



ENTRUST

Entrust Corporation Terms and Conditions of Sale

These terms and conditions, together with the accompanying sales order form or quotation and its attachment(s), if any, (the "Order") constitute the entire agreement ("Agreement") between Entrust Corporation or the nCipher or other affiliate company identified on the Order ("Entrust" or "Entrust Company") and the purchaser listed on the Order ("Customer") governing the purchase or license by Customer of the "Equipment," "Supplies" and "Software" (together, "Products") and/or services ("Services") (collectively, the "Deliverables") identified on the Order.

Term. The term of this Agreement is as shown on the Order, and if no term is shown on the Order, this Agreement will terminate upon delivery of the last Deliverable. Any provision of this Agreement which contemplates or requires performance after the termination of this Agreement will survive the termination and continue in full force and effect until completely performed.

Payments. Unless otherwise specified on an Order, all invoiced amounts are due and payable in US dollars by the 30th day following the date of invoice. Entrust may suspend or stop delivery without breach or penalty if it reasonably concludes Customer will not pay any amounts when they become due. Customer understands and agrees that Entrust has the right to apply any credit balance in Customer's account(s) against any amount owed to it by Customer. Any and all amounts not paid when due may be assessed a late payment penalty equal to the greater of 1-½% per month or the maximum rate permitted by law.

Shipment; Title and Risk of Loss. Unless otherwise specified in this Agreement: (i) Products will be shipped at Entrust's sole discretion either EXW Entrust's dock or FCA Entrust's dock (INCOTERMS 2010); (ii) Customer is responsible for obtaining all insurance needed and for all shipping charges; (iii) Deliverables are deemed to be accepted by the Customer upon delivery in accordance with the INCOTERMS stated above; and (iv) Customer is responsible for installation of the Deliverables.

Legal title and risk of loss of or damage to the Equipment and Supplies pass from Entrust to Customer upon delivery to the shipping carrier in accordance with the applicable INCOTERMS. Title to Products and Services that are delivered electronically are deemed passed when made available from the applicable Entrust location. The Products incorporate proprietary technology and trade secrets of Entrust and its licensors. All right, title and interest in and to the Products, other than that expressly granted to Customer in this Agreement, remain vested in Entrust and its third party suppliers. Any Software provided by Entrust will at all times remain the exclusive property of Entrust; Customer receives only a license to use Software. Until Customer makes full payment for the Products, it grants to Entrust a purchase money security interest in and to the Products and, if applicable, a security interest in any inventory of Products Customer holds and any proceeds therefrom or accounts receivable related thereto, regardless of the manner or terms of shipment. Customer agrees to execute such security agreements and financing statements as are customarily used in Customer's locale and as may be required by Entrust from time to time, to be filed as Entrust deems appropriate.

Taxes. All prices set forth in this Agreement do not include any federal, state, local, withholding and other federal and local taxes (other than those based on net income), value added or other taxes which may be applicable as a result of transactions under this Agreement ("Taxes"). All such Taxes will be the responsibility of Customer and will be invoiced as a separate item to Customer unless Customer provides Entrust with documentation that establishes Customer is either exempt from taxation or will pay any Taxes direct to the appropriate governmental body. Income or similar taxes assessed or imposed on Customer remain Customer's sole responsibility. Entrust, for its part, will provide Customer with applicable certificates, forms, or other information as Customer reasonably requests to document exemption or reduction of withholding tax.

Warranties; Limitation of Remedies. Entrust makes no warranties with respect to the Deliverables other than as set forth in this Agreement or as may be set forth in the documentation delivered by Entrust with the Products ("Warranty Documentation"), which warranties are subject to the limitations set forth in this paragraph. Entrust warrants that Equipment and Supplies will be free from defects in material and workmanship for one year unless otherwise set forth in the Warranty Documentation. The remedy for breach of this warranty is limited to the repair or replacement of the defective item at no charge to Customer or the refund of the purchase price of the item, at Entrust's sole option, and is conditioned upon (i) the proper use, maintenance, management and supervision of the item, (ii) the exclusive use of Supplies or consumable materials supplied by Entrust for the item, (iii) a suitable operating environment for the item; and (iv) the absence of any intentional or negligent act or other cause external to the item affecting its operability or performance. This warranty will be null and void if maintenance is performed on a Product by any party other than Entrust or a qualified party approved by Entrust or if any addition to, removal from or modification of the Product is made without Entrust's approval. Once they have been replaced, all parts removed from



Equipment under warranty will become the property of Entrust. If Entrust is requested to provide maintenance service for the Products that is not covered by the stated warranty, Customer will be responsible for the cost of all such service at Entrust's then-current time and materials rates.

