

## **EUAEND USER AGREEMENT (“EUA”)**

This EUA and its terms apply as between Universal Remote Control, Inc., a New York corporation (“URC”) and you as the purchaser (“End User”) of the URC equipment such as remote control devices, base stations and other applicable URC equipment, directly or indirectly, purchased (“URC Equipment”) and other non-URC equipment which may interface with the URC Equipment such as PCs, Tablets, iPads, smart devices and other applicable non-URC equipment (“Third Party Equipment”).

This EUA and its terms are binding upon all person and organizations having access to the URC Equipment.

This EUA is made in Harrison, New York, United States.

### **1. DEFINITIONS**

1.1 “Effective Date” means the date of delivery of the URC Equipment to End User.

1.2 “Installation” means the process of installing the URC Software and the URC Equipment which is not a responsibility of URC.

1.3 “Technical Services” means services provided by URC, outside of Warranty to End User.

1.4 “Third Party Content” means the Third Party Equipment, Third Party Software, and Third Party Documentation.

1.5 “Third Party Documentation” means any information or user operating instructions, including, but not limited to, user guides, reference and manuals which applies to the Third Party Software and the applicable terms thereof.

1.6 “Third Party Equipment” has the meaning in the Preamble.

1.7 “Third Party Service” means a service not provided by URC.

1.8 “Third Party Software” means the executable code version of the computer programs in all forms that run on the Third Party Equipment, irrespective of how such Third Party Software is delivered to End User, including, delivery on media or by downloading in electronic form and includes all files and computer code made available with the Third Party Equipment and the applicable terms thereof.

1.9 “Update” means any changes to the URC Software or URC Documentation made available by URC to End User subsequent to initial use of the URC Software by End User and Updates are deemed part of this EUA for all purposes.

1.10 “URC Content” means the URC Equipment, URC Software, and URC Documentation.

1.11 “URC Documentation” means any information or user operating instructions, including, but not limited to, user guides, reference and manuals available from URC for use with the URC Software. URC Documentation is licensed by URC under the same terms as URC Software.

1.12 “URC Equipment” has the meaning in the Preamble.

1.13 “URC Software” means the executable code version of the computer programs in all forms that run on the URC Equipment irrespective of how such URC Software is delivered or made available to End User, including, delivery on media or by downloading in electronic form and includes all URC executable files, programming editors, code libraries, IR databases, RS-232 control code data bases, associated DLLs and devices drivers.

## **2. LICENSE**

2.1 The URC Software and URC Documentation are licensed not sold. Subject to the terms and conditions of this EUA and provided that End User has paid the applicable purchase price for the URC Equipment, URC grants to End User, a personal, non-exclusive, non-transferable, non-assignable license to use the URC Software and URC Documentation and any Updates with the URC Equipment purchased by End User and only in the United States. Use in any other country requires the express prior written permission of URC.

2.2 To the extent that any open source computer code is incorporated in the URC Software, the terms of the applicable open source software license apply as well to the open source content and nothing in this EUA shall restrict End User’s rights as to such open source content only.

2.3 Any ideas, concepts, know-how, data-processing techniques, configurations, customizations, programming, computer code, information or materials, including but not limited to, Updates of the URC Software or URC Documentation, developed by URC’s personnel (alone or with End User or with an authorized URC dealer or distributor) in connection with this EUA or otherwise shall be owned by URC and are licensed in the same manner as the URC Software.

2.4 The provisions of this EUA in respect to protection of the URC Software are in addition to and not in lieu of the protections available to URC under applicable law, such as patent, copyright and trade secret laws.

2.5 URC reserves all rights to inventions, patents and copyrights and other proprietary rights as well as all computer programs in any way relating to the URC Software or URC Documentation, under any and all local, state, provincial, or federal laws, rules and regulations.

2.6 The URC Software, URC Documentation and URC Equipment shall be deemed accepted (“Acceptance”) by the use of the URC Equipment and/or URC Software by End User.

2.7 End User acknowledges that End User is required to use/install Updates made available by URC and that such Updates are mandatory as a condition to the license to the URC Software granted under this EUA.

### **3. LICENSE RESTRICTIONS**

3.1 This EUA does not transfer to End User or any other person or entity any right, title or interest in and to the URC Software or URC Documentation, except as to the limited license right of End User to use such as expressly provided for by this EUA.

