

BIZAGI END USER LICENSE AGREEMENT – BIZAGI AUTOMATION SERVER

PLEASE READ THIS END USER LICENSE AGREEMENT CAREFULLY. BY DOWNLOADING, INSTALLING OR OTHERWISE ACCESSING OR USING THE BIZAGI AUTOMATION SERVER SOFTWARE (“SOFTWARE”), YOU AGREE TO THE TERMS OF THIS EULA. THIS EULA IS A BINDING CONTRACT BETWEEN BIZAGI GROUP LTD. AND ITS AFFILIATES (“BIZAGI” OR “WE”) AND THE COMPANY OR OTHER LEGAL ENTITY THAT THE INDIVIDUAL ACCEPTING THIS EULA REPRESENTS (“END USER”). BIZAGI AND END USER ARE ALSO REFERRED TO INDIVIDUALLY AS A “PARTY” AND COLLECTIVELY AS THE “PARTIES”. THIS EULA GOVERNS END USER’S ACCESS TO AND USE OF THE BIZAGI AUTOMATION SERVER, WHICH INCLUDES COMPUTER SOFTWARE (INCLUDING ONLINE AND ELECTRONIC DOCUMENTATION) AND ANY ASSOCIATED MEDIA AND PRINTED MATERIALS THAT IS OFFERED EITHER DIRECTLY BY BIZAGI OR THROUGH A BIZAGI AUTHORIZED RESELLER AND ACCESSED BY END USER. THIS EULA APPLIES TO LICENSE KEYS, UPDATES, SUPPLEMENTS, ADD-ON COMPONENTS, AND GOVERNS ANY PRODUCT SUPPORT SERVICES RELATING TO THE SOFTWARE.

Last Updated: September 22, 2020

1. **License Grant.**

Subject to End User’s strict compliance with the terms of this EULA, and payment of any applicable Fees, Bizagi hereby grants to End User, during the Subscription Term, a limited, worldwide, non-exclusive, non-transferable, non-sublicensable right to use the Software, in object code form. Bizagi grants End User the following rights, conditioned on End User’s compliance with all the terms and conditions of this EULA:

- a. End User may install a copy of Bizagi Automation Server on any number of servers. No server license needs to be obtained.
- b. **User License Model.**
 - i. Where End User has purchased the Software on Bizagi’s User license model, End User (including its Authorized Users) has the right to use the Software up to the number of Authorized Users identified on the Order Form or in End User’s agreement with the Bizagi Authorized Reseller, as applicable. End User needs to obtain a separate User License for each individual (“User”) that accesses or uses the Bizagi Automation Server directly or indirectly on a production server. A User License gives a User the right to participate in a running process and to access or use the services of the Bizagi Automation Server. A User License is unique to a person and may not be shared, nor may it be reassigned other than for the permanent transfer of user rights to another person.
 - ii. **Non-Production User Licenses.** For each User License End-User purchases, End-User have the right to use one Non-production User License. End-Users are not permitted to use Non-production User Licenses for production use (including but not limited to processing of production data or for transferring data to any production business system) and its use of these licenses must be strictly limited to product evaluation, development, testing, quality assurance activities or disaster recovery. The evaluation period is not limited in time. End-User has the option to convert its evaluation rights to subscription or perpetual rights by purchasing licenses and activating them.
 - iii. **Initiator License.** An Initiator License is an alternative to User Licenses for external users. External users are users who are not End User’s employees or onsite contractors. End User needs to obtain a separate Initiator License for each external user that

accesses or uses the Bizagi Automation Server directly or indirectly. It is a restricted license and gives external users the right to initiate cases and participate in subsequent activities (e.g. enter additional info, adjust/update existing information or documents) of the same process instance (case) they initiated. An Initiator License permits access of an external user, as long as that access is for your benefit and not the external user's. End User may not use Initiator Licenses to provide service bureau, hosting services, or any sort of commercial information technology services to third parties, or transfer the Software to a third party, unless otherwise agreed to in writing by Bizagi.

