

**ERICOM SOFTWARE
MASTER SUBSCRIPTION AGREEMENT**

Effective Date: December 8, 2022

THIS MASTER SUBSCRIPTION AGREEMENT GOVERNS YOUR ACCESS AND USE OF ERICOM HOSTED SERVICES. BY CLICKING “ACCEPT”, SIGNING AN ORDER THAT REFERENCES THIS AGREEMENT, OR ACCESSING OR USING AN ERICOM HOSTED SERVICE, YOU INDICATE YOUR UNCONDITIONAL ACCEPTANCE OF THE TERMS OF THIS AGREEMENT AND THAT YOU ARE AUTHORIZED TO BIND THE CUSTOMER SET FORTH IN THE “ORDER TERMS” (AS DEFINED BELOW) FOR THE SERVICES. (THE TERMS “YOU” AND “CUSTOMER” BELOW SHALL REFER TO SUCH CUSTOMER.)

IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT OR YOU DO NOT HAVE SUCH AUTHORITY, YOU MUST DISCONTINUE ALL ACCESS AND USE OF THE ERICOM HOSTED SERVICES.

If Customer and Ericom have signed a separate written agreement for the provision of Ericom hosted services, then the written agreement shall control with respect to Customer’s access and use of such services.

If you have entered into an order or other agreement (“Managed Service Agreement”) with an Ericom-authorized managed security service provider or other service provider (“Service Provider”) with respect to a Ericom hosted service, then your access and use of that service is provided to you by the Service Provider and shall be governed by the Managed Service Agreement, without any undertakings, warranties or liability of any kind of Ericom to you. Notwithstanding the foregoing, by accessing or using an Ericom hosted service, you indicate your undertaking to the Service Provider and Ericom, as a third-party beneficiary, to comply with the obligations described in Sections 2 (Customer Administration, Restrictions and Acceptable Use Policy), 4 (Customer Data and Personal Information), 9 (Confidential Information) and 14 (Export Compliance) below.

This Master Subscription Agreement may be modified and updated by Ericom periodically. The updated version shall be posted on the [Hosted Services Terms and Agreements page](#) of the Ericom website and shall apply to your access and use of the Ericom hosted services upon any renewal, upgrade, or additional subscription on or after the Effective Date of such updated version.

This **Master Subscription Agreement** (this “Agreement”) sets forth the terms under which **Ericom Software Ltd.**, an Israeli corporation with principal offices at 12 Hartom Street, POB 45122, Har Hotzvim Technology Park, Jerusalem 9777512, Israel, or the Ericom affiliate set forth in the Order Terms (“Ericom”) will provide Customer with access to and use of Ericom’s hosted software services (the “Services”) and related services described in an invoice and/or “SaaS Certificate” issued to Customer by Ericom, or by an Ericom approved partner authorized to resell or distribute Services to end user customers (“Ericom Partner”). The invoice and SaaS Certificate, together with any other Ericom terms accepted by Customer or posted on the [Hosted Services Terms and Agreements page](#) of the Ericom website (collectively, “Order Terms”) are made subject to, and deemed incorporated into, this Agreement.

The parties hereby agree as follows:

1. ACCESS; SUBSCRIPTIONS.

- 1.1. **Access Rights.** Ericom hereby grants Customer a limited, nontransferable and non-exclusive right for Customer’s employees and consultants and other individuals authorized by Customer (collectively, “Authorized Users”) to access and use the Services, solely for Customer’s internal business purposes, in accordance with the Documentation, the subscription term, usage and other parameters set forth in the Order Terms, and the terms and conditions of this Agreement. (“Documentation” means the reference, administrative and user manuals (excluding marketing materials) describing the standard functionality of the Services, as may be updated from time to time and made available by Ericom.) Ericom may modify, enhance, replace, or make additions to the Services at any time.
- 1.2. **Client Software License.** If Ericom provides software for download (“Client Software”), then Ericom grants Customer a nonexclusive, nontransferable license to install and use the Client Software only in object code form, solely as necessary for its permitted use of the Services in accordance with this Agreement.

Customer shall be responsible for its Authorized Users' use of the Client Software in accordance with this Agreement. Except for the foregoing license, no right, title or interest of intellectual property or other rights in or to the Client Software is granted hereunder. The Client Software may not be decompiled, disassembled, decoded, reverse engineered, or modified (except to the limited extent that such restrictions are prohibited by applicable law), nor disclosed, distributed, or made available to third parties other than Authorized Users accessing the Services in accordance with this Agreement.

