



## TERMS AND CONDITIONS OF SALE

These Terms and Conditions of Sale (the **"Agreement"**) are the entire agreement between CyberSecure IPS, LLC with offices at 3 Bethesda Metro Center, Suite 700, Bethesda Maryland 20814 (**"Supplier"**) and the Customer listed on the sales quotation, order acknowledgement, or invoice concerning Customer's purchase of Supplier products and services, which is on the reverse side of this Agreement and incorporated by reference (**"Sale Document"**).

This Agreement supersedes, and its terms govern, any prior agreements (including without limitation any conflicting terms in any nondisclosure agreements), proposals or other communications, oral or written, between the parties with respect to the Products (as defined below). This Agreement governs all documents, including without limitation all requests for proposal/requests for quote and purchase orders, issued by Customer with respect to the Products and any additional or conflicting terms and conditions contained in any such documents are of no force and effect and rejected unless separately accepted in writing by an authorized representative of Supplier. An end user software license agreement may be included with the Products (the **"End User License Agreement"** or **"EULA"**). If there is a conflict between this Agreement and the EULA, the EULA shall control.

### 1. Definitions.

**"Customer Support Policy"** means the Supplier document describing the scope and pricing of Support Services.

**"Documentation"** means the Supplier documentation for the Products made available by Supplier to Customer in hard copy or in electronic form with the Products or otherwise under this Agreement.

**"Products"** means the products described on the reverse side of this Agreement or in the quote, acknowledgment or invoice to which this Agreement is attached, which will include Prototypes only if expressly included on the reverse side of this Agreement or in such attachment.

**"Professional Services"** means the implementation, consulting and other services (excluding Support Services) described in the quote, order acknowledgement or invoice that Supplier agrees to provide to Customer.

**"Prototypes"** means the evaluation or non-production version of the products described on the reverse side of this Agreement or in the quote, acknowledgement or invoice to which this Agreement is attached, and provided by Supplier to Customer for testing and evaluation purposes only.

**"Purchase Order"** means a written order issued by Customer and submitted to Supplier for Products and/or Services, signed by an authorized Customer representative, specifying the quantity, model number and description of the Products, purchase price and any applicable discounts, billing address, destination (shipping address), designated carrier (if any), mode of shipment and requested delivery date.

**"Services"** means Professional Services and Support Services.

**"Support Services"** means the services as defined in the Customer Support Policy, which Supplier may amend, modify or withdraw without any notice.

2. **Prices and Payment.** Supplier's prices do not include any foreign, federal, state or local sales, use or other similar taxes or duties or other fees (including any import or export fees), however designated, levied against the sale, licensing, delivery or use of the Products and Services. Customer is solely responsible for and shall pay all such taxes, duties and fees, provided, however, that Customer shall not be liable for any taxes based on Supplier's net income. If Customer is required to withhold or deduct any taxes from any payment to Supplier hereunder, Customer shall furnish to Supplier, without delay, a tax certificate showing the payment of such tax. Payment terms are 30 Net days from the date of Supplier's invoice. All payments shall be made in U.S. dollars, unless otherwise specified by Supplier in writing. Any invoiced amount which is not paid when due will bear interest at the rate of one and one-half percent (1½%) per month, or the maximum allowable rate by law, whichever is less. Customer agrees that outstanding balances remaining more than thirty (30) calendar days following the due date shall give rise to a material breach of this Agreement by Customer, justifying immediate termination of this Agreement by Supplier and suspension of any and all Services by Supplier and Supplier withholding further delivery of Products to Customer (including those previously ordered by but not yet delivered to Customer). Customer also agrees to pay or reimburse all fees and expenses reasonably incurred by Supplier in collecting any amounts due under this Agreement, including, but not limited to, all reasonable attorneys' fees associated with the collection. Where permitted by law, Supplier retains a security interest in Products sold until full payment is received. Supplier may, at Customer's expense, retake possession of the Products for which Customer has not timely paid Supplier. For that purpose, Customer grants Supplier, or any party representing or elected by Supplier, an irrevocable license to enter the premises where the Products then are, and, at Supplier's option in so doing, act in the name of Customer. With respect to Products for which Customer has not paid Supplier, Customer shall keep such Products stored in such a manner which enables them to be identified as the Products subject to such security interest and, wherever required by Supplier, identify the Products to Supplier.