- iv. No "Multiplexing" or "Pooling." Use of software or hardware that reduces the number of Users directly accessing or utilizing the Bizagi Automation Server (sometimes called "multiplexing" or "pooling" software or hardware) does not reduce the number of User Licenses or Initiator Licenses required; the required number of User Licenses or Initiator Licenses would equal the number of distinct inputs (named or unnamed Users) to the multiplexing or pooling software or hardware "front end."
 - c. **Usage Based Licensing Model.** Where End User has purchased the Software on Usage Based Licensing model, End User (including its Authorized Users) shall have the right to use the Software up to the number of BPU's included in the Performance Level identified on the Order Form, or in End User's agreement with the Bizagi Authorized Reseller, as applicable.
 - d. **Academic Software.** To use Software identified as "Academic Software" End User must be a not-for-profit college, university, or institution of higher education. End User has the right to use free of charge a maximum of twenty (20) User Licenses in each Bizagi installation. Users must be students, faculty or staff members authorized by End User to use the Software while performing duties within the scope of their employment or assignment. End User can use the Software for non-commercial, teaching purposes only, including conducting academic research
2. **License Key.** Upon acceptance of this EULA, End User will receive a License Key that will enable End User to activate or operate the Software. End User may not relicense, reproduce or distribute any License Key. Activation is mandatory and associates the use of the Software with a specific customer installation (server or servers). During activation, the Software will send information to Bizagi. This information includes the Software version, the License Key, language and Internet protocol address. By using the Software, End User consent to the transmission of this information. End User can activate the Software by Internet or offline.
3. **Ownership.** Bizagi or its licensors own the title, copyright and other intellectual property rights in the Software, and no title to the Software or such intellectual property rights is transferred to End User. Thus, End User will not acquire any rights of ownership to the Software except the limited license to use the Software as expressly set forth in this EULA, and Bizagi and its licensors retain all other rights. End User agree not to alter or remove the copyright notice, or any other notices of proprietary rights, that appear on and in the Software. All right, title and interest in the Software, and unless specified otherwise, in any ideas, know how, work product and programs which are developed by Bizagi in the course of providing any support and maintenance or professional services, including any enhancements or modifications made to the Software, shall at all times remain the property of Bizagi.
4. **License Restrictions.** Except as expressly permitted herein, Customer shall not directly or indirectly, without the express written consent of Bizagi:

- a. Modify or alter the Software in any way.
- b. Use the Software in violation of third-Party privacy rights
- c. Disassemble, decompile or reverse engineer the Software in order to obtain the source code, which is a trade secret of Bizagi.
- d. Make any the Software available to, or use it for the benefit of, anyone other than End User or its Authorized Users.
- e. Use the Software to provide commercial IT services to any third party, to provide commercial hosting or timesharing, or to sublicense, rent, or lease the Software.
- f. Cause or permit others to perform or disclose any benchmark or performance tests of the Software.
- g. Access the Software or the Documentation in order to build a similar or competitive product or service.
- h. Permit direct or indirect access to, or use of, the Software in a way that circumvents the usage limits set out in the applicable Order Form or agreement.
- i. Access or use the Software in any way that is adverse to Bizagi's then-current acceptable use policy.
- j. Exceed the authorized number of Users or number of BPU's as, applicable, in accordance with the corresponding Order Form or in the End User's agreement with the Bizagi Authorized Reseller.
- k. Use the Software for any unlawful purpose.
- l. Create derivative works of the Software or the Documentation or any components thereof.

5. Term / Termination

- a. This EULA shall apply commencing on the Effective Date and continuing for as long as End User has access to the Software (the "Term"). If End User licensed the Software on a perpetual basis, the Term of the license is perpetual, unless terminated as set forth in this EULA. If End User licensed the Software on a subscription basis, End User's rights to use the Software are limited to the "Subscription Term" set forth in the Order Form or in the End User's agreement with the Bizagi Authorized Reseller, as applicable.
- b. If the Software is licensed on a subscription basis, upon expiration, the Subscription Term shall automatically renew for terms equal in length to the immediately preceding term, unless either Party provides written notice of non-renewal at least forty-five (45) days prior to the end of the then current subscription term.
- c. **Maintenance Term.** Software Maintenance, as described in Section 9 below, is included during the Subscription Term for Software purchased on a subscription basis. For Software purchased on a perpetual basis, the term for the Software Maintenance will be as set forth on the corresponding Order Form or in the agreement between the Bizagi Authorized Reseller and the End User ("Maintenance Term"). The minimum Maintenance Term is one (1) year following End User's purchase of the Software. Upon expiration of the initial Maintenance Term, the Maintenance Term will automatically renew for terms equal in length to the immediately preceding Maintenance Term (each, a "Renewal Term"), unless either party provides written notice of non-renewal at least forty-five (45) days prior to the end of the current Maintenance Term. Additional Authorized Users may be added during the Maintenance Term, subject to the following: (a) Software Maintenance for added Authorized Users will be coterminous with the pre-existing Maintenance Term; and (b) the Software Maintenance fee will be calculated on a pro-rata basis.