- 1.3. **Ownership of the Services.** Except for the rights to access and use the Services expressly granted in Section 1.1 above, no right, title or interest of intellectual property or other proprietary rights in or to the Services, or any related software or other materials ("Ericom Materials") is transferred to Customer hereunder. Ericom and its third-party licensors retain all right, title and interests, including, without limitation, all copyright and other proprietary rights in and to the Ericom Materials and all, modifications, enhancements and derivatives thereof, including any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or its Authorized Users.
- 1.4. **Subscriptions, Named Users and Subscription Term.** The Services are purchased as "Subscriptions" based on the number of "Named Users" (or other "Subscription Model" specified in the Order Terms) and the "Subscription Term" specified in the Order Terms. The "Named User" Subscription Model is a Subscription which specifies named individuals permitted to access and use the Services. Named User accounts may not be shared or used by anyone other than the named individual authorized to use such account. The individual named with respect to a Named User account may be removed and replaced in accordance with the procedures set forth in the Documentation provided that the account has not been used for the previous thirty (30) days.
- 1.5. **Certain Subscriptions.** The following Subscriptions are subject to additional conditions (as well as those set forth in this Agreement):
 - 1.5.1. **Evaluation Subscription:** A Subscription granted for evaluation or trial of the Service may only be used for internal testing or evaluation purposes, for thirty (30) days (or such other period designated by Ericom). At the end of such period, Customer shall cease use of the Service or purchase a Subscription to the Service (as available), which shall be subject to this Agreement.
 - 1.5.2. **Service Provider Subscription:** A Subscription granted to a Service Provider (as designated in the SaaS Certificate or other Order Terms) to provide access to the Services as a managed service to its clients for their internal business purposes, subject to the terms of this Agreement and additional terms and conditions set forth in an "MSSP Agreement", "Service Provider Addendum" and/or other terms issued by Ericom.
 - 1.5.3. **Not for Resale Subscription:** A Subscription granted to Ericom Partners and Service Providers, solely for demonstration, testing, and evaluation purposes in support of their end user customers and clients.
 - 1.5.4. **Beta Service Subscription:** A Subscription provided in connection with a beta program, limited to the period of the beta program.
- 1.6. **Third Party Services.** Ericom (or Customer, with the prior written consent of Ericom) may integrate or enable a platform, add-on service or product not provided by Ericom ("Third-Party Service") for use with the Ericom Services. Use of Third-Party Services is subject to Customer's agreement with the relevant provider. Customer shall be responsible for all activities conducted by its Authorized Users and all instructions provided to Ericom with respect to the Third-Party Services. Ericom shall have no liability for Third-Party Services, including their security, functionality, operation, availability, interoperability or use of Customer Data. If Customer authorizes or enables a Third-Party Service for use with the Ericom Service, Ericom may access and exchange Customer Data with the Third-Party Service on Customer's behalf.

2. CUSTOMER ADMINISTRATION, RESTRICTIONS AND ACCEPTABLE USE POLICY.

- 2.1. **Customer Administration.** Customer shall: (a) ensure that all activities conducted by Customer, its Authorized Users, and under their accounts or credentials, comply with the Documentation, this Agreement and all laws and regulations applicable to access and use of the Services; (b) ensure the accuracy, quality and legality of Customer Data (including all Personal Information, as defined below), including providing all applicable notices and obtaining all necessary consents, permits and licenses to comply with all Data Protection Laws (defined below) applicable to the provision of Customer Data (including all Personal Information) to Ericom, and Ericom's processing thereof, in accordance with this Agreement; (c) ensure that no sensitive personal data or other special data that imposes specific or heightened data security or

data protection obligations shall be submitted to the Services or otherwise made available to Ericom; (d) take all reasonable steps to prevent unauthorized access and use of the Services and access credentials, and notify Ericom promptly of any such unauthorized access or use; (e) maintain, at all times, at least one Authorized User who is a current employee and is authorized to administer Customer's use of the Services (e.g., by purchasing additional Named User subscriptions, creating accounts and resetting passwords, assigning and managing the business rules that control each Authorized User's access to the Services; and (f) obtain and maintain all software, networks and equipment necessary for Customer's use of the Services.