Entrust warrants that Software will perform in substantial compliance with Entrust's specifications for the Software for 90 days unless otherwise set forth in the Warranty Documentation. Entrust does not warrant that use of Software will be uninterrupted or error free. The sole remedy and Entrust's sole obligation for breach of this warranty will be limited to either (a) the repair or replacement of the non-conforming Software with Software that conforms to Entrust's specifications within a commercially reasonable time; or (b) the refund of the purchase price of the Software, at Entrust's sole option, and does not include any other action or damages. This limited warranty does not cover, and Entrust is not responsible for, any Software defects resulting from accident, abuse, misapplication or unauthorized repair, modification, or enhancement of the Software.

DISCLAIMER OF WARRANTIES. EXCEPT AS SPECIFICALLY STATED IN THIS AGREEMENT OR APPLICABLE WARRANTY DOCUMENTATION, THE DELIVERABLES ARE PROVIDED "AS IS" AND ENTRUST DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE DELIVERABLES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. ENTRUST DOES NOT WARRANT AND NOTHING IN THIS AGREEMENT IMPLIES ANY WARRANTY THAT THE OPERATION OF OR USE OF THE DELIVERABLES, OR ACCESS TO SERVICES, WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY ERRORS FOUND WILL BE CORRECTED.

LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL ENTRUST BE LIABLE TO CUSTOMER FOR INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OR LOSS OF ANY FUTURE REVENUE, INCOME OR PROFITS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, UNDER ANY THEORY OF LAW, EVEN IF ENTRUST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL ENTRUST'S AGGREGATE LIABILITY TO CUSTOMER FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, UNDER ANY THEORY OF LAW, EXCEED THE SUM OF ALL PAYMENTS MADE TO ENTRUST BY CUSTOMER UNDER THIS AGREEMENT FOR THE SPECIFIC DELIVERABLES THAT GIVE RISE TO THE CLAIM.

Intellectual Property Indemnity. Entrust will at its expense defend Customer from any action brought against Customer to the extent it is based upon a claim that the Products, or any part thereof, infringes a patent, copyright, trade secret or other proprietary right in the United States of any third party ("Claim"). Entrust will indemnify Customer for the damages finally awarded against Customer or settled by agreement which are attributable to such Claim, together with any of Customer's reasonable costs and expenses directly related to the defense against the Claim.

Entrust's defense and indemnification obligations are subject to and limited by the following: (i) that Customer promptly notifies Entrust in writing of any knowledge or notice Customer has concerning the Claim, or the possibility thereof; (ii) that Customer allows Entrust to assume immediately and undertake the sole control of the defense of any such action and all negotiations for its settlement (provided that no settlement that imposes any liability or obligation on Customer will be made without Customer's prior written consent, which will not be unreasonably withheld); (iii) that Customer cooperates with Entrust's reasonable requests for assistance in conducting such defense; and (iv) that Entrust has no obligation to reimburse Customer for any costs or expenses incurred by Customer following Entrust's receipt of notification and its assumption of such defense except for reasonable costs incurred under (iii) above.

Should the Products, or any part thereof, become or in Entrust's opinion be likely to become the subject of a Claim, Customer must permit Entrust at Entrust's sole option and expense: (a) to procure for Customer the right to continue using the Products; (b) to make available a modified or replacement product so that Customer's Products become non-infringing; or (c) if Entrust determines that it is unable to perform either of alternatives (a) or (b) in a commercially reasonable manner, then at Entrust's sole option to take possession of the allegedly infringing Products after giving Customer thirty (30) days prior written notice and to reimburse Customer for the purchase price of such Products depreciated over a 3-year period from the date of purchase on a straight line basis less any unpaid amount of such price. All costs of such repossession would be at Entrust's sole expense.