- d. Termination for Breach. Either Party may terminate this EULA for cause (a) if the other Party breaches any material term or provision of this EULA and, if capable of cure, such Party fails to cure such breach within thirty (30) days after receipt of notice of such breach; or (b) upon any insolvency of the other Party, any filing of a petition in bankruptcy by or against the other Party, any appointment of a receiver for the other Party, or any assignment for the benefit of the other Party's creditors. Where applicable, Bizagi may also suspend End User's access to the Software immediately if the Bizagi Authorized Reseller notifies Bizagi that End User has breached any material term of the agreement between End User and the Bizagi Authorized Reseller, including without limitation any payment obligations therein.
 - e. Termination of Bizagi Authorized Reseller's agreement with Bizagi. Where applicable, following any termination or expiration of the Bizagi Authorized Reseller's agreement with Bizagi authorizing Bizagi Authorized Reseller to resell the Software, each End User's subscription to the Software outstanding at the time of such termination or expiration ("Existing Order") shall remain in effect until the end of its Subscription Term, and shall continue to be governed by this EULA, provided that End User is not in breach of this EULA and Bizagi has received all payments due in connection with such Existing Orders. Except as provided herein, following a termination or expiration of a Bizagi Authorized Reseller's agreement with Bizagi, Bizagi is under no obligation to provide the Software directly to End User, or to assume a direct contractual relationship with End User.
- 6. Consent to use Data.** End User agrees that Bizagi may collect and use technical information that is gathered periodically to facilitate the provision of Software updates, product support and other services to End User (if any) related to the Bizagi Software, and to verify compliance with the terms of this EULA. Bizagi may use this information solely to improve our products or to provide services or technologies to End User and will not disclose this information in a form that personally identifies End User
- 7. End User Responsibilities:** End User will **(a)** be responsible for Authorized Users' compliance with this EULA, **(b)** be responsible for the accuracy, quality and legality of the End-User Data and the means by which it was acquired, **(c)** use commercially reasonable efforts to prevent unauthorized access to or use of Software, and notify Bizagi promptly of any actual or suspected unauthorized access or use, copy or distribution of the Software in violation of this EULA, **(d)** use the Software only in accordance with the Documentation and all applicable local, state, national, and foreign laws, treaties and government regulations, including those related to data privacy, international communication, and the transmission of technical or personal data in connection with End-User's use of the Software, and **(e)** notify Bizagi as soon as End User becomes aware of any unauthorized use of the Software by any person.
- 8. Fees and Payment.**
- a. Fees. End-User will pay fees specified in each Order Form. All fees are nonrefundable once paid except as otherwise expressly provided in this EULA or the applicable Order Form. Bizagi may increase the price specified in an Order Form for any Renewal Term.
 - b. Payment. Unless otherwise provided in the applicable Order Form, Bizagi will charge End User for fees on an annual basis in advance and all amounts due under this EULA are payable net thirty (30) days from the date of the invoice. End User agrees to promptly notify Bizagi in writing of any changes to its billing information during any Term. Except as prohibited by law, Bizagi may charge a late fee of one and one-half percent (1.5%) per month on past due amounts. If End User requires a purchase order, vendor registration form, or other documentation, such requirement will in no way relieve, affect, or delay End User's obligation to pay any amounts due hereunder.

- c. Taxes. All fees are exclusive of all taxes, included but no limited to transaction taxes, withholding taxes, sales tax, use tax, VAT, GST or other similar transaction tax. The prices set out in the Order Form are the net amount that End User shall pay to Bizagi without deduction or withholding for any taxes. End User shall be responsible for the collection, remittance and payment of applicable taxes to the appropriate tax authority. Even if End User is required to withhold any taxes, the amount paid by Customer to Bizagi shall be the full amount which Bizagi would have received had such fees been paid without such deductions or withholding or had Bizagi not been subject to such taxes or duties.
- d. Bizagi Authorized Resellers. End User may elect to license Bizagi Software through a Bizagi Authorized Reseller. End User's obligation for payment to, and its relationship with, any Bizagi Authorized Reseller is between End User and such Bizagi Authorized Reseller, and End User must direct any claims for refunds owed hereunder to such Bizagi Authorized Reseller.