- 2.2. **Restrictions.** Customer and its Authorized Users shall not, and shall not permit others to: (a) sell, lease, license or sublicense the Services, or include the Services in a service bureau or outsourcing offering, unless Customer is designated as a "Service Provider" in the Order Terms (and only to the extent permitted therein); (b) copy, modify, change, alter, translate, create derivative works from, reverse engineer, disassemble or decompile or otherwise translate any portion of the Services, any Client Software or any software included in the Services or the Services-created metadata; (c) provide, disclose, divulge or make available to, or permit use of the Services by, any third party (except as expressly provided herein); (d) copy or reproduce all or any part of the Services (except as expressly provided herein); (e) interfere with the Services (including any subscription, control or security component thereof); (f) introduce into or transmit through the Services any virus, worm, trap door, back door or other malicious program ("Malicious Code"); (g) interfere with or disrupt the integrity or performance of the Service or third-party data contained therein; (h) remove, obscure or alter any copyright notice, trademarks or other proprietary rights notices affixed to or contained within the Services; (i) attempt to gain unauthorized access to the Services or related systems or networks, or permit direct or indirect access to or use of the Service to circumvent any usage limit under the Order Terms, Documentation or this Agreement; (j) host, provide, or develop software to intercept, emulate or redirect the Services in any way, or create, use or maintain any unauthorized connections to the Services; (k) allow access to the Services by a direct competitor of Ericom, except with Ericom's prior written consent; (l) access the Services to monitor their availability, performance or functionality, or for any other benchmarking or competitive purposes; or (m) perform or disclose any performance or vulnerability testing of the Services without Ericom's prior written approval.
- 2.3. **Acceptable Use Policy.** Customer may not, and may not cause, enable or permit others to, (a) use the Services for any illegal, harmful, fraudulent, infringing or offensive use, or to transmit, store, display, distribute or otherwise make available content that is illegal, harmful, fraudulent, infringing or offensive, including: to harass any person; cause damage or injury to any person or property; publish any material that is false, defamatory, harassing or obscene; violate privacy rights; promote bigotry, racism, hatred or harm; act as an open relay or open proxy; send unsolicited bulk e-mail, junk mail, spam or chain letters or Malicious Code; infringe property or other rights of any third party; violate the security or integrity of any network, computer or communications system, software application, or network or computing device; or otherwise violate applicable laws, ordinances or regulations; (b) use the Services in any application or situation where a Services failure could lead to death or serious bodily injury of any person or to severe physical or environmental damage ("High-Risk Use"); or (c) use the Services to perform cyber currency or crypto currency mining (collectively, "Acceptable Use Policy").
- 2.4. **Customer Breach.** If Ericom determines, in good faith, that Customer's use of the Services violates the Acceptable Use Policy or the restrictions set forth in Section 2.2 above or risks harm to other customers or the security, availability or integrity of the Services, then Ericom may suspend Customer's use of the Services or take other remedial action and Customer shall remain responsible for any fees due under this Agreement. Customer shall indemnify and hold harmless Ericom from and against any claims, actions, damages, penalties, costs, losses and expenses (including legal fees) arising from or relating to any violation by Customer of the provisions of this Section 2.

3. **SERVICE LEVEL AGREEMENT AND CUSTOMER SUPPORT.** Ericom will use commercially reasonable efforts to make the Services available to Customer and provide technical support services to Customer ("Customer Support"), in accordance with Ericom's then current Service Level Agreement and Support Services Terms and Conditions, posted on the [Hosted Services Terms and Agreements page](#) of the Ericom website, and the terms of this Agreement.

4. CUSTOMER DATA; PERSONAL INFORMATION; SECURITY.

4.1. Customer Data.

- 4.1.1. "Customer Data" means all data or information (including Personal Information) submitted by or on behalf of Customer to the Services. Subject to the limited licenses granted in this Agreement, Ericom acquires no right, title or interest from Customer under this Agreement in or to the Customer Data.
- 4.1.2. Customer hereby grants Ericom, its affiliates and service providers a worldwide, limited-term license to host, copy, modify, transmit and display the Customer Data only as necessary to provide and improve the Services, perform Ericom's other obligations under this Agreement and prevent unauthorized and improper use of the Services.
- 4.1.3. Notwithstanding anything to the contrary herein, Customer agrees that Ericom, its affiliates and service providers may obtain and aggregate technical and other data about Customer's use of the Services such that it is non-personally identifiable with respect to Customer and its Authorized Users ("Aggregated Data"), and use the Aggregated Data to analyze, improve, support and operate the Services and other Ericom offerings during and after the term of this Agreement, generate industry benchmark or best practice guidance, recommendations or similar reports and other business purposes. Ericom shall own all Aggregated Data.