Entrust has no obligations or liability to Customer under any provisions of this Section with respect to any claim, judgment, or finding or patent, copyright, trade secret or other proprietary right infringement that is based upon: (v) the combination or utilization of the Products with equipment, software, supplies or devices not furnished or approved in writing by Entrust; (w) use of the Products in any manner that is inconsistent with the purpose for which they were designed or contrary to the explicit provisions in Entrust's documentation or specifications therefor; (x)



modification of the Products without Entrust's explicit prior written approval or in any manner in accordance with designs, specifications or instructions provided by Customer; (y) Products that are not produced by Entrust; or (z) claims that result from the negligent or willful misconduct of Customer.

The foregoing states Entrust's entire liability and Customer's sole and exclusive remedy with respect to any infringement or misappropriation of any intellectual property rights of any other party.

Independent Contractors. The relationship of the parties is that of independent contractors, and nothing contained in this Agreement shall be construed to constitute the parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking. Neither party is an agent of the other nor has the authority to make binding obligations for or on behalf of the other party. The employees and other representatives of each party may not be deemed to be or treated as employees or representatives of the other party.

Personnel. Customer acknowledges that Entrust has specially trained personnel who may perform the Services and agrees that during the term of this Agreement and for one (1) year following the term Customer will not solicit or otherwise attempt to employ any such personnel without the prior written consent of Entrust; provided that such restriction does not apply to the hiring of employees who respond without solicitation by Customer to Internet or other advertisements of general circulation not specifically targeted to such employees.

Force Majeure. In no event shall Entrust be deemed in default or liable for any loss or damage resulting from the failure or delay in the performance of its obligations under the Agreement, arising out of or caused by, directly or indirectly, a Force Majeure Event. "Force Majeure Event" means any event or circumstance beyond Entrust's reasonable control, including floods, fires, hurricanes, earthquakes, tornados, epidemics, pandemics, other acts of God or nature, strikes and other labor disputes, failure of utility, transportation or communications infrastructures, riots or other acts of civil disorder, acts of war, terrorism (including cyber terrorism), malicious damage, judicial action, lack of or inability to obtain export permits or approvals, acts of government such as expropriation, condemnation, embargo, changes in applicable laws or regulations, and shelter-in-place or similar orders, delays in transportation, and acts or defaults of third party suppliers or service providers. In the event a Force Majeure Event directly or indirectly causes a failure or delay in Entrust's performance of its obligations under this Agreement, Entrust shall not be in default or liable for any loss or damages where performance is impossible or commercially impracticable.

Entire Agreement; Amendments. This Agreement represents the only agreement between the parties concerning the subject matter hereof and supersedes all prior representations, understandings and agreements whether written or oral. This Agreement may not be altered, amended or modified except by formal agreement in writing by the parties. Purchase orders and other documents provided by the parties in connection with this Agreement do not amend the terms of this Agreement, and Entrust's delivery of any Products or Services will not constitute acceptance of any terms contained in such documents.

Assignment. Entrust may assign any or all of its rights or delegate any or all of its obligations under this Agreement without the consent of Customer. Customer may not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Entrust.

Waiver. The failure of either party to enforce any term or condition of this Agreement will not constitute a waiver of that party's rights to enforce subsequent breaches of any term or condition under this Agreement.

Severability. If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, the remaining provisions will nevertheless remain in full force and effect. The parties agree to re-negotiate in good faith any term so held invalid and to be bound by the mutually agreed substitute provision.

Notices. Any notices required to be given under this Agreement must be in writing and addressed as set forth in the Order or to such different address as a party may designate by notice. Notices are effective when delivered personally or by recognized overnight courier service, signature required.

Governing Law. To the maximum extent permitted by applicable law, the parties agree to exclude application of the United Nations Convention on the International Sale of Goods, as amended, and the Uniform Computer Information Transactions Act, as it may have been or hereafter may be in effect in any jurisdiction. If made by a United States Entrust Company, this Agreement is governed by and construed in accordance with the laws of the State of Minnesota without regard to conflicts of laws provisions, and the parties expressly submit to the non-exclusive jurisdiction of and venue in the United States District Court for the District of Minnesota or the District Courts of Hennepin County, Minnesota. If made by Canadian Entrust Company, this Agreement is governed by and construed in accordance with the laws of the Province of Ontario without regard to conflicts of laws provisions and the parties expressly submit to the non-exclusive jurisdiction of and venue in the courts in Ottawa, Ontario.