9. Confidentiality.

- a) Definition. "Confidential Information" means any non-public information or materials belonging to, concerning or in the possession or control of a Party or its affiliates ("Disclosing Party") that is furnished, disclosed, or otherwise made available (directly or indirectly) to the other Party ("Receiving Party"), which is either clearly identified as confidential at the time of disclosure or is of a type that a reasonable person would recognize it to be confidential, including without limitation each Party's respective business and marketing plans, technology and technical information, product designs, business processes, financial information (including costs, profit or margin information), inventions, research and development, employee skills and salaries, and customer information. The Parties agree to disclose only information that is required for the performance of obligations under this EULA.
- b) Exclusions: The confidentiality obligations of this EULA do not apply to any information that: a) is or becomes generally known to the public at the time of disclosure without breach of any obligation owed by the Receiving Party to the Disclosing Party; b) was rightfully known to the Receiving Party other than by a breach of an obligation of confidentiality prior to its disclosure by the Disclosing Party under this EULA; c) was independently developed by the Receiving Party without the use of or reference to the Confidential Information of the Disclosing Party, as substantiated by written evidence; or d) is lawfully received from a third party without an obligation of confidentiality the Confidential Information of the Disclosing Party, as substantiated by written evidence.
- c) Non-Disclosure: Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party will: a) protect the Disclosing Party's Confidential Information from unauthorized disclosure and use the same degree of care that the Receiving Party uses to protect its own Confidential Information, but in no event less than a commercially reasonable degree of care, b) not use the Disclosing Party's Confidential Information for purposes other than those necessary to exercise a right or fulfill an obligation of this EULA, and c) limit access to Confidential Information of the Disclosing Party to those of its employees, contractors, attorneys, financial advisors, and agents who need such access for the Receiving Party to exercise a right or fulfill an obligation of this EULA, who have been informed of the confidential nature of such information, and who are subject to confidentiality obligations with the Receiving Party containing protections no less stringent than those herein.

- d) **Compelled Disclosures:** If the Receiving Party is compelled by applicable law to disclose any Confidential Information then, to the extent permitted by applicable law, such Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under this section; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. b) the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, such Party shall disclose only that portion of the Confidential Information that it is legally required to disclose.
- e) **Survival:** The provisions of this Section shall survive the termination of this EULA for a period of five (5) years from such termination; provided that the confidentiality obligations for Confidential Information that constitutes a trade secret (as determined under applicable law) shall survive the termination or expiration of this Agreement for as long as such Confidential Information remains a trade secret under applicable law.
- f) To the extent Bizagi processes any Personal Data under this EULA, the terms of the Bizagi Data processing Agreement located at: <https://www.bizagi.com/sa?BLI&CL&DPA> shall apply.

10. Maintenance and Support:

- a. Unless agreed to otherwise in the agreement between End-User and Bizagi or the Bizagi Authorized Reseller, Bizagi will provide End User with Software Maintenance as set forth at the following URL: <https://www.bizagi.com/sa?BC&OP&SM> during the Subscription Term or Maintenance Term, as applicable. If End User has opted to purchase Premium Support, the terms set forth at the following link shall apply: <https://www.bizagi.com/sa?BC&OP&PS>. In each of the foregoing documents, references to Customer shall be deemed to refer to End User.
- b. **Reinstatement of Software Maintenance (Perpetual License Only).** Notwithstanding the automatic renewal clause set forth herein, if Software Maintenance lapses for any period of time as a result of End User's non-renewal or failure to pay the applicable Software Maintenance fees, Bizagi shall be entitled to immediately terminate or suspend all Software Maintenance without notice and shall be entitled to Software Maintenance fees retroactive to the expiration date of the previous Maintenance Term for any Software Maintenance service provided. If Software Maintenance is terminated or expires, the Parties may agree in writing to subsequently renew or reinstate Software Maintenance for a Renewal Term of at least twelve months from the date of such renewal. In such case, as a prerequisite to renewal, Customer shall pay at a minimum all Software Maintenance fees that would have been due had Software Maintenance not terminated or expired and may be required to pay additional reinstatement fees.