3.2 End User shall not use the URC Software or URC Documentation, except expressly designated under this EUA.

3.3 End User shall not copy, reproduce or transmit the URC Software or URC Documentation in any form

3.4 End User may not, directly or indirectly: (a) sell, rent, lease, sublicense, lend, allow access to or otherwise make available, the URC Software or URC Documentation to any entity or person; (b) make modifications to, or generate any derivative work or computer program from, the URC Software or the URC Documentation, (c) distribute, charge or receive any fee for access or use of the URC Software or URC Documentation; or (d) copy, reverse engineer, reverse compile, disassemble, decompile or otherwise manipulate/convert, develop a modified or derivative of the URC Software or URC Documentation or attempt to derive information from such.

3.5 Use of the URC Software and URC Documentation by End User is limited to the initially installed URC Equipment and URC reserves the right to limit the use of the URC Software by device.

### **4. END USER RESPONSIBILITIES & REPRESENTATIONS**

4.1 End User acknowledges that it has determined that the URC Software and URC Documentation licensed under this EUA meets its requirements.

4.2 End User acknowledges that only the URC authorized dealers and distributors are permitted to perform installation of the URC Equipment and/or URC Software. While self-installation is not prohibited by URC, such requires significant training and such is not encouraged by URC due to the complexity of the URC Equipment and URC Software.

4.3 End User may only obtain the URC Equipment from the URC authorized dealers or distributors and the title and risk of loss to the URC Equipment passes to End User, pursuant to the agreement between End User and the URC authorized distributor or dealer and URC is not a party to such agreement.

4.4 End User shall be solely responsible for operations and the establishment and continuation of a proper and sufficient operating environment. Additionally, End User shall be solely responsible for operation of computer equipment and any related computer programs, including any operating system.

4.5 End User shall ensure that it is at all times, educated and trained in the proper use and operation of the URC Software and URC Documentation and that the URC Software and URC Documentation are used in accordance with the URC Documentation.

4.6 End User shall be solely responsible for back-up of all data, computer systems and computer programs.

4.7 End User is responsible for complying with all rules, regulations and laws relating to the use of the URC Equipment, URC Software and URC Documentation.

4.8 End User shall not use the URC Equipment, URC Software and URC Documentation for any unlawful/illegal purposes.

4.9 End User may not use the URC Equipment, URC Software or URC Documentation in any manner where such are reasonably expected to cause injury or damage.

4.10 End User may not circumvent any security measures of URC that are part of the URC Content.

4.11 End User is solely responsible for protecting passwords and log-ins and for the acts or omissions of anyone have access to such passwords or log-ins.

4.12 End User represents to URC that End User is not now and has never been on the United States Department of the Treasury, Office of Foreign Assets Control, SDN list or any other disqualifying list of such agency or any other United States governmental agency. End User represents that End User is now and will be, while this EUA, is in effect, in compliance with the United States Patriot Act.

4.13 End User acknowledges that the laws and regulations of the United States may restrict export and independent of the contractual limitations set forth in this EUA, the URC Software and URC Documentation shall not be exported by End User in violation of any export provisions of the United States. End User acknowledges that the laws and regulations of countries other than the United States may restrict the import and independent of the contractual limitations set forth in this EUA, the URC Software and URC Documentation shall not be imported by End User to any country without the prior written consent of URC. End User warrants and represents to URC that End User is not an ineligible party under any applicable law, regulation or rule.

4.14 End User agrees that the URC Equipment and URC Software may permit End User and others to access, use, view, interact with commercial content such as music, movies, games,

internet sites and other like/similar or different content and that End User and such other persons or entities are solely responsible to strictly comply with the terms and conditions imposed by such content providers and that under no circumstances shall URC have any responsibility under this EUA or otherwise.

4.15 End User is independently required to select a URC authorized dealer or distributor to work with as to Installation and post-Installation matters, except for Technical Services and Warranty.

## **5. CHARGES & PAYMENT & TAXES**

5.1 Charges apply for Technical Services. Shipping charges apply for Technical Services and Warranty. Subscription charges (initial or periodic) may apply depending upon the type of the URC Equipment and/or URC Software used by an End User. Any charge from URC must be paid in advance by End User to URC, unless otherwise agreed upon in writing by URC. Any charges by URC are in addition to any charges (initial or periodic) of an authorized third party and payment in full by End User of all charges of URC and the charges of the authorized third party as a condition to the ongoing effectiveness of the URC Software license.

