



**ENTRUST**

## **General Terms and Conditions**

These general terms and conditions ("General Terms") apply to a purchase of one or more Offerings (as defined in Section 1 below) and are made part of a legally binding agreement by and between Entrust Corporation or other affiliate company ("Entrust") identified in the Order (as defined in Section 1 below) and the purchaser identified on the Order ("Customer"). When purchasing through Entrust's online portal, you, as the individual making the purchase, represent and warrant that you are lawfully able to enter into contracts (e.g. you are not a minor). If you are entering into the Agreement on behalf of a legal entity, for example the company or organization you work for, you represent to Entrust that you have legal authority to bind such legal entity. IF YOU DO NOT ACCEPT THE TERMS AND CONDITIONS OF THE AGREEMENT (OR YOU DO NOT HAVE THE LEGAL AUTHORITY TO ENTER INTO CONTRACTS OR TO BIND THE LEGAL ENTITY ON WHOSE BEHALF YOU ARE PROVIDING SUCH ACCEPTANCE), YOU SHALL NOT ACCESS, USE, DOWNLOAD, AND/OR INSTALL THE ENTRUST OFFERING. THE CONTINUED RIGHT TO ACCESS AND USE THE ENTRUST OFFERING IS CONTINGENT ON CONTINUED COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE AGREEMENT BY YOU (AND BY THE LEGAL ENTITY ON WHOSE BEHALF YOU ARE PROVIDING ACCEPTANCE).

In consideration of the commitments set forth below, the adequacy of which consideration the parties hereby acknowledge, the parties agree as follows.

### **1. Contract Structure and Parties.**

- 1.1. These General Terms govern purchase of, access to, and use of any one or more of the following Entrust products and services (each, an "Offering"): (a) one or more executable software modules and associated deployment tools in machine-readable form ("Software"); (b) managed or cloud services hosted by Entrust or its hosting providers ("Hosted Service"); (c) technical support, training and Software maintenance ("Support"); (d) consulting and other professional services ("Professional Services"); (e) hardware, equipment and supplies (together, "Hardware and Supplies"). Each Offering consists of the features, and is further subject to the offering-specific terms and conditions, set out in the applicable terms of use or schedule attached hereto, provided with the Offering, available on Entrust's website at <https://www.entrust.com/legal-compliance/terms-conditions> (each set of terms of use and each schedule, a "Offering Schedule"), or as otherwise set forth herein. Without limiting the foregoing:
  - 1.1.1. If an Order calls for any Software (whether or not as part of or in connection with another Offering), and no more specific Schedule is provided with the Software, the Schedule for the Software is the end user license available at <https://www.entrust.com/end-user-license.pdf>.
  - 1.1.2. If an Order calls for any Hardware and Supplies to be provided by Entrust as part of an Offering then the Hardware and Supplies Schedule, available at <https://www.entrust.com/hardware-supplies-schedule.pdf>, shall apply to that portion of the Offering.
  - 1.1.3. If an Order calls for Support to be provided by Entrust for an Offering, any such support will be provided pursuant to the then-current Support Schedule for the applicable Offering as referenced within the applicable Offering Schedule or available at <https://www.entrust.com/legal-compliance/terms-conditions>.
- 1.2. An "Order" for one or more Offering(s) means a document, such as a quote, sales order, price list, invoice, or statement of work, issued by Entrust offering to provide the Offering(s) to Customer directly, through an Entrust-authorized reseller ("Partner"), or via an online purchase portal.
- 1.3. Each Order, together with these General Terms, the applicable Schedule(s) for the Offering(s) listed on the Order, and, in the case of Professional Services Offerings through a Partner, a statement of work duly signed by Entrust and Customer, constitute the sole and entire "Agreement" between Customer and Entrust for the Offering(s). Entrust's assent to the Agreement and to provide any Offering is expressly conditional on Customer's acceptance of the terms and conditions of the Agreement, which acceptance Customer indicates by providing or authorizing payment or using the Offering. Any terms and conditions on any printed form of Customer are hereby expressly rejected by Entrust.



- 1.4. In the Agreement, “Affiliate” means, with respect to Entrust, any subsidiary of Entrust Corporation, and, with respect to Customer, any corporation or other entity that is directly or indirectly controlled by Customer either through ownership of fifty percent (50%) or more of the voting rights for the board of directors or other mechanism of control.

