

**END-USER LICENSE AGREEMENT**  
**for**  
**UPEK, INC. SDK SOFTWARE PRODUCTS**

**IMPORTANT, PLEASE READ CAREFULLY**

**YOU MAY NOT INSTALL OR USE THIS UPEK SOFTWARE PRODUCT UNLESS YOU HAVE CAREFULLY READ THE TERMS AND CONDITIONS SET FORTH BELOW AND INDICATE YOUR ACCEPTANCE OF SUCH TERMS AND CONDITIONS BY CLICKING ON THE “I ACCEPT” BUTTON AT THE END OF THIS SCREEN.**

This End-User License Agreement (“EULA”) represents the understanding between UPEK, Inc. and its successors and assigns (“UPEK”) and you (either an individual person or a single legal entity, referred to in this EULA as “You” or “Your”) and governs the use of the UPEK software product that accompanies this EULA, including any associated media, printed materials and electronic documentation (the “Software Product”), except to the extent a particular program is the subject of a separate written agreement with UPEK. The Software Product may also include any software updates, add-on components, stencils, templates, shapes, symbols, web services and/or supplements that UPEK may provide to You or make available to You, or that You obtain from the use of features or functionality of the Software Product, after the date You obtain Your initial copy of the Software Product (whether by delivery of a CD, permitted downloading from the Internet or a dedicated web site, or otherwise), to the extent that such items are not accompanied by a separate license agreement or terms of use.

BY INSTALLING OR USING THE SOFTWARE PRODUCT, YOU ARE CONSENTING TO BE BOUND BY THIS EULA. **IF YOU DO NOT AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS EULA, THEN (A) DO NOT INSTALL OR USE THE SOFTWARE PRODUCT, AND (B) YOU MAY RETURN THE SOFTWARE PRODUCT TO THE PERSON WHO PROVIDED IT TO YOU FOR A FULL REFUND.** Should You have any questions concerning this EULA, or if You desire to contact UPEK for any reason, please contact the UPEK subsidiary serving Your country/region.

1. **GRANT OF LICENSE.** Subject to the terms and conditions of this EULA and Your payment of all applicable fees for the Software Product, UPEK and its suppliers hereby grant to You, and You hereby accept a nonexclusive license to install and use copies of the Software Product, on a device, workstation, terminal, PC peripheral or other digital, electronic or analog device embedding a UPEK fingerprint sensor (a “UPEK-Enabled Device”), for the purpose of designing, creating testing, and distributing Your software product(s). If this Software Product contains documentation that is provided only in electronic form, You may print one copy of such electronic documentation; provided, however, that You may not copy the printed materials accompanying the Software Product.

2. **ADDITIONAL LICENSE RIGHTS – REDISTRIBUTABLE CODE.** In addition to the rights granted in section 1, certain portions of the product are redistributable by You as part of Your copyrighted software application. These additional license rights are conditioned upon your compliance with the distribution requirements and license restrictions described in Section 3.

2.1 **Sample Code.** UPEK grants you the right to use and modify the source code version of those portions of the Product identified as “Samples” in REDISTRIBUTABLES.TXT or elsewhere in the Product (“Sample Code”) for the sole purposes of designing, developing, testing and distributing your software product(s), and to reproduce and distribute the Sample Code, along with any modifications thereof, in object and/or source code form. For applicable redistribution requirements for Sample Code, see Section 3.1 below.

2.2 **Redistributable Object-Code.** UPEK grants you a nonexclusive right to reproduce and distribute the object code of any portion of the Product listed in REDISTRIBUTABLES.TXT (“Redistributable Code”). For applicable redistribution requirements for Redistributable Code, see Section 3.1, below.

3. LICENSE RESTRICTIONS -- DISTRIBUTION REQUIREMENTS. If you choose to exercise your rights under Section 2, any redistribution by you requires compliance with the following terms, as appropriate.

3.1 Redistributable Code-Standard.

(a) If you are authorized and choose to redistribute Sample Code and/or Redistributable Object-Code, as described in Section 2, you agree: (i) except as otherwise noted in Section 2.1 (Sample Code), to distribute the Redistributables only in object code form and in conjunction with and as a part of a copyrighted software application product developed by you that adds significant and primary functionality to the Redistributables ("Licensed Product"); (ii) to display your own valid copyright notice which shall be sufficient to protect UPEK's copyright in the Product; (iii) not to remove or obscure any copyright, trademark or patent notices that appear on the Product as delivered to you; (iv) to indemnify, hold harmless, and defend UPEK from and against any claims or lawsuits, including attorney's fees, that arise or result from the use or distribution of the Licensed Product; (v) otherwise comply with the terms of this EULA; and (vi) agree that UPEK reserves all rights not expressly granted.