5.2 End User shall pay or reimburse URC, for all applicable taxes identified below by virtue of this EUA, URC Content, Technical Services or Warranty, including, sales, use, property (ad valorem), customs, excise, value added, federal, state, provincial, municipal and other similar taxes, duties or fees, all of which are additional and such items are the sole obligation of End User, irrespective of the method of delivery or whether such items were included in any invoice previously sent to End User by URC.

5.3 End User is responsible for all inbound and outbound shipping charges in the same manner as payment for Technical Services.

5.4 All payments are to be made in United States Dollars.

5.5 URC reserves the right to suspend performance of this EUA if End User is in breach of any provision of this EUA, including any failure to pay.

## **6. TECHNICAL SERVICES**

6.1 URC has right to assign personnel (employees or independent contractors), who are, in URC's sole judgment, qualified to render the Technical Services. The parties acknowledge that performance by URC is subject to the availability of qualified personnel of URC. The time required for the performance of Technical Services cannot be accurately assessed in advance; consequently, all dates or time quoted are estimates only.

6.2 URC has no obligation to offer Technical Services and does so only as an accommodation to End User and may refuse to provide Technical Services for any reason or no reason to End User.

## **7. WARRANTIES AND DISCLAIMERS**

**7.1 URC WARRANTS THAT THE URC EQUIPMENT SHALL BE FREE FROM DEFECTS IN MATERIAL AND WORKMANSHIP UNDER NORMAL USAGE FOR ONE (1) YEAR FROM PURCHASE WHEN SUCH IS PURCHASED FROM URC. URC SHALL NOT BE LIABLE FOR OPERATIONAL, TECHNICAL OR EDITORIAL ERRORS AND/OR OMISSIONS MADE IN THE URC DOCUMENTATION. URC DOES NOT WARRANT THAT THE URC SOFTWARE IS BUG-FREE OR ERROR FREE OR THAT THERE ARE NO ERRORS/BUGS IN THE URC SOFTWARE.**

**7.2 URC WARRANTS THAT AT THE TIME OF PURCHASE THE URC EQUIPMENT AND THE URC SOFTWARE COMPLIED WITH ALL APPLICABLE REGULATIONS AND POLICIES OF THE FEDERAL COMMUNICATIONS COMMISSIONS (“FCC”) REGARDING ELECTROMAGNETIC INTERFERENCE CAUSED BY ELECTRONIC/COMPUTING DEVICES AND TO THE EXTENT THAT THE URC EQUIPMENT AND/OR THE URC SOFTWARE FAILS TO SO COMPLY, URC SHALL, AT ITS OWN EXPENSE, TAKE ALL REASONABLE MEASURES TO PROMPTLY CAUSE SUCH TO COMPLY.**

**7.3 TO MAKE A WARRANTY CLAIM, THE PROCEDURES SET FORTH IN THE APPLICABLE OWNER’S MANUAL APPLY AS TO THE UNIT OF THE URC EQUIPMENT AS TO WHICH A CLAIM APPLIES**

**7.4 URC EQUIPMENT PURCHASES FROM OTHER THAN AN AUTHORIZED URC DEALER OR DISTRIBUTOR ARE WITHOUT WARRANTY.**

**7.5 EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, THE EQUIPMENT, SOFTWARE AND DOCUMENTATION OF URC ARE SUPPLIED “AS IS” WITHOUT ANY WARRANTY, EXPRESS, STATUTORY OR IMPLIED, OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, URC EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. URC DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE OF, OR THE RESULTS OF THE USE OF, THE EQUIPMENT, SOFTWARE OR DOCUMENTATION IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE.**

**7.6 EXCEPT AS EXPRESSLY PROVIDED FOR HEREIN, TECHNICAL SERVICES ARE SUPPLIED “AS IS”, WITHOUT ANY WARRANTY, EXPRESS, STATUTORY OR IMPLIED, OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, URC EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF QUALITY OR REASONABLE SKILL AND CARE, OR OUTCOME OR RESULTS.**