11. Limited Warranty.

- a. For Software purchased on a subscription basis, Bizagi warrants that the Software will perform in all material respect as described in the Documentation during the Subscription Term.
- b. For Software purchased on a perpetual basis, Bizagi warrants that the Software will perform substantially in accordance with the documentation for a period of ninety (90) days counted from the date of purchase.
- c. Other than the limited warranties set forth in this Section 10, the Software is being supplied "as is" and Bizagi does not guarantee that the Software will operate error-free or uninterrupted,

or that Bizagi will correct all Software errors. The warranties indicated herein are exclusive and Bizagi grants no other warranties, including but not limited to warranties of merchantability and fitness for a particular purpose. For any breach of the foregoing warranties, End User's exclusive remedy and Bizagi's entire liability shall be the correction of the problems or errors with the Software that caused the breach of warranty, or, if Bizagi cannot substantially correct the problems or errors in a commercially reasonable manner, end user may terminate this license and submit to Bizagi, or where applicable, the Bizagi Authorized Reseller, a claim for refund of any prepaid fees covering the remainder of the Subscription Term. In any case, in order for End User to submit a warranty claim under this EULA, End-User must submit a support ticket in order to resolve the non-conformity as set forth in Section 9. Notwithstanding the foregoing, this warranty will not apply to any failure due to a defect in or modification of the Software that is caused or made by End User, any user, or any person acting at End User's direction.

12. Warranty Disclaimer. THE EXPRESS WARRANTIES SET FORTH IN THIS EULA ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW ALL SUCH OTHER WARRANTIES ARE HEREBY DISCLAIMED AND EXCLUDED BY BIZAGI AND ITS SUPPLIERS. Some jurisdictions do not allow certain disclaimers and limitations of warranties, so portions of the above limitations may not apply to End User. This limited warranty gives End User specific rights and End User may have other rights, which vary from state to state, country to country.

13. Limitation of Liability.

- a. IN NO EVENT SHALL BIZAGI OR ITS SUPPLIERS BE LIABLE TO END USER FOR ANY DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THE USE OR PERFORMANCE OF THE SOFTWARE, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, BUSINESS, DATA, GOODWILL, OR ANTICIPATED SAVINGS, EVEN IF ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.
- b. IN NO EVENT WILL BIZAGI'S AGGREGATE LIABILITY FOR DIRECT DAMAGES TO PROPERTY OR PERSON (WHETHER IN ONE INSTANCE OR A SERIES OF INSTANCES) EXCEED THE AMOUNT PAID BY END USER TO BIZAGI, OR WHERE APPLICABLE, TO BIZAGI AUTHORIZED RESELLER FOR THE SOFTWARE DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE CLAIM. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

14. Indemnification.

- a. Indemnification by Bizagi: Bizagi will indemnify and hold End User harmless, from and against any claim against End User brought by a third party alleging that the Software infringes or misappropriates such third party's valid patent, copyright, trademark or trade secret (an "**IP Claim**"). Bizagi shall, at its expense, defend such IP Claim and pay damages finally awarded against End User in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Bizagi for such defense, provided that **(a)** End User promptly notify Bizagi of the threat or notice of such IP Claim; **(b)** Bizagi has sole and exclusive control and authority to select defense attorneys, defend and/or settle any such IP Claim; and **(c)** End User fully cooperates with Bizagi in connection therewith. The provisions of this Section state the sole, exclusive and entire liability of Bizagi to End User and constitutes End User's sole remedy with respect to an IP Claim brought by reason of access to or use of the Software by End User.

