duties or obligations hereunder, without the prior written consent of the other Party, except that no such consent will be required in connection with (i) Parties assignment of this Agreement or any interest herein to an affiliate, or (ii) a merger, acquisition, reorganization or sale of all, or substantially all, of Parties assets. Any attempt to assign this Agreement other than as permitted above is void. This Agreement binds and inures to the benefit of the Parties, their successors and permitted assigns.
RECORDS and AUDIT

You will, during the License Term for any SOFTWARE licenses acquired under this EULA (and for a period of two (2) years from the expiration of the applicable License Term), maintain accurate records of your use of the SOFTWARE sufficient to demonstrate Your compliance with the terms of this EULA.

During the period in which the You are obligated to maintain such records, INNOWERA, or its third party auditor, may, upon Seven (7) days notice to You, audit such records to verify that You have (a) used the SOFTWARE solely in the manner authorized herein; (b) paid all applicable license fees; and (c) otherwise complied with the terms of this EULA and all Orders. INNOWERA may conduct no more than one (1) audit in any twelve (12) month period. Audits will be conducted during normal business hours and INNOWERA will use commercially reasonable efforts to minimize the disruption of Your normal business activities. INNOWERA, and any third-party auditor, shall not have physical access to Your computing devices in connection with any such audit, without Your prior written consent. You will reasonably cooperate with INNOWERA and/or its third-party auditor and will promptly pay directly to INNOWERA any underpayments revealed by such audit. You will promptly reimburse INNOWERA for all reasonable costs and expenses incurred by INNOWERA for such audit if: (i) such audit reveals an underpayment by You of more than five percent (5%) of the fees payable by You to INNOWERA for the period audited, or (ii) such audit reveals You have materially failed to maintain accurate records of Your use of the SOFTWARE. INNOWERA also reserves the right to terminate the licenses in such case.

GENERAL

You may terminate your license at any time. INNOWERA may terminate your license if you fail to comply with the terms and conditions of this Agreement. In either event, you must destroy all your copies of the SOFTWARE.

You are responsible for the payment of any taxes, including personal property taxes, resulting from this Agreement, except INNOWERA’s franchise taxes, if any, or taxes based upon INNOWERA’s net income. You agree not to directly or indirectly export or re-export the SOFTWARE or the direct product thereof except as authorized by the laws and regulations of the United States and any other applicable jurisdiction.

If this license is found to be in conflict with any other agreement You or Your company have with INNOWERA, do not continue with installation or use. Contact INNOWERA to rectify any of the differences. If You continue now, You are bound by the terms of this agreement. This Agreement may not be modified or altered except by written subsequent agreement duly executed by both Parties.

If any part of this Agreement is held unenforceable as written, it shall be enforced to the maximum allowed by law.

This EULA shall be governed by and construed in accordance with the laws of the State of Texas, United States of America.