4.2. Personal Information.

- 4.2.1. "Personal Information" means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, to or with an identified or identifiable natural person and is subject to privacy and data protection laws and regulations ("Data Protection Laws").
- 4.2.2. To the extent that Customer Data includes Personal Information which is processed by Ericom, as processor, on behalf of Customer, each party shall comply with the terms and provisions of the Data Protection Addendum posted on the [Hosted Services Terms and Agreements page](#) of the Ericom website, as may be updated from time to time ("DPA"), which is hereby incorporated into and made subject to this Agreement.
- 4.2.3. To the extent that Ericom collects or processes Personal Information as controller, the parties shall comply with the terms and provisions of the [Privacy Policy](#) available on the Ericom website, as may be updated from time to time.

- 4.3. **Security.** Ericom shall maintain reasonable administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, including Personal Information, as set forth in the Ericom Security Measures for Data Protection made available by Ericom at the [Hosted Services Terms and Licenses page](#) of the Ericom website, as may be updated from time to time.

5. **PROFESSIONAL SERVICES.** Customer may order from Ericom professional services that are beyond the scope of the Services, such as integration, configuration, customization and data entry services ("Professional Services"), pursuant to the terms set forth in the Order Terms or another agreed upon order for Professional Services ("Professional Services Order") and this Agreement. In the event of any conflict between the terms of this Agreement and the express provisions of any Professional Services Order, the terms of the Professional Services Order will control with respect to the Professional Services. Ericom will control the manner and means by which the Professional Services are performed and reserves the right to determine the personnel assigned to perform the Professional Services. Ericom may engage third parties to perform the Professional Services, provided Ericom remains responsible for their acts and omissions. Ericom retains all right, title, and interest in and to anything used or developed in connection with the performance of the Professional Services, including, among other things, software programs, specifications, ideas, inventions, processes, and know-how, and all intellectual property rights therein. Ericom grants to Customer a non-exclusive, non-transferable, limited-term license to use all Professional Services deliverables, solely in conjunction with Customer's permitted use of the Services and in accordance with this Agreement.

6. FEES; PAYMENT TERMS.

- 6.1. **Fees.** In consideration of the rights to the Services granted in this Agreement, Customer shall pay the fees specified in the Order Terms. Customer will provide Ericom with valid and updated credit card information, or with a valid purchase order or alternative order document reasonably acceptable to Ericom. If Customer provides credit card information to Ericom, Customer authorizes Ericom to charge such credit

card for all Services listed in the Order Terms for the initial subscription term and any renewal subscription term. Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the Order Terms. If the Order Terms specify that payment will be by a method other than a credit card, Ericom will invoice Customer in advance and otherwise in accordance with the Order Terms. Unless otherwise stated in the Order Terms, invoiced charges (as opposed to credit card charges) are due net 30 days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Ericom and notifying Ericom of any changes to such information. Late payments will incur interest at the lesser of 1.5% per month or the maximum allowable rate under applicable law. Payment obligations are non-cancellable and fees paid are non-refundable. All payments shall be made in the currency stated in the Order Terms. If Customer fails to pay Ericom any amount when due and such failure is not cured within thirty (30) days following notice to Customer of such failure, Ericom may suspend or terminate the applicable Services or Professional Services and/or terminate this Agreement, upon notice to Customer, and Customer shall remain responsible for any fees due for the remaining term of any Subscription. Customer shall reimburse Ericom for any costs of collection, including reasonable attorneys' fees. If usage of the Services exceeds that indicated/permitted in the Order Terms, Customer shall pay Ericom's standard subscription fees for such additional usage within thirty (30) days of Ericom's invoice plus interest as set forth above, from the first day of such excess use.