**7.7 WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE OTHER PROVISIONS HEREIN, WARRANTY DOES NOT COVER: (I) DAMAGE FROM MISUSE, NEGLIGENCE OR ACTS OF NATURE, (II) MODIFICATIONS, (III) INTEGRATION WITH THIRD PARTY CONTENT (IV) BEYOND THE WARRANTY PERIOD AND/ OR FAILURE TO FOLLOW URC WARRANTY CLAIM PROCEDURE.**

**7.8 THE WARRANTY LIMITATIONS AND WARRANTY DISCLAIMERS OF THIS EUA MAY NOT APPLY TO END USER IN WHOLE OR IN PART, WHERE SUCH ARE RESTRICTED OR EXCLUDED BY APPLICABLE LAW AND SUCH SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

## **8. URC’S LIMITATIONS OF LIABILITY**

**8.1 IN NO EVENT SHALL URC BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND OR LOSS OF PROFITS OR BUSINESS OPPORTUNITY, EVEN IF URC IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

**8.2 IN NO EVENT SHALL URC BE LIABLE FOR LOSS OF OR DAMAGE TO DATA, COMPUTER SYSTEMS OR COMPUTER PROGRAMS.**

**8.3 URC’S LIABILITY, IF ANY, FOR DIRECT DAMAGES OF ANY FORM SHALL BE LIMITED TO ACTUAL DAMAGES, NOT IN EXCESS OF AMOUNTS PAID BY END USER FOR THE URC EQUIPMENT.**

**8.4 IN NO EVENT SHALL URC BE LIABLE FOR ANY EVENTS BEYOND ITS CONTROL, INCLUDING ANY INSTANCE OF FORCE MAJEURE.**

**8.5 IN NO EVENT SHALL URC BE LIABLE FOR THE ACTS OR OMISSIONS OF END USER OR ANY THIRD PARTY.**

**8.6 THE LIMITATIONS OF LIABILITY OF THIS EUA MAY NOT APPLY TO END USER IN WHOLE OR IN PART, WHERE SUCH ARE RESTRICTED LIMITED OR EXCLUDED BY APPLICABLE LAW AND SUCH SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.**

## **9. CONFIDENTIALITY**

9.1 All content, information and data delivered by URC to End User, including, but not limited to the URC Software and URC Documentation are proprietary and confidential to URC ("Confidential Information"). End User agrees to protect the Confidential Information and not to distribute, disclose, or allow access to the Confidential Information, to any other entity or person, without the prior written consent of URC. End User agrees not to use Confidential Information, except as expressly authorized by this EUA.

9.2 Information and materials of End User are given to URC on a non-confidential basis, except where End User and URC, have signed a separate non-disclosure EUA relating to such.

## **10. URC PRIVACY POLICY**

10.1 The privacy policy of URC ("Privacy Policy") applies and may be updated from time to time by URC.

10.2 URC will make every reasonable effort to comply with the Privacy Policy.

10.3 The remote access that is provided for under this EUA is one means by which URC collects information under the Privacy Policy.

## **11. ACCESS DISCLAIMERS**

11.1 Except as to configuration or customization settings which may be performed by End User or another party with the permission of End User, End User agrees that no party other than URC is permitted to access or use the URC Software for purposes of performing any services in respect to the URC Software.

11.2 Except as to configuration or customization settings or external features of the URC Equipment which may be manipulated by End User or another party with permission of End User, End User agrees that no party other than URC is permitted to access or use the URC Equipment for purposes of performing any services in respect to the URC Equipment.

## **12. END USER REGISTRATION**

12.1 End User is required to follow any registration procedure established by URC and notified to End User for registration of the URC Equipment and URC Software whether such registration is online or offline. It is End User's responsibility to keep such registration information updated with URC.

## **13. REMOTE ACCESS**

13.1 URC may, at End User's request, at any time and from time to time, URC to run certain computer programs, including diagnostic programs, for all physical and virtual environments of

End User. Such computer programs may involve certain tracking attributes. The URC authorized dealer or distributor must enable such access as part of the Installation. Downloading of URC Software or Updates may require activation of URC remote access. End User may opt-out of remote access from URC by sending a written request to URC per the notice provision of this EUA or by instructing the URC authorized dealer or distributor to disable such URC remote access. If End User does not permit remote access by URC, then URC's ability to support physical and virtual environment may be impaired.