## **2. Fees and Taxes.**

- 2.1. Customer will pay to Entrust the amounts set forth in the Order(s) (including where overages are applicable, any overage fees). All amounts due under the Agreement to Entrust must be paid to the Entrust Affiliate that issued the applicable invoice. Except as otherwise stated in the applicable Order, fees will be invoiced before the beginning of the Offering Term, and Customer will pay all amounts payable under the Agreement within thirty (30) days of the date of the invoice, without setoff or counterclaim, and without any deduction or withholding. Entrust may elect to charge Customer interest for late fees at the lesser of 1.5% per month or the maximum rate permitted by law. In addition, if payment is not received within fifteen (15) business days of written notice that a payment is delinquent, Entrust may suspend provision of all or part of a product or service, may refuse any additional Orders, and may require a fee to reinstate the product or service.
- 2.2. Customer will be responsible for any duties, taxes (other than taxes based on Entrust's net income), fees, or other similar governmental charge. Should any taxes be due, Customer will pay such taxes. Sales and use taxes can be reduced if Customer provides Entrust with an exemption certificate or document acceptable to the appropriate authorities exempting Customer from payment of these taxes. 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, which is the liability of the Customer.
- 2.3. Notwithstanding any of the foregoing, if Customer has purchased any Offering through a Partner then the terms relating to fees and taxes will be those terms established between the Customer and such Partner instead of those set out above.

## **3. Term and Termination.**

- 3.1. The Agreement with respect to each Offering will commence on the date that the Agreement is accepted as described in Section 1 (Contract Structure and Parties), unless otherwise specified in the Order or in the applicable Offering Schedule, and will remain effective for the period specified in the applicable Order, or in the applicable Offering Schedule, unless terminated earlier in accordance with this Agreement (“Offering Term”).
- 3.2. For Offerings purchased on a subscription basis, including Support, the subscription shall automatically renew for a subsequent Offering Term (“Renewal Term”) at the end of the then-current Offering Term, unless notice of cancellation is provided by a party to the other party at least sixty (60) days prior to the end of the then-current Offering Term. Notice of subscription cancellation may be provided by either party in writing in accordance with Section 17 (Notices), or, in the case of Customer, by such other mechanism provided by Entrust to facilitate such cancellations. The Renewal Term duration and fees will be as set out in Entrust's renewal reminder notice or in a separate renewal quote, or, if no notice or quote is provided, the fees will be Entrust's then-current list price and the renewal Offering Term will be one (1) year. Fees for any Renewal Term(s) will be charged using the method of payment on Entrust's file for the Customer's account. A new Agreement for the Renewal Term will be deemed to be created with the terms and conditions applicable to the Offering(s) as published at <https://www.entrust.com/legal-compliance/terms-conditions> on the renewal date.
- 3.3. Either party may terminate the Agreement by giving notice to the other party: (i) if the other party commits a material breach of the Agreement and fails to remedy such material breach within thirty (30) days after delivery of notice by the non-breaching party of the occurrence or existence of such breach or such longer period as may be agreed to in writing by the non-breaching party; (ii) if the other party (A) applies for or consents to the appointment of a receiver, trustee, or liquidator for substantially all of its assets or such a receiver, trustee, or liquidator is appointed, (B) has filed against it an involuntary petition of bankruptcy that has not been dismissed within thirty (30) days thereof, (C) files a voluntary petition of bankruptcy, or a petition or answer seeking reorganization, or an arrangement with creditors, or (D) seeks to take advantage



of any other law relating to relief of debtors, or makes an assignment for the benefit of creditors; or (iii) with respect to a particular Offering, as otherwise provided in the applicable Schedule.

#### 3.4. Effects of Termination and Expiration.

- 3.4.1. Offerings. Upon termination/expiration of the Agreement for any Offering, Entrust will have no further obligation to provide the Offering, Customer will immediately cease all use of the Offering, and Customer will destroy any copies of documentation and delete any software Offering in its possession or control.
- 3.4.2. General. Termination/expiration is without prejudice to any right or remedy that may have accrued or be accruing to either party prior to termination/expiration. Any provision of this Agreement which contemplates or requires performance after the termination/expiration of this Agreement or that must survive to fulfill its essential purpose, including the terms of this Section (Term and Termination), confidentiality, disclaimers, limitations and exclusions of liability, and any payment obligations, will survive the termination/expiration and continue in full force and effect until completely performed.
- 3.4.3. Termination Fees. In the event of any termination by Customer, Customer is required to pay to Entrust any unpaid fees for any terminated Offerings in accordance with Section 2 (Fees and Taxes). Entrust will not be required to refund the Customer any fees paid in advance. For clarity, all fees are non-cancellable and non-refundable notwithstanding any termination of this Agreement.