- 6.2. **Taxes.** Fees quoted or specified in the Order Terms or Professional Services Order do not include, and Customer will pay or reimburse Ericom for, any applicable sales tax, use tax, goods and services tax (GST), withholding tax and value added tax (VAT) or any other tax levied or imposed by reason of the performance by Ericom under this Agreement, *excluding* income taxes. If Customer is a tax-exempt organization and is not obligated to pay taxes arising out of this Agreement, Customer will provide Ericom with any required documentation to verify its tax-exempt status with the applicable taxing authorities.
- 6.3. **Payment Disputes.** If Customer provides written notice that it disputes any portion of the invoiced fees within thirty (30) days of Ericom's invoice, then Customer may withhold the disputed fees (and Ericom shall not charge interest or suspend or terminate the applicable Services and/or terminate this Agreement) *provided* Customer acts reasonably and in good faith, describes its dispute in reasonable detail, pays the undisputed fees when due and cooperates diligently with Ericom to resolve the dispute.
- 6.4. **Ericom Partner.** Payment for Services or Professional Services purchased from an Ericom Partner shall not be subject to the provisions of Sections 6.1 – 6.3 above but shall be paid to the Ericom Partner in accordance with Customer's agreement with the Ericom Partner. If Customer fails to pay the Ericom Partner any such amount when due and such failure is not cured within thirty (30) days following the Ericom Partner's notice to Customer of such failure, Ericom may suspend or terminate the applicable Services or Professional Services, upon notice to Customer

7. **LIMITED WARRANTIES.**

- 7.1. **Mutual Warranty.** Each party represents and warrants that it has the authority to enter into this Agreement and perform its obligations hereunder.
- 7.2. **Services Warranty.** Ericom warrants that the Services will substantially operate and conform to the Documentation, under normal use in accordance with the Documentation and this Agreement ("Services Warranty"). If the Customer shall notify Ericom in writing of a claim of a breach of the Services Warranty within thirty (30) days of the claimed breach and such claim is reasonably determined by Ericom to be Ericom's responsibility, Ericom will, within thirty (30) days of Customer's notice, (i) correct reproducible errors in the Service that caused the breach or provide a workaround; (ii) provide Customer with a plan reasonably acceptable to Customer for correcting the error; or (iii) if neither (i) nor (ii) can be accomplished with reasonable efforts from Ericom, then Ericom may terminate the affected Service subscription and Customer will be entitled to a refund of the prepaid subscription fees paid to Ericom for the balance of such subscription. This Section 7.2 sets forth Customer's sole and exclusive remedy, and Ericom's entire liability, for any breach of warranty related to the Services (but shall not affect Ericom's obligation to provide Customer Support or any credit available under the SLA).
- 7.3. **Professional Services Warranty.** Ericom warrants that the Professional Services shall be performed in a professional and workmanlike manner ("Professional Services Warranty"). Provided that Customer shall notify Ericom in writing of a breach of the Professional Services Warranty, including a description of the breach in reasonable detail, within thirty (30) days of delivery of the Professional Services and such claim is reasonably determined by Ericom to be Ericom's responsibility, Ericom will, within 30 days of Customer's notice, (i) correct or reperform the Professional Services that caused the breach; or (ii) if the same cannot be accomplished with Ericom's reasonable efforts, then Ericom may terminate Customer's use of the affected deliverables and Customer will be entitled to a refund of the fees paid to Ericom with

respect to such Professional Services. This Section 7.3 sets forth Customer's sole and exclusive remedy, and Ericom's entire liability, for any breach of warranty related to the Professional Services.

7.4. **Disclaimer.** Except as set forth in Sections 7.2 and 7.3, Ericom makes no representations or warranties, express or implied, regarding the Services, Client Software, Customer Support, Professional Services or any other matter covered by this Agreement, which are provided "AS IS". ERICOM EXPRESSLY DISCLAIMS, TO THE MAXIMUM EXTENT PERMISSIBLE UNDER APPLICABLE LAW, ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ANY WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR THAT ALL ERRORS WILL BE CORRECTED. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THE ORDER TERMS OR THIS AGREEMENT, THE SERVICES (AS WELL AS ANY SOFTWARE AND ANY OTHER MATERIALS OR SERVICES) PROVIDED IN CONNECTION WITH EVALUATION SUBSCRIPTIONS, NOT FOR RESALE SUBSCRIPTIONS, BETA SUBSCRIPTIONS OR OTHERWISE PROVIDED FOR NONPRODUCTION USE OR WITHOUT CHARGE ARE PROVIDED BY ERICOM "AS IS," WITHOUT WARRANTIES, REPRESENTATIONS, LIABILITY, CREDITS OR INDEMNITIES OF ANY KIND.

8. LIMITATION OF LIABILITY. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, BUT ONLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW:

IN NO EVENT WILL ERICOM, ITS AFFILIATES OR ITS SUPPLIERS BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF OR DAMAGE TO CONTENT OR DATA OR COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL, RELIANCE OR CONSEQUENTIAL DAMAGES OF ANY KIND, UNDER OR RELATED TO THIS AGREEMENT.