13.2 End User chooses to have the URC authorized dealer or distributor to have remote access to physical or virtual environments of the End User and End User is solely responsible for such arrangement, including the security of such arrangement. URC has no responsibility for any person or entity other than URC having remote access to physical or virtual environments of End User. If End User does not permit remote access by the URC authorized dealer or distributor, then such party's ability to support physical and virtual environment may be impaired.

#### **14. THIRD PARTY CONTENT & INSTALLATION & INTERFACES**

14.1 End User acknowledges that when End User has access to the Third Party Content, such Third Party Content remains the property of the applicable third parties and URC has neither editorial control over it nor distribution rights.

14.2 URC DOES NOT SPONSOR OR ENDORSE ANY THIRD PARTY CONTENT.

14.3 URC HAS NO RESPONSIBILITY, OBLIGATION OR LIABILITY FOR ANY THIRD PARTY CONTENT OR THIRD PARTY SERVICES.

14.4 URC HAS NO RESPONSIBILITY, OBLIGATION OR LIABILITY FOR INSTALLATION WHETHER SUCH IS INSTALLED BY A URC AUTHORIZED DEALER OR DISTRIBUTOR OR IS END USER SELF INSTALLED OR OTHERWISE.

14.5 URC HAS NO RESPONSIBILITY, OBLIGATION OR LIABILITY FOR ANY INTERFACES BETWEEN URC CONTENT AND THIRD PARTY CONTENT.

#### **15. URC'S INTELLECTUAL PROPERTY INDEMNIFICATION**

15.1 URC will defend and indemnify End User from any actual damages incurred by End User arising from a bona fide claim by a third party that the URC Equipment, URC Software or URC Documentation infringe any valid and existing United States patent or United States copyright or misappropriates any valid trade secret protected under applicable law, provided that End User shall give prompt written notice to URC of any such claim, End User fully cooperates with URC in the defense of any such claim and URC is granted by End User the sole authority, at URC's election, to defend or to settle the matter, including but not limited to: (1) obtaining the right of continued use; or (2) replacing or modifying the URC Equipment, URC Software and/or URC Documentation to avoid such claim.

15.2 The foregoing does not apply to any use not contemplated by the URC Documentation, modifications not performed by URC, alterations to meet the specifications of End User, or use in combination with any products or services not provided by URC, including Third Party Content.

15.3 This Section states the entire liability of URC and End User's sole and exclusive remedies against URC, for any intellectual property right infringement claims.

## **16. INDEPENDENT DEALERS/DISTRIBUTORS**

16.1 End User is independently required to select a URC authorized dealer/distributor to work with as to Installation and post-Installation matters.

16.2 End User is solely responsible to ensure that such URC authorized dealer/distributor meets End User expectations.

16.3 End User agrees that such URC authorized dealer/distributor is not an employee, agent, partner, joint venture of URC and is an independent contractor. Such URC authorized dealers/distributors may not legally bind URC in any way or make any commitments on the part of URC. URC is not responsible for any acts or omissions of such URC authorized dealer/distributor.

16.4 URC is not a party to any agreement between End User and the URC authorized dealer/distributor. Any disputed between End User and a URC authorized dealer/distributor are to be resolved between End User and such other party.

## **17. RESTRICTED RIGHTS**

17.1 The URC Software is commercial in nature, and is a "Commercial Item," as that term is defined in 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as such terms are defined in 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable. URC reserves all rights in the URC Software and all technical data related to the URC Software under applicable law.

## **18. TERM AND TERMINATION**

18.1 This EUA is effective commencing the Effective Date and remains in effect until terminated as provided for herein.

18.2 URC may terminate this EUA upon thirty (30) days written notice to End User if End User is not in compliance with any provision of this EUA. End User shall be afforded the right to cure any non-compliance during such notice period and if such is cured, the EUA shall not terminate.

18.3 The license to the URC Software and URC Documentation hereunder shall automatically terminate upon the sale, transfer or other conveyance of the URC Equipment.

18.4 Upon termination of this EUA or the license granted under this EUA, End User shall promptly return the URC Software and URC Documentation to URC; provided, however, that in no event shall any charges previously paid by End User to URC or to any URC authorized dealer or distributor be subject to refund.