- 4. **Confidentiality.** In this Section (Confidentiality), “Discloser” means the party that discloses Confidential Information (defined below), and “Recipient” means the party that receives it. If Confidential Information is disclosed or received by an Affiliate of a party, it is deemed to have been disclosed or received by the party itself. The Recipient will use all Confidential Information it receives only for the purpose of exercising its rights and fulfilling its obligations under the Agreement. Recipient will treat such Confidential Information with the same degree of care against unauthorized use or disclosure that it affords to its own information of a similar nature, but no less than reasonable degree of care. Recipient will not remove or destroy any proprietary or confidential legends or markings placed upon any documents or other materials. Recipient will only disclose Discloser’s Confidential Information to Recipient’s and its Affiliates’ personnel and agents with a need to know (“Recipient Agents”). Recipient shall be responsible for ensuring Recipient Agents comply with the confidentiality obligations of this Section (Confidentiality) and any acts or omissions of a Recipient Agent in breach of the terms and conditions of this Section (Confidentiality) shall be considered the acts or omissions of the Recipient. “Confidential Information” means any business, technical, financial, or other information, however conveyed or presented to the Recipient, that is clearly designated by the Discloser as being confidential or that ought reasonably to be considered confidential by the Recipient, including all information derived by the Recipient from any such information. Confidential Information does not include any information that: (i) is expressly excluded from the definition of Confidential Information in an applicable Schedule; (ii) was lawfully known by Recipient prior to disclosure; (iii) was lawfully in the public domain prior to its disclosure, or becomes publicly available other than through a breach of the Agreement; (iv) was disclosed to Recipient by a third party without a duty of confidentiality to the Discloser; (v) is independently developed by Recipient without reference to Discloser’s Confidential Information; or (vi) is Feedback (as defined below). If Recipient is compelled pursuant to legal, judicial, or administrative proceedings, or otherwise required by law, to disclose Confidential Information of the Discloser, Recipient will use reasonable efforts to seek confidential treatment for such Confidential Information, and, if and as permitted by law, will provide prior notice to the Discloser to allow the Discloser to seek protective or other court orders. Recipient agrees that its breach of this Section (Confidentiality) may cause Discloser irreparable injury, for which monetary damages may not provide adequate compensation, and that in addition to any other remedy, Discloser may be entitled to injunctive relief against such breach or threatened breach. Personal Data and Excluded Data (each as defined in Section 5 (Data Protection) below) are excluded from the general definition of “Confidential Information” and the application of this Section (Confidentiality) but are subject to the specific confidentiality and other provisions of Section 5 (Data Protection).

#### 5. **Data Protection.**

- 5.1. To the extent that Entrust processes any Customer Personal Data (as defined in the latest version of Entrust’s customer data processing agreement (“DPA”), which is available at <https://www.entrust.com/legal->



[compliance/data-privacy](#)) on Customer's behalf and in performance of the Agreement, the terms of the DPA, which are hereby incorporated by reference, shall apply and the parties agree to comply with such terms. Customer's acceptance of this Agreement shall be treated as acceptance and signing of the DPA (including the Standard Contractual Clauses attached to the DPA). Entrust reserves the right to update the DPA from time to time to comply with legal and regulatory requirements, and to keep current with upgrades and enhancements to its products and services. The latest version posted on Entrust's website shall always apply and upon request Customer may receive update notifications.

- 5.2. Customer represents and warrants that it will not provide or transfer or cause to be provided or transferred to Entrust any Excluded Data, except if and as the provision or transfer of Excluded Data is expressly required and addressed in a Schedule. "Excluded Data" means: (i) social security numbers or their equivalent (e.g., social insurance numbers), driver license numbers, and health card numbers; (ii) other personal data that would be considered sensitive in nature including information regarding racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, data concerning health or data concerning a natural person's sex life or sexual orientation; (iii) data falling into a "special category of data" under EU General Data Protection Regulation; (iv) "cardholder data" as defined by the Payment Card Industry Data Security Standards; (v) data regulated under the Health Insurance Portability and Accountability Act or the Gramm-Leach-Bliley Act or similar laws or regulations in place now or in the future in the applicable jurisdiction (collectively, the "Excluded Data Laws"). Customer recognizes and agrees that, except to the extent specified in a Schedule: (i) Entrust has no liability for any failure to provide protections set forth in the Excluded Data Laws or otherwise to protect Excluded Data; and (ii) Entrust's Offerings are not intended for management or protection of Excluded Data and may not provide adequate or legally required security for Excluded Data. To the extent that Entrust obtains data, including Excluded Data, that is not necessary for Entrust to provide its Offerings or which Entrust reasonably considers unlawful, harmful or inappropriate, or infringes third party rights, Entrust shall have the right to delete such data without further notice or obligation to the Customer.