ERICOM'S (AND ITS SUPPLIERS') CUMULATIVE LIABILITY FOR DAMAGES OF ANY KIND UNDER OR RELATED TO THIS AGREEMENT WILL NOT IN THE AGGREGATE EXCEED THE FEES PAID TO ERICOM FOR THE RELEVANT SERVICE DURING THE 12 MONTHS PRECEDING THE DATE ON WHICH A CLAIM FIRST ACCRUES.

THE FOREGOING LIMITATIONS SHALL APPLY WHETHER AN ACTION IS ALLEGED AS A BREACH OF CONTRACT, TORT OR OTHER FORM OF ACTION, EVEN IF ERICOM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR CUSTOMER'S REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE.

9. CONFIDENTIAL INFORMATION.

9.1. "Confidential Information" means Customer Data other than Personal Information (which shall be protected under Section 4.2 above), the terms of this Agreement, the Services, any other software or services provided by Ericom under this Agreement, the logon identifiers and passwords provided to Customer and its Authorized Users, the fees charged under this Agreement, security of the Services, audit reports, pricing, "know how", financial, business and technical information, any other materials marked confidential by Customer or Ericom and any other information disclosed in connection with this Agreement that is identified in writing as confidential at the time of its disclosure or should reasonably be considered confidential based upon the nature of the information or the circumstances of the disclosure. Confidential Information will not include information that is: (a) publicly available; (b) already in the receiving party's possession and not subject to a confidentiality obligation; (c) obtained by the receiving party from any source without any obligation of confidentiality; (d) independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as evidenced by internal documentation

9.2. Each party shall (a) take reasonable precautions to safeguard the confidentiality of the other party's Confidential Information, including at a minimum, those precautions taken by the receiving party to protect its own Confidential Information; (b) use Confidential Information solely to the extent necessary to fulfill its obligations and exercise its rights under this Agreement (the "Purpose"); and (c) not disclose, or permit to be disclosed, the Confidential Information of the other party to any third party. Notwithstanding the foregoing, the receiving party may disclose Confidential Information to its employees, agents, contractors and other representatives ("Representatives") having a need to know for the Purpose and are bound to confidentiality obligations no less protective than those set forth in this Section 9. The receiving party shall remain responsible for the compliance of its Representatives with this Section 9. Notwithstanding the foregoing, the receiving party may disclose Confidential Information, if required by law, subpoena or court

order, provided, subject to applicable legal requirements, it gives prompt notice to the disclosing party and cooperates, at the disclosing party's expense, in any effort to obtain confidential or other protective treatment.

- 9.3. The Confidential Information may constitute valuable trade secrets of the disclosing party. Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section 9.
- 9.4. The obligations set forth in this Section 9 shall survive the termination or expiration of this Agreement with respect to Confidential Information disclosed during the Term.

10. INDEMNIFICATION BY ERICOM. Ericom will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the use of the Services in accordance with the Documentation and this Agreement infringes or misappropriates such third party's intellectual property rights ("Claim"), and will indemnify and hold Customer harmless from any damages, attorney fees and costs finally awarded against Customer on such Claim, or agreed to in settlement of such Claim and approved by Ericom, provided Customer (a) promptly gives Ericom written notice of the Claim, (b) grants Ericom sole control of the defense and settlement of the Claim (except that Ericom may not settle any Claim unless the settlement unconditionally releases Customer of all liability), and (c) provides Ericom all reasonable assistance, at Ericom's expense. If Ericom receives information about an actual or potential infringement or misappropriation claim related to the Services, Ericom may, at its expense, (i) modify the Services so that they no longer infringe or misappropriate *provided that* the modified Services shall substantially operate and conform to the Documentation; (ii) obtain a license for Customer's continued use of the Services in accordance with this Agreement; or (iii) terminate Customer's right to use the Services upon thirty (30) days' prior written notice and refund Customer any prepaid, unused fees covering the remainder of the subscription term of the terminated Service. The above defense and indemnification obligations do not apply to the extent a Claim arises from: use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Ericom or Customer's breach of this Agreement. This Section 10 states Ericom's sole liability to, and Customer's exclusive remedy for, any claim described herein.