18.5 In the event of termination by URC of this EUA or the license granted under this EUA, URC shall be entitled to recover from End User the costs and expense incurred by URC (including attorneys' fees) in connection with such termination.

18.6 Upon termination of this EUA, End User shall remain liable to URC for any amounts due up to the date of termination.

18.7 The provisions of this EUA which by their nature are intended to survive the termination of this EUA shall so survive it. Without in any way limiting the generality of the foregoing the following provisions shall survive the termination of this EUA – Section 2 License, Section 3 License Restrictions, Section 5 Charges & Payment & Taxes, Section 7 Warranties and Disclaimers, Section 8 URC's Limitations of Liability, Section 9 Confidentiality, Section 15 URC's Intellectual Property Indemnification, Section 18 Term and Termination.

## **19. GENERAL**

19.1 End User shall indemnify URC from any damages, losses, costs and expenses, including without limitation, attorneys' fees, incurred by URC in connection with any acts or omissions of End User or any breach of this EUA by End User or termination of this EUA by URC.

19.2 End User agrees that End User's breach of this EUA may result in irreparable harm to URC and URC shall be entitled to injunctive relief against End User from a court having jurisdiction in such case.

19.3 End User shall provide all such information, data, documentation and resources as may be reasonably required by URC to enable it to meet its obligations under this EUA. URC shall not be liable for any delays or claims of whatsoever nature, which result, directly or indirectly, from the failure by End User to comply with the reasonable requests of URC or the breach by End User of any of End User's obligations in this EUA.

19.4 End User may not assign this EUA or any rights or obligations under it. URC may assign this EUA and any of its rights or obligations hereunder, in whole or in part. URC may subcontract any of its obligations under this EUA in whole or in part.

19.5 The failure by any party to exercise any right or remedy provided herein shall not be deemed a waiver or forfeiture of any such right or remedy.

19.6 This EUA shall be governed by, and construed in accordance with, the internal laws of the State of New York, excluding its conflict of laws/choice of laws principles. Without diminishing the applicability or effect of the below arbitration clause, End User consents to the jurisdiction of the state and federal court having jurisdiction for Westchester County, New York State.

19.7 Any action or claim brought in connection with this EUA or the rights and obligations under it, including if a claim is or is not arbitrable shall be settled before a single arbitrator in New York City in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction. Each party, by entering into this EUA to arbitrate, expressly waives: (i) its rights to proceed in any court having jurisdiction over any and all claims, (ii) its rights to a jury trial, (iii) its rights to have any federal or state statutory claims heard in court, and (iv) participation in any class action. The arbitrator will be selected from a panel of persons having experience with and knowledge of electronic computers and the computer business. The arbitrators will have no authority to award damages not measured by the prevailing party's actual damages, and may not, in any event, make any ruling, finding or award that does not conform to the terms and conditions of this EUA. Either party, before or during any arbitration, may apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests pending completion of the arbitration proceedings. In any arbitration of any action or claim is brought by either party to this EUA against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover, in addition to any other relief granted, reasonable and actual attorneys' fees and expenses of such action.

19.8 End User waives any objection on the basis of forum non-convenience as to the jurisdiction and arbitration provisions in this EUA. End User waives any right it may have to participate in any class action by virtue of the arbitration provision in this EUA. End user waives any right it may have to a jury trial.

19.9 URC shall be excused from performance and shall not be liable for any delay caused by force majeure only for so long as such condition prevails. These contingencies include, but are not limited to, war, sabotage, insurrection, riot or other act of civil disobedience, labor disturbance or shortage, act of public enemy, failure or delay in transportation, act of any government affecting the terms hereof, accident, fire, explosion, flood, severe weather or other act of God.

19.10 The rights and remedies afforded herein to URC are in addition to the rights and remedies available to URC at law and in equity. The contractual provisions herein supplement and do not replace legal protections benefiting URC in respect to the URC Software and URC Documentation, including, but not limited to, patent, copyright and trade secret laws. In all events the URC Software shall be protected under the copyrights laws of the United States and international copyright law.