3. **Order Procedure; Reschedule and Delivery.** All orders of the Products shall be made by Purchase Orders submitted by Customer via facsimile, e-mail or other equivalent methods as reasonably specified by Supplier in writing. Purchase Orders are subject to approval and acceptance by Supplier in writing. Supplier will accept or reject Purchase Orders within ten (10) days after Supplier's receipt and Purchase Orders not accepted within that time shall be deemed rejected. Purchaser may accept a Purchase Order by sending written notice to Customer or by shipping Products to Customer. Customer may reschedule Purchase Orders One (1) time for no more than Sixty (60) days from the original scheduled delivery date, provided written notice is received by Supplier at least Thirty (30) days before the originally scheduled delivery date. In the event that Supplier agrees to permit Customer to cancel a Purchase Order or part of a Purchase Order, Customer shall be liable for a cancellation fee equal to 50% outside of 60 days, 25% outside of 45 days, 0% outside of 30 days. Supplier will use commercially reasonable efforts to deliver Products by the delivery date set forth in Supplier's quote or order acknowledgement. Supplier may make partial shipments, to be separately invoiced and paid for when due and Customer may not reject partial shipments. Any delay in delivery of any installment will not relieve Customer of its obligation to accept the remaining deliveries. Supplier will not be liable for any failure to ship complete orders or for any shipment delay. Supplier's ability to deliver Services will depend on

Customer's reasonable and timely cooperation and the accuracy and completeness of any information from Customer needed to deliver the Services. All Products will be delivered FOB, FOB Shipping Point. Unless specified in the Purchase Order, Supplier will select the mode of delivery and the carrier. Title and all risk of loss of, or damage to Products, will pass to Customer upon delivery by Supplier to the carrier, freight forwarder or Customer, whichever occurs first. Customer will be responsible for and pay all packing, delivery, freight and insurance charges, which charges Supplier may require Customer to pay in advance. All Products will be deemed accepted upon delivery.

4. **Limited Warranty; Disclaimer of Warranties.** Supplier warrants to Customer that the Products (and for purposes of this Section 4 excluding Prototypes) will substantially conform to the functional specifications set forth in the Documentation for One (1) year following shipment to Customer when used without material alteration and in accordance with this Agreement and any directions set forth in the Documentation. Non-Supplier branded products receive warranty coverage as provided by the relevant third party supplier. The foregoing warranty shall not apply: (i) if the Product are not used in accordance with the Documentation; (ii) to any modifications to any of the Products that are not made by Supplier; (iii) if a defect is due to any third party hardware or software; (iv) if Products are damaged by factors or circumstances outside of Supplier's control (including but not limited to accident, fire, electrical surges and water exposure) and acts of God, (v) malware, virus, worms introduced into the Product after delivery to the Customer, or (vi) any defects or failures in the Products that arise from negligence or abuse by Customer. Pass through Original Manufacturer's Standard product warranty: One Year. Supplier's sole obligation, and Customer's exclusive remedy, for any breach of the foregoing warranty shall be, at Supplier's option, to repair any defective Product or replace any defective Product with a conforming Product. NO WARRANTIES OF ANY KIND ARE MADE WITH RESPECT TO ANY PROTOTYPES; CUSTOMER ACKNOWLEDGES AND AGREES THAT PROTOTYPES ARE STILL IN DEVELOPMENT PHASE AND MAY CONTAIN ERRORS IN FUNCTIONALITY AND MAY NOT OPERATE CONSISTENTLY, REGULARLY OR AT ALL. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 4, SUPPLIER AND ITS LICENSORS AND SUPPLIERS MAKE NO OTHER EXPRESS OR IMPLIED WARRANTIES AND TO THE EXTENT PERMITTED BY LAW AND SUPPLIER AND ITS LICENSORS AND SUPPLIERS SPECIFICALLY DISCLAIM AND EXCLUDE ALL OTHER WARRANTIES, WHETHER STATUTORY, EXPRESS, OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING DUE TO COURSE OF CONDUCT OR USAGE OF TRADE. SUPPLIER DOES NOT REPRESENT THAT THE USE OF THE PRODUCTS WILL BE COMPLETELY SECURE, UNINTERRUPTED OR ERROR-FREE OR THAT ANY ERRORS WILL BE CORRECTED. SOME STATES DO NOT PERMIT THE DISCLAIMER OF WARRANTIES IN CERTAIN CIRCUMSTANCES AND SO PORTIONS OF THE FOREGOING MAY NOT APPLY TO CUSTOMER.