## 6. **Customer's Responsibilities.**

- 6.1. Customer's Users. Customer is responsible for the use of the Offering by any individual, organization or legal entity, including Customer's Affiliates (each, a "Person") who directly or indirectly receives access to, or the ability to use, the Offering or any component thereof through the Customer, including any such Persons more specifically described in the user guide, manual, technical specifications or release notes for the applicable Offering provided by Entrust, all as may be updated from time to time ("Documentation") or described in the applicable Schedule (each such Person, a "User"). Any act or omission of a User with respect to an Offering is deemed to be the act or omission of Customer.
- 6.2. General Restrictions. Customer will not: (a) host, time-share, rent, lease, sell, license, sublicense, assign, distribute or otherwise transfer or allow third parties to exploit any component of any Offering, except as provided in the Agreement; (b) copy, modify, translate, reverse engineer, de-compile or disassemble, or create derivative works from any Offering except to the extent that law explicitly prohibits this restriction notwithstanding a contractual restriction to the contrary; (c) attempt to find, circumvent, bypass, exploit, defeat, or disable any limitations, restrictions, security vulnerabilities, security mechanisms, filtering capabilities, or entitlement mechanisms that are present or embedded in any Offering or any component thereof; (d) provide any passwords or other log-in information provided by Entrust as part of any Offering to any third party; (e) share non-public features or content of any Offering with any third party; (f) access any Offering in order to build or benchmark against a competitive product or service, or to build a product or service using similar ideas, features, or functions of any Offering; (g) use any Offering to transmit or store content or communications (commercial or otherwise) that is infringing, illegal, harmful, unwanted, inappropriate, objectionable, confirmed to be criminal misinformation or that otherwise poses a threat to the public, or viruses, malware, worms, time bombs, Trojan horses and other harmful or malicious codes, files, scripts, agents or programs; (h) attempt to gain unauthorized access to any Offering, or to gain access by any means, including automated means (e.g. bots) other than those set out in the Documentation; (i) use any Offering bundled with or provided for use with another Offering independently of the applicable bundle or Offering with which it is intended to be used; (j) use any Offering other than in compliance with all



applicable laws and regulations (k) sell or resell the Offering or any component thereof to any third-party, including but not limited to Customer's distribution partners, resellers, or end-customer(s), unless otherwise explicitly permitted by Entrust in the Agreement.