11. TERM AND TERMINATION.

- 11.1. **Term.** This Agreement shall continue in full force and effect until the expiration or termination of the subscriptions under the Order Terms, unless this Agreement is terminated earlier as provided hereunder.
- 11.2. **Subscription Term.** The term of any Subscription shall be the term specified in the Order Terms. If the Order Terms provide for automatic renewal, then the Subscription shall automatically renew for successive one-year terms or such other renewal terms specified in the Order Terms (in which case, the initial term and each renewal term, are each referred to herein as a "Subscription Term") *unless* either party provides written notice of non-renewal at least 30 days prior to commencement of the applicable Subscription Term. Ericom may send Customer email notice of an increase in fees for any automatic renewal Subscription Term at least thirty (30) days prior to commencement of the renewal Subscription Term.
- 11.3. **Termination by Ericom.** Upon notice to Customer, Ericom may suspend or terminate the Services, Professional Services and/or terminate this Agreement if: (a) Customer fails to pay any amount due hereunder (or to the Ericom Partner) and such failure to pay is not cured within thirty (30) days following notice to Customer of such breach; (b) Customer materially breaches any term or condition of this Agreement and such breach is not cured by Customer within thirty (30) days following notice to Customer of such breach; or (c) Customer (i) terminates or suspends its business activities; (ii) liquidates all or a substantial portion of its assets for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority to effect such liquidation of assets; or (iii) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes to effect such liquidation of assets.
- 11.4. **Termination by Customer.** Upon notice to Ericom, Customer may terminate this Agreement if Ericom (i) is in material breach of this Agreement and fails to remedy such material breach within thirty (30) days following notice to Ericom of such breach; (ii) terminates or suspends its business activities; (iii) liquidates all or a substantial portion of its assets for the benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority to effect such liquidation of assets; or (iv) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes to effect such liquidation of assets.
- 11.5. **Refund or Payment upon Termination.** If this Agreement is terminated by Customer in accordance with

Section 11.4, Ericom will refund Customer any prepaid, unused fees paid to Ericom. If this Agreement is terminated by Ericom in accordance with Section 11.3, Customer will pay any unpaid fees for the Services (through the end of all Subscription Terms) and the Professional Services. In no event will any termination relieve Customer of its obligation to pay any fees payable for the period prior to the effective date of termination.

11.6. **Data Extraction.** Upon any termination or expiration and for a period of thirty (30) days thereafter, Ericom shall make Customer Data available to Customer for export or download or provide Customer with a copy thereof (subject to the periodic deletion of Customer Data as set forth in the Documentation). After such period, Ericom may delete all Customer Data.

11.7. **Survival.** The following Sections shall survive any termination or expiration of this Agreement: Section 1.3 (Ownership of the Services), 2.4 (Customer Breach), 4.1 (Customer Data), 6 (Fees; Payment Terms), 7.4 (Disclaimer), 8 (Limitation of Liability), 9 (Confidential Information), 11.5 (Refund or Payment upon Termination), 11.6 (Data Extraction), 11.7 (Survival) and Sections 12-17.

12. GOVERNING LAW; VENUE.

12.1. This Agreement will be governed by the laws of the state of New Jersey, excluding its rules regarding conflicts of law. Except as set forth in Section 12.2 below, venue for any dispute hereunder shall be a court of competent jurisdiction located in Newark, New Jersey, and the parties irrevocably submit to the exclusive jurisdiction of such courts. Application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transaction Act (UCITA) is excluded from this Agreement. Any cause of action or claim of Customer hereunder must be commenced within one (1) year after such claim or cause of action arises, or shall be deemed waived. The prevailing party in any action to enforce this Agreement will be entitled to recover its reasonable attorneys' fees and costs in connection with such action.

12.2. Except with respect to the protection and enforcement of Ericom's (and its third party licensors') intellectual property rights and its rights to seek and/or obtain injunctive or equitable relief, any claim, cause of action or proceeding arising out of or relating to the Agreement or the Services shall be resolved by mandatory, binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). Any such claim, cause of action or proceeding shall be arbitrated on an individual basis and without resort to any form of class action. The arbitration shall be conducted in Newark, New Jersey, and the Federal Arbitration Act, and not any state law concerning arbitration, shall apply.