(b) You also agree not to permit further distribution of the Redistributables by your end users except: (1) you may permit further redistribution of the Redistributables by your distributors to your end-user customers if your distributors only distribute the Redistributables in conjunction with, and as part of, the Licensed Product and You and Your distributors comply with all other terms of this EULA.

4. RESERVATION OF RIGHTS; RESTRICTIONS. All rights not expressly granted by UPEK in this EULA are reserved. Except as otherwise expressly provided under this EULA, You shall not, and shall not allow any third party to:

(a) transfer, assign, sublicense, resell, re-license or provide, lease, lend or allow access to the Software Product to any other person or entity, except as otherwise provided herein;

(b) make error corrections or create derivative works based upon the Software Product;

(c) copy (except to make a single back-up copy to replace an unusable copy of the Software Product), modify, prepare derivative works based upon, decompile, decrypt, reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of the Software Product by any means whatsoever (except to the extent applicable laws specifically prohibit such restriction), disassemble or otherwise reduce the Software Product to human-readable form to gain access to trade secrets or confidential information in the Software Product;

(d) use the Software Product for timesharing, hosting or service bureau purposes; or

(e) remove, obscure, or alter UPEK's (or its third party licensors') copyright notices, trademarks, or other proprietary rights notices affixed to or contained within the Software Product (and any copies thereof, including the back-up copy) or use such notices, trademarks or service marks for any other purpose.

You understand and agree that (i) the Software Product is licensed to You and not sold, (ii) your license to the individual components of the Software Product is limited to use of the Software Product as a whole, and You may not use or seek to use software code incorporated therein on a stand-alone basis, and (iii) the individual components of the Software Product may not be separated for use on more than one UPEK-Enabled Device, unless expressly permitted by this EULA. UPEK retains title to all copies of the Software Product and all associated intellectual property rights therein, and any and all documentation thereof.

5. PROPRIETARY NOTICES; TRADEMARKS. You agree to maintain and reproduce all copyright and other proprietary notices on all copies, in any form, of the Software Product in the same form and manner that such copyright and other proprietary notices are included on the Software Product, including on any

back-up copy of the Software Product. This EULA does not grant You any rights in connection with any trademarks or service marks of UPEK.

6. SUPPORT SERVICES. UPEK may provide You with support services related to the Software Product ("Support Services"). Use of Support Services, if any, is governed by the UPEK policies and terms described in other UPEK-provided materials. Any supplemental software code provided to You as part of the Support Services is considered part of the Software Product and subject to the terms and conditions of this EULA.

#### 7. LIMITED WARRANTY.

(a) UPEK warrants that during the "Warranty Period" (as defined below): (i) the media on which the Software Product is furnished, if any, will be free of defects in materials and workmanship under normal use; and (ii) the Software Product will substantially conform to its published specifications (the "Limited Warranty"). The "Warranty Period" means a period beginning on the date of Your receipt of the Software Product, as applicable, and ending on the later of (i) thirty (30) days from the date of delivery of such Software Product, as applicable, or (ii) the end of the minimum period required by the law of the applicable jurisdiction. The Limited Warranty extends only to You as the original licensee. This Limited Warranty does not cover anything caused by accident or abuse or by use of the Software Product other than for its reasonably intended purposes and as recommended in the accompanying user documentation. Updates are covered by this warranty only if provided to You during the Warranty Period. Your sole and exclusive remedy and the entire liability of UPEK and its suppliers under this Limited Warranty will be, at UPEK's option, to repair, replace, or refund the purchase price for the Software Product that is returned to UPEK, as applicable, provided that you report the defects to UPEK or its designee within the Warranty Period. Any breach of the Limited Warranty related to an error or defect in the media containing the Software Product shall be remedied solely with the replacement of the media containing the Software Product. You shall pay shipping or freight charges, including, without limitation, obtaining full value replacement insurance, for any returns, whether for repair, replacement, or refund, to UPEK or its designee.

(b) This warranty does not apply if the Software Product (i) is licensed for beta, evaluation, testing, demonstration or other purposes for which UPEK does not receive a license fee, (ii) has been altered, except by UPEK, (iii) has not been installed, operated, repaired, or maintained by UPEK or in accordance with instructions supplied by UPEK, (iv) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident, or (v) is used in ultrahazardous activities.

#### 8. DISCLAIMER OF WARRANTIES.

(a) EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 7, UPEK AND ITS SUPPLIERS PROVIDE THE SOFTWARE PRODUCT AND SUPPORT SERVICES (IF ANY) TO YOU "AS IS," AND YOUR USE IS AT YOUR OWN RISK. UPEK DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD PARTY RIGHTS, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. THE DURATION OF ANY IMPLIED WARRANTY THAT IS NOT EFFECTIVELY DISCLAIMED WILL BE LIMITED TO THE WARRANTY PERIOD. SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

(b) UPEK DOES NOT WARRANT THAT THE SOFTWARE PRODUCT IS ERROR FREE OR THAT YOU WILL BE ABLE TO OPERATE THE SOFTWARE WITHOUT PROBLEMS OR INTERRUPTIONS.