- b. Indemnification Exclusions. Bizagi shall have no obligations under this section or any other liability for any claim of infringement or misappropriation resulting or alleged to result from: (a) any modification, alteration or enhancement to the applicable Software by any person or entity other than Bizagi; (b) any use of the applicable Software by End User in any manner for which such Software was not designed or otherwise in a manner inconsistent with the Documentation; (c) the combination, operation or use of the applicable Software or any part thereof in combination with any equipment, software, data or documentation not approved by Bizagi; (d) materials, items, resources, or services provided or performed by End User (whether or not used in connection with or incorporated into the Software); and (e) End User's continued use of the allegedly infringing Software after being notified thereof or after being informed of and provided with modifications that would have avoided the alleged infringement.
- c. Indemnification Remedy: In the event an infringement or misappropriation claim as described in Section 13(a) arises, or if Bizagi reasonably believes that a claim is likely to be made, Bizagi shall have the right, at its sole option and in lieu of indemnification, to: (a) modify the applicable portion of the Software to become non-infringing but functionally equivalent; (b) replace the applicable portion of the Software with material that is non-infringing but functionally equivalent; (c) obtain for End User the right to use the applicable portion of the Software upon commercially reasonable terms; or (d) remove the infringing or violative aspect of the Software if it can be removed without material degradation of the applicable Software.
- d. Indemnification by End User: End User will defend Bizagi against any claim, demand, suit or proceeding made or brought against Bizagi by a third party alleging that End User Data, or End User's use of the Software in breach of this EULA, infringes or misappropriates such third party's intellectual property rights or violates applicable law; (a "Claim Against Bizagi"), and will indemnify Bizagi from any damages, attorney fees and costs finally awarded against Bizagi as a result of, or for any amounts paid by Bizagi under a court-approved settlement of, a Claim Against Bizagi, provided Bizagi (a) promptly give End User written notice of the Claim Against Bizagi, (b) give End User sole control of the defense and settlement of the Claim Against Bizagi (except that you may not settle any Claim Against Bizagi unless it unconditionally releases Bizagi of all liability), and (c) give End User all reasonable assistance, at End User's expense.

15. General Provisions.

- a. Excludes Services. This EULA shall not apply to your use of cloud services, or professional services that you purchase from Bizagi, nor to any software offered as Freeware ("Excluded Services"). All such Excluded Services are governed exclusively by the terms of the agreement that you have executed or accepted, that covers such Excluded Services.
- b. Audit. Bizagi may audit End User's use of the Software to assess whether such use is in accordance with this EULA and to ensure End User's compliance with the terms of this EULA or the terms of the agreement between End User and the Bizagi Authorized Reseller. The End User agrees to cooperate with Bizagi's audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with the End User's normal business operations. In the event an audit shows that End User has used the Software in excess of the usage rights set forth in an Order Form or in the agreement between End User and the Bizagi Authorized Reseller, where applicable (i.e. End User has used more BPU's or activated more Authorized Users than what is permitted), Bizagi may invoice End User for such excess usage (either directly or through the Bizagi Authorized Reseller).
- c. Marketing: Bizagi may: (i) include End User's name and logo in a list of Bizagi's customers, (ii) refer to End User's name and logo on Bizagi's website; and (iii) refer to End User's name and logo in marketing materials.

- d. Contracting Legal Entity, Governing Law and Jurisdiction. The Bizagi contracting legal entity under this EULA, the address to which direct notices under this EULA should be sent, what law will apply in any dispute or lawsuit arising out of or in connection with this EULA, and which courts have jurisdiction over any such dispute or lawsuit, depend on where End User is domiciled, as follows:

If End User is domiciled in:	The Bizagi Contracting Entity is:	Notices should be addressed to:	The Governing Law is:	The Courts having exclusive jurisdiction are:
The United States of America, Canada, Mexico or a Country in the Caribbean.	Bizagi Corp	200 Massachusetts Ave Northwest, Washington, DC, 20001, United States	The Laws of the State of Delaware	The Courts of the State of Delaware
A Country in Europe other than Germany or Spain, the Middle East, Africa, or a Country in Asia or the Pacific region	Bizagi Limited	Building 2, 2nd Floor, Chiltern Park, Chiltern Hill Chalfont St Peter SL9 9FG	The Laws of England and Wales	The Courts of England and Wales
Spain	Bizagi Iberica	Calle Serrano, 25 planta 4ª Drch 28001-Madrid, España	The Laws of Spain or	The Courts of Spain
Germany	Bizagi Deutschland GmbH	Nymphenburgerstraße 4, 80335 München	The laws of Germany	The courts of Munich, Germany
A country in South or Central America.	Bizagi Latam	Carrera 7 No 71 - 52, Torre B, Oficina 1302, Bogotá, Colombia	The laws of the Republic of Colombia	The courts of the Republic of Colombia.

- e. Export Restrictions: Export laws and regulations of the United States of America and any other relevant local export laws and regulations apply to the Software

<https://www.bizagi.com/export-statement>. End-User agrees that such export laws govern its use of the Software (including technical data) provided under this Agreement, and the End-User agrees to comply with all such export laws and regulations (including “deemed export” and “deemed re-export” regulations). End User agrees that no data, information, software programs and/or materials resulting from the Software (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws including, without limitation, nuclear, chemical, or biological weapons proliferation, or development of missile technology.