13. **FEDERAL GOVERNMENT END USER PROVISIONS.** Ericom will provide the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Customer hereby agrees that the Service under these Terms qualifies as "Commercial Computer Software" and "Commercial Computer Software Documentation", within the meaning of Federal Acquisition Regulation ("FAR") 2.101, FAR 12.212, Defense Federal Acquisition Regulation Supplement ("DFARS") 227.7201, and DFARS 252.227-7014. Customer agrees that the terms of this Section 13 shall apply to Customer. Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial subscription agreement is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). In no event shall source code be provided or considered to be a deliverable or a software deliverable under this Agreement. If a government agency has a need for rights not granted under these terms, it must negotiate with Ericom to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

14. **EXPORT COMPLIANCE.** Customer acknowledges that the Service contains cryptographic features and is subject to applicable laws governing the import, export, transfer, and use of the Service, including, but not limited to, the laws of the United States of America (U.S.) and the State of Israel and the laws of any other country applicable to Customer. Customer shall not export, re-export, or otherwise transfer the Service to any prohibited destination country. (As of the Effective Date of this Agreement, (a) Iran, Syria, North Korea, Cuba, Sudan, Lebanon, Russia, and the Donetsk, Luhansk and Crimea regions of Ukraine are subject to U.S. and/or Israeli sanctions/export controls; and (b) Iraq, Libya, and the Palestinian Authority require an Israeli export license.) Customer represents and warrants that Customer and its Authorized Users are not located in any of such countries. In addition, Customer may not grant access to or otherwise export or re-export the Service to individuals or entities

listed on any U.S. restricted party list (including, but not limited to, the OFAC Specially Designated Nationals List, the BIS Denied Persons List and the BIS Entity List) without first obtaining any required license. (See <https://www.trade.gov/consolidated-screening-list> for more information.) Customer shall not authorize or permit any third party to do any of the foregoing.

15. **ASSIGNMENT.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent, not to be unreasonably withheld. Notwithstanding the foregoing, Ericom may assign (without Customer's consent): (a) this Agreement in its entirety, to Ericom's affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets; or (b) Ericom's right to receive payments hereunder, to a third party, which shall be considered a third-party beneficiary of Customer's payment obligations under this Agreement. If Customer is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Ericom, then upon written notice, Ericom may terminate this Agreement and refund to Customer any prepaid, unused fees covering the remainder of the term of all Subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.
16. **FORCE MAJEURE.** Excluding fees due by Customer, neither party shall be responsible or liable for any delay or failure to act caused by war, invasion, insurrection, riot, the order of any civil or military authority, pandemic, fire, flood, earthquake, weather, interruption to or absence of energy supplies, lock outs, strikes, other labor disputes, the failure of the party's suppliers, service providers or carriers to meet their contractual obligations, or any other cause beyond the party's reasonable control ("Force Majeure Events").

17. **GENERAL PROVISIONS.**

- 17.1. Except as otherwise set forth in this Agreement, any notice required or permitted to be delivered pursuant to this Agreement shall be in writing and will be deemed given: (a) upon the earlier of receipt or 24 hours after delivery, if by email; (b) upon receipt, if by personal delivery, certified or registered mail (return receipt requested); or (c) one day after dispatch, if by a commercial overnight delivery service. If to Ericom, notice must be provided to Ericom at the address set forth in the Order Terms, Attn: Legal Notice, with a copy to legal@ericom.com. If to Customer, notice must be provided at the address set forth in the Order Terms. Either party may update its address with notice to the other party. Ericom may send operational notices to Customer by email or through the Service.
- 17.2. The delay or failure of either party to enforce any of its rights under this Agreement will not be deemed to be a waiver or modification by such party of any of its rights under this Agreement. If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of this Agreement. Except where an exclusive remedy is specified, exercising a remedy under this Agreement, including termination, does not limit other remedies a party may have.
- 17.3. Customer grants Ericom the right to use Customer's name and logo in Ericom's website, press releases and product brochures (subject to Customer's standard trademark usage guidelines provided to Ericom) to indicate that Customer is an Ericom customer.
- 17.4. The headings used herein are for reference and convenience only and shall not enter into the interpretation hereof. No Customer purchase order, preprinted form or other document shall add to or vary the terms of this Agreement or have any force or effect. Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract. Except as expressly set forth herein, this Agreement will not create any right or cause of action for any third-party beneficiary or other third party.
- 17.5. This Agreement (including any Schedules hereto and any terms referenced herein) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter. The English version of this Agreement shall be the version used when interpreting or construing this Agreement. For the avoidance of doubt, this Agreement is neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by Ericom regarding future functionality or features. Unless otherwise set forth herein, this Agreement may only be modified in writing and executed by the parties.