#### 9. LIMITATION OF LIABILITY.

(a) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT NEITHER UPEK NOR ITS AFFILIATES, RESELLERS OR LICENSORS WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS EULA, HOWSOEVER CAUSED BY ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO, CONTRACTS, PRODUCTS LIABILITY, STRICT LIABILITY AND NEGLIGENCE, AND WHETHER OR NOT UPEK OR ITS SUPPLIERS OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. WITHOUT LIMITING THE FOREGOING AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL LIABILITY OF UPEK OR ANY OF ITS AFFILIATES, SUPPLIERS OR LICENSORS ARISING OUT OF OR RELATED TO THIS EULA EXCEED THE FEES ACTUALLY PAID TO UPEK FOR THE SOFTWARE PRODUCT.

(b) YOU ACKNOWLEDGE AND AGREE THAT THE PROVISIONS UNDER THIS EULA THAT LIMIT LIABILITY, DISCLAIM WARRANTIES, OR EXCLUDE CONSEQUENTIAL DAMAGES OR OTHER DAMAGES OR REMEDIES ARE ESSENTIAL TERMS OF THIS EULA THAT ARE FUNDAMENTAL TO THE PARTIES' UNDERSTANDING REGARDING ALLOCATION OF RISK. ACCORDINGLY, SUCH PROVISIONS SHALL BE SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISIONS AND SHALL BE ENFORCED AS SUCH, REGARDLESS OF ANY BREACH OR OTHER OCCURRENCE HEREUNDER, AND EVEN UNDER CIRCUMSTANCES THAT CAUSE ANY EXCLUSIVE REMEDY UNDER THIS EULA TO FAIL OF ITS ESSENTIAL PURPOSE.

#### 10. TERM AND TERMINATION.

(a) The term of this EULA shall commence upon the date You accept the terms and conditions of this EULA, and shall continue in full force and effect thereafter unless terminated by UPEK as provided herein. UPEK may, at its option, terminate this EULA immediately upon notice to You, if You fail to comply with any terms and conditions of this EULA.

(b) Upon termination, all license rights under this EULA will terminate and You must promptly destroy all copies of the Software Product in Your possession or control. Upon UPEK's request, You shall certify in writing that You have complied with Your obligations under this Section and otherwise under this EULA. Termination by UPEK will not limit any of UPEK's other rights or remedies under this EULA or at law or in equity.

#### 11. MISCELLANEOUS.

(a) LIMITS ON YOUR RIGHT TO TRANSFER. You may not assign, sublicense, rent, lease, lend, sell, grant a security interest in, or otherwise transfer the Software Product or any rights under this EULA without the prior written consent of UPEK.

(b) APPLICABLE LAW. This EULA is governed by the laws of the United States and the State of California, without regard to the conflict of laws principles thereof. In relation to any legal action or proceeding arising out of this EULA, You hereby irrevocably consent and submit to the exclusive jurisdiction of the competent federal and state courts having jurisdiction in San Francisco County, California, and waive any objection to proceedings in such courts. If this EULA is translated into a language other than English and there is a conflict between the terms of the EULA in English and the EULA in the other language, the terms of the EULA in English shall prevail. The EULA in English may be downloaded from the UPEK website.

(c) COMPLIANCE WITH LAWS. You agree to use the Software Product in compliance with all applicable laws, statutes, rules and regulations, including, without limitation, U.S. export laws and regulations.

(d) SEVERABILITY AND SURVIVAL. If any provision of this EULA is illegal or unenforceable under applicable law, the remaining provisions of this EULA will remain valid and fully enforceable. If any

provision is in part enforceable and in part unenforceable, it will be enforced to the extent permitted under applicable law. Sections 4, 5, 7, 8, 9, 10 and 11 shall survive the termination of this EULA.

(e) **INJUNCTIVE RELIEF.** You agree that a breach of this EULA adversely affecting UPEK's proprietary rights in the Software Product or any UPEK-Enabled Device may cause irreparable injury to UPEK for which monetary damages would not be an adequate remedy and UPEK shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law.

(f) **ENTIRE AGREEMENT.** This EULA (including any addendum or amendment to this EULA which is included with the Software Product) is the entire agreement between You and UPEK relating to the Software Product and the Support Services (if any) and they supersede all prior or contemporaneous oral or written communications, proposals and representations with respect to the Software Product or any other subject matter covered by this EULA. No amendment to or modification of this EULA will be binding unless made in writing and signed by UPEK. No failure to exercise, and no delay in exercising, on the part of either party, any right or any power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right or power hereunder preclude further exercise of any other right hereunder. In the event of any conflict between this EULA and any applicable purchase terms or UPEK's policies and terms for Support Services, the terms of this EULA shall control.