- f. Survival. Notwithstanding anything to the contrary contained herein, all terms of this EULA relating to confidentiality, proprietary rights, indemnification, disclaimers of warranty and limitations of liability, as well as those terms that by their nature survive any expiration or termination of this EULA shall survive any termination or expiration of this EULA.
- g. Relationship. No joint venture, partnership, employment, or agency relationship exists between End User and Bizagi as a result of this EULA or End User’s use of the Software.
- h. Entire Agreement: This EULA, together with all referenced Schedules and URLs, constitutes the full and complete understanding and agreement between the Parties with respect to the subject matter of this EULA and constitutes a full statement of the terms of their agreement. This EULA supersedes all prior written agreements and contemporaneous oral agreements with respect to the subject matter hereof. End User has not relied upon any representation or promise made or given by or on behalf of Bizagi that is not set forth herein as an inducement to enter into this Agreement. End User has not relied on the delivery of any future functionality regardless of any verbal or written communication about Bizagi’s future plans. Although End User may issue a purchase order or similar document confirming any order form issued under this EULA, End User expressly agrees and confirms that no terms and conditions included in such document shall be enforceable against Bizagi even if the date included therein is subsequent to the date of End User’s acceptance of this EULA or any Order Form and even if Bizagi has not expressly rejected such terms and conditions.
- i. Amendment. This EULA may only be modified by a written agreement signed by duly authorized representatives of End User and Bizagi.
- j. Severability. If any provision of this EULA is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.
- k. Waiver. Bizagi's failure to enforce any right or provision in this EULA shall not constitute a waiver of such right or provision unless acknowledged and agreed to by Bizagi in writing.
- l. Assignment. This EULA may not be assigned by End User without Bizagi's prior written approval but may be assigned by Bizagi to **(i)** a parent or subsidiary, **(ii)** an acquirer of assets, or **(iii)** a successor by merger. Any purported assignment in violation of this section shall be void.
- m. Force Majeure. Neither Party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; pandemic; electrical, internet, or telecommunication outage that is not caused by the obligated Party; government restrictions; or other event outside the reasonable control of the obligated Party; provided that such Party gives as reasonable as practicable written notice thereof to the other Party and uses diligent efforts to mitigate the effect of a force majeure event and resume performance. If such event continues for more than 30 days, either Party may cancel unperformed services and affected orders upon written notice. A Force Majeure event does not excuse End User’s payment obligations hereunder.

GLOSSARY

- a. Affiliate: is any entity that, with respect to a Party to this Agreement, controls, is controlled by, or is under common control with such Party, either directly or indirectly, by share ownership, contract or otherwise. For purposes of this definition, the term “control” and correlative terms mean ownership, directly or through one or more Affiliates, of fifty percent (50%) or more of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or fifty percent (50%) or more of the equity interests in the case of any other type of legal entity, or status as a general partner in any partnership, or any other arrangement whereby a Party controls or the power to direct or cause the direction of the management and policies of an entity
- b. Authorized Users: means those employees, consultants, agents, contractors, and third parties, who are authorized by the End User to use the Software in accordance with this EULA. Authorized User access control shall be integrated with End User’s own user authentication system or can be managed by End User using Bizagi’s own authentication system. Only Authorized Users can access the Software.
- c. Bizagi Authorized Reseller: means the entity that has been authorized and certified as a reseller of the Software and that resells the Software to the End-User pursuant to a separate contract between such entity and the End User.
- d. Bizagi Performance Units (BPUs): A BPU is a unit of measurement for the storage capacity and the performance (processing capacity) of a Bizagi Automation Server environment. One BPU encompasses the different resources needed for an environment to execute 10,000 Steps per month.
- e. Documentation means all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, or technical or other components, features or requirements, of the Software, which are available at <http://help.bizagi.com> or any other URL as may be provided to End User from time to time.
- f. Order Form means an executed ordering document or online order issued or otherwise approved in writing by Bizagi that incorporates this EULA by reference and sets forth the commercial details of the Software made available to Customer.
- g. Performance Levels: means the levels available distinguished by storage capacity and performance of the Software, which are measured in Bizagi Performance Units (BPUs).
- h. Step: A Step is any shape in a process diagram, except for the start and the end shapes.
- i. Third Party Content: means information obtained by the End User from publicly available sources or made available directly to the End User by other companies or individuals under separate terms and conditions, that the End User decides to use and in the Software.