19.11 This EUA and any documents duly incorporated herein constitute the entire agreement and understanding between the parties with respect to its and their subject matter and may not be contradicted by evidence of any prior or contemporaneous oral or written agreement. This EUA supersedes and nullifies any proposal, oral or in writing, previously made by URC. URC makes no representations and disclaims all representations regarding the URC Content. No amendments or modifications of this EUA may be made, except in writing signed by a duly authorized representative of URC.

19.12 For the avoidance of doubt, Article 2 or 2A of the Uniform Commercial Code, the U.N. Convention of Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act shall not apply to this EUA.

19.13 Unless otherwise expressly provided herein, no provision of this EUA is intended to vest in any person other than the parties hereto any rights or remedies hereunder.

## **20. LEGALLY BINDING EFFECT**

20.1 Use of the URC Equipment or the URC Software by End User not only signifies acceptance of the URC Software, URC Documentation and URC Equipment by End User but also confirms End User's legally binding agreement to this EUA and all of its terms and conditions. This EUA may be delivered to End User in electronic form. This EUA may be delivered to End User in printed form by URC as part of packaging materials. A copy of this EUA may be included in any Owner's Manual(s) provided by URC. A copy of this EUA may be included on any internet or non-internet site maintained by URC, including, the internet sites known as [www.mytotalcontrol.com](http://www.mytotalcontrol.com) or [www.universalremote.com](http://www.universalremote.com). Any electronic execution by End User by way of any "check the box" or "click through" "I agree" or other indication shall be in addition to the legally binding effect upon End User of this EUA by virtue of use of the URC Software and URC Equipment. URC and End User agree that this EUA may be stored in electronic form.

## **21. OWNER'S MANUALS**

21.1 The URC Documentation which URC provides may include one or more Owner's Manual(s) and End User agrees to follow the terms of and be legally bound by the terms of any Owner's Manual(s) provided by URC.

21.2 URC reserves the right to update the Owner's Manual(s) from time to time.

## **22. INTERNET/NON-INTERNET SITES**

22.1 A copy of this EUA may be posted on the Internet and Non-Internet sites of URC, including, such as [www.mytotalcontrol.com](http://www.mytotalcontrol.com) or [www.universalremote.com](http://www.universalremote.com). End User has the responsibility for reviewing URC Internet and Non-Internet sites in connection with initial use

and on a regular periodic basis thereafter regarding the posting of information applicable to the URC Content or Technical Services.

22.2 URC reserves the right to update any Internet or Non-Internet site maintained by URC at any time.

### **23. SEVERABILITY**

23.1 If any provision of this EUA is judicially found invalid, void or unenforceable, unless such provision (s) materially affects the entire intent and purpose of this EUA, the balance of this EUA shall remain in effect. To the extent permitted by applicable law, a valid and enforceable construction shall be given to such invalid, void or unenforceable provision, as to most closely reflect the commercial intent of the parties expressed in this EUA.

### **24. HEADINGS**

24.1 The headings in this EUA are for reference and convenience only and shall not be used in construing this EUA.

24.2 The headings and marginal notes in the GCC are included for ease of reference and shall neither constitute a part of the Contract nor affect its interpretation.

### **25. NOTICES TO URC**

25.1 Except for notices under the Privacy Policy as to which there is a separate notification procedure or as to warranty claims as to which there is a separate warranty claim procedure, all notices to URC, including any legal notices are to be sent pursuant to this Section.

25.2 Any notices to URC shall be in writing and deemed given when sent by e-mail to the below e-mail address and by nationally recognized overnight courier service and addressed to URC (signature of receipt requested), at the addresses stated below or such other addresses as shall have been notified, in writing, to End User:

Attn: Technical Support Manager  
Universal Remote Control, Inc.  
500 Mamaroneck Avenue  
Harrison, NY 10528  
(914) 935-4484 (T)

Email: [Techsupport@universalremote.com](mailto:Techsupport@universalremote.com)

25.3 Any notices to End User shall be in writing and deemed given when sent by e-mail to the e-mail account provided by End User to URC in the registration of End User pursuant to this EUA.

## **26. OFFICIAL LANGUAGE**

26.1 The official language of this EUA and any document referenced in this EUA is English and any translation into any other language convenience only.

## **27. ORDER OF PRECEDENCE**

27.1 In the event of any conflict between this EUA and the terms of any other document, the terms of this EUA shall control.