5. **Limited Liability.** IN NO EVENT SHALL SUPPLIER'S LIABILITY TO CUSTOMER EXCEED THE AGGREGATE AMOUNTS PAID BY CUSTOMER TO SUPPLIER FOR THE PRODUCTS AND SERVICES THAT ARE THE SUBJECT OF THIS QUOTE, ACKNOWLEDGEMENT OR INVOICE. NEITHER SUPPLIER NOR ITS SUPPLIERS OR LICENSORS SHALL BE LIABLE TO CUSTOMER OR ANY OTHER ENTITY FOR ANY (A) SPECIAL, CONSEQUENTIAL, INCIDENTAL OR INDIRECT DAMAGES, (B) LOST PROFITS, LOST BUSINESS OR LOST OR CORRUPTED DATA, OR (C) COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS, TECHNOLOGY, GOODS OR SERVICES, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, AND WHETHER OR NOT SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS IN THIS SECTION SHALL APPLY (A) NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY, (B) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND (C) REGARDLESS OF THE FORM OF ACTION, WHETHER BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHER THEORY. SOME STATES DO NOT PERMIT THE LIMITATION/EXCLUSION OF DAMAGES IN CERTAIN CIRCUMSTANCES AND SO PORTIONS OF THE FOREGOING MAY NOT APPLY TO CUSTOMER.

6. **Proprietary Rights; Feedback.** Customer shall not disclose, provide, or otherwise make available any trade secrets, copyrighted material or other intellectual property rights embodied in the Products in any form to any third party without the prior written consent of Supplier. Customer shall implement reasonable security measures to protect such trade secrets and copyrighted material. Customer acknowledges and agrees that Supplier and its licensors own all right, title, and interest, including without limitation any and all patents, copyrights, and trade secrets, embodied in the Products and Documentation. To the extent that Supplier provides any Services to Customer, any developments, reports, studies or other work product that results from the Services remain owned by Supplier unless the parties agree in writing otherwise. Prototypes are unreleased and have not yet been fully tested and may not yet comply or operate according to final specifications. Prototypes may not be accessible, usable or functional at all times. Prototypes are available only for the limited time period specified on the quote or order acknowledgement. Customer must return all Prototypes at Supplier's cost and expense at the end of the specified test period, packed and shipped as directed by Supplier. Customer will provide Supplier with all feedback regarding its experience using the Prototypes. All feedback, ideas, suggestions, modifications and the like that Customer provides to Supplier under this Agreement (the **"Supportive Information"**) will belong to Supplier, but Customer may use the Supportive Information. Customer hereby assigns to Supplier all right, title and interest in and to the Supportive Information and the related intellectual property rights. Customer hereby agrees to serve as a reference for Supplier's potential customers, analysts or investors via phone and/or email and participate in case studies as reasonably requested.

7. **License Terms.** If any Products are or include software provided by Supplier, and there is not a separate end user license agreement included with the Product, the following terms will apply: Supplier grants Customer a non-exclusive, terminable, license to use the version or release of the Supplier-branded software so provided by Supplier. Permitted use is for Customer's internal purposes only (and not for further commercialization or the benefit of any third party), and is subject to any specific Documentation provided with the software product. For non-Supplier branded software, the third party's license terms will govern use of such software. Customer may order new software versions, releases or maintenance updates (**"Updates"**), if available, separately or through an Supplier software support agreement. Additional licenses or fees may apply for these Updates or for the use of the software in an upgraded environment. Updates are subject to the license terms in effect at the time that Supplier makes them available to Customer. Supplier may monitor use/license restrictions remotely and, if Supplier makes a license management program

available, Customer agrees to install and use it within a reasonable period of time. Customer may make a copy or adaptation of a licensed software product only for archival purposes or when it is an essential step in the authorized use of the software. Customer may use this archival copy without paying an additional license only when the primary system is inoperable. Customer may not copy licensed software onto or otherwise use or make it available on any public external distributed network. Licenses that allow use over Customer's intranet require restricted access by authorized users only. Customer will also not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of any software licensed to Customer under this Agreement unless permitted by statute notwithstanding this prohibition, in which case Customer will promptly provide Supplier with reasonably detailed information about those activities. Unless otherwise specified in this Agreement, any license granted is perpetual, except that if Customer fails to comply with this Agreement, Supplier may terminate the license upon written notice. Immediately upon termination, or in the case of a limited-term license, upon expiration, Customer will either destroy all copies of the software or return them to Supplier, except that Customer may retain one copy for archival purposes only. Customer may not sublicense, assign, transfer, rent or lease the software or software license except as permitted by Supplier in writing. Supplier-branded software licenses are generally transferable subject to Supplier's prior written authorization and payment to Supplier of any applicable fees. Upon such transfer, Customer's rights shall terminate and Customer shall transfer all copies of the software to the transferee. The transferee must agree in writing to be bound by the applicable software license terms. Subject to obtaining Supplier's prior written authorization to transfer, Customer may transfer firmware only upon transfer of associated hardware. Supplier may audit Customer compliance with the software license terms. Upon reasonable notice, Supplier may conduct an audit during normal business hours (with the auditor's costs being at Supplier's expense). If an audit reveals underpayments then Customer will pay to Supplier such underpayments. If underpayments discovered exceed five percent (5%) of the contract price, Customer will reimburse Supplier for the auditor costs. If software is licensed to Customer for use in the performance of a US Government prime contract or subcontract, Customer agrees that consistent with FAR 12.211 and 12.212, commercial computer software, documentation and technical data for commercial items are licensed under Supplier's standard commercial license. The software is a Commercial Item developed exclusively at private expense and comprised of "commercial computer software" and "commercial computer software documentation", as these terms are defined in the applicable acquisition regulations, including without limitation the Federal Acquisition Regulation ("FAR") at 48 C.F.R. 2.101. The software is licensed to U.S. Government End Users subject to the terms of this Agreement, as specified in 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) (for civilian agencies), and as specified in 48 C.F.R. 227.7202-3 and 48 C.F.R. 227.7202-4, consistent with 48 C.F.R. 227.7202 (for Department of Defense entities). Solely with respect to the U.S. Government's rights in the software, this U.S. Government License Rights clause is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision of the contract under which this software is obtained. The Manufacturer is Supplier.

8. **General.** Customer will not assign this Agreement or any of its rights or duties hereunder except with the prior written consent of Supplier, and any attempt to assign the Agreement without such consent will be void. Customer shall not, directly or indirectly, solicit the services of any of the employees or consultants of Supplier during the term of the Agreement and for a period of One (1) year thereafter. This Agreement will be governed and construed under the laws of the State of Maryland, excluding its conflicts of law principals. Any action filed by either party arising or relating to this Agreement shall be brought in United States, Maryland, and Customer irrevocably consents to and waives any objection to jurisdiction and venue in the state and federal courts located in United States, Maryland. The United Nations Convention on the International Sale of Goods shall not govern this Agreement. The Uniform Computer Information Transactions Act does not apply to this Agreement. The parties to this Agreement are independent contractors. Neither party shall be deemed to be an employee, agent, partner, or legal representative of the other for any purpose and neither shall have any right, power or authority to create any obligation or responsibility on behalf of the other. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such provision shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement shall remain in full force and effect. Except for Customer's payment obligations, neither party shall be deemed to be in breach of this Agreement for any failure or delay in performance caused by reasons beyond its reasonable control, including but not limited to acts of God, war, riots, orders of government, strikes, failure of the Internet or shortages of materials. No modification, amendment or waiver of any provision of this Agreement shall be effective unless in writing and signed by duly authorized representatives of the parties. No failure or delay by either party in exercising any right, power, or remedy under this Agreement, except as specifically provided herein, shall operate as a waiver of any such right, power or remedy. Customer will comply with all applicable laws in performing this Agreement and in connection with the Products. Customer agrees to comply fully with the U.S. export laws and to provide Supplier with such documentation, assurances and access to records as may be required to obtain licenses under the U.S. export laws.