- 6.3. **Hosted Services Restrictions.** Customer will not: (a) attempt or make any denial of service (DoS) attack on any Offering or any other conduct that attempts to disrupt, disable, or overload any Offering; (b) distribute, publish, send, or facilitate the sending of unsolicited mass email or other messages, promotions, advertising, or solicitations (or "spam") using any Offering; (c) violate the security, integrity, or availability of any user, network, computer or communications system, software application, or network or computing device using any Offering; (d) use any Offering to engage in or encourage any activity that is illegal, fraudulent, deceptive, harmful, violating others' rights, or harmful to Entrust's business operations or reputation; (e) interfere with or otherwise negatively impact any aspect of an Offering or any third-party components linked to any Offering; (f) create a false identity or any attempt to mislead others as to the identity of the sender or the origin of any data or communications.
- 6.4. **High Risk Applications.** Customer may not use, or authorize others to use, any part of any Offering in any application in which the failure of the Offering could lead to death, personal injury or severe physical or property damage ("High-Risk Applications"), including the monitoring, operation or control of nuclear facilities, mass transit systems, aircraft navigation or aircraft communication systems, air traffic control, weapon systems and direct life support machines. Entrust expressly disclaims any express or implied warranty of fitness for High Risk Applications.
7. **Professional Services.** If Entrust provides any consulting or other professional services and any related deliverables ("Professional Services") with respect to any Offering, the following provisions shall apply with respect to such Professional Services, unless a separate professional services agreement has been entered by the parties (e.g. Letter of Engagement).
  - 7.1. An Order (or in the case of purchases of Professional Services Offerings through a Partner, a statement of work duly signed by Entrust and Customer) will further set out the scope and details of any Professional Services, including, if and as applicable, resource specialist(s), milestones, delivery dates, acceptance criteria, payment terms and any other information and terms related to the Professional Services.
  - 7.2. **Background and Professional Services IP.** Any intellectual property rights of a party or its Affiliates conceived, created, developed, or reduced to practice prior to, or independently of, any Professional Services provided under the Agreement ("Background IP") shall remain the exclusive property of such party or its Affiliate. Customer grants Entrust a non-exclusive, non-transferable, royalty-free, worldwide license for the term of the applicable Order to make, use and copy any Customer Background IP that it discloses to Entrust, but solely to the extent necessary for Entrust to provide the Professional Services to the Customer pursuant to the Order. The Professional Services, including all deliverables, are not "works for hire", and the intellectual property embodied therein is owned by Entrust ("Professional Services IP"). Entrust grants Customer a non-exclusive, non-transferable, royalty-free, worldwide, perpetual license to any Professional Services IP incorporated into a deliverable, but solely to the extent necessary to use and exploit the deliverable as contemplated in the applicable Order and only so long as such Professional Services IP is embedded in the deliverable and not separated therefrom.
8. **Compliance with Applicable Laws.**
  - 8.1. In the Agreement, the following terms have the following definitions:
    - 8.1.1. "Denied Parties" means a Person that is subject to trade sanctions, embargoes, or other restrictions imposed by a relevant government or an international organization, including (i) a Person to whom the export of any product, software, or technology licensed or purchased under the Agreement, or related information, would be prohibited by the laws of the United States ("U.S."), Canada, United Kingdom ("U.K."), United Nations ("U.N."), European Union ("E.U."), or other applicable jurisdiction; or (ii) a Person listed on, or directly or indirectly owned or controlled by a Person listed on, or acting on behalf of a Person listed on, any U.S, Canadian, E.U., U.K., or U.N. sanctions list, including the



list of Specially Designated Nationals maintained by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC"), and the U.S. Department of Commerce Entities List ("Entities List").

- 8.1.2. "Restricted Country" means a country where Entrust prohibits all business due to the imposition of comprehensive sanctions by a relevant government or international organization or the presence of other higher sanctions risk, including (i) any country to which the export of any product, software, or technology licensed or purchased under the Agreement, or related information, would be prohibited by the applicable laws, rules or regulations of the U.S., Canada, U.K., E.U., or other applicable jurisdiction; (ii) any of the countries listed at <https://www.entrust.com/legal-compliance/sanctioned-countries>.
- 8.2. Customer will comply in all respects with any and all applicable laws, rules and regulations and obtain all permits, licenses and authorizations or certificates that may be required in connection with Customer's exercise of its rights and obligations under any part of the Agreement, including use or access by Users. Entrust will comply in all respects with any and all applicable laws, rules and regulations and obtain all permits, licenses and authorizations that may be required in connection with Entrust's provision of the Offerings in the normal course of its business (for clarity, laws applicable to Customer shall not be deemed applicable to Entrust merely because of Customer's use of Entrust's Offerings). Without limiting the foregoing, each party will comply with all applicable trade control laws, including any sanctions or trade controls of the E.U., Canada, the U.K., and the U.N.; the Export Administration Regulations administered by the U.S. Department of Commerce's Bureau of Industry and Security; U.S. sanctions regulations administered by OFAC; or on the Entities List; and any import or export licenses required pursuant to any of the foregoing; and all applicable anti-money laundering laws, including the U.S. Bank Secrecy Act, Money Laundering Control Act, and Patriot Act, the Canadian Proceeds of Crime (Money Laundering) and Terrorist Financing Act, the U.K. Proceeds of Crime Act, and legislation implementing the International Convention on the Suppression of the Financing of Terrorism or the money laundering provisions of the U.N. transnational Organized Crime Convention.
- 8.3. Customer represents and warrants that: (a) neither Customer nor any User is located in, under the control of, or a national or resident of any Restricted Country; (b) neither Customer nor any User is a Denied Party; (c) Customer and each User has and will comply with applicable laws, rules and regulations of the U.S., Canada, U.K., E.U., or other applicable jurisdiction(s) and of any state, province, or locality or applicable jurisdiction governing exports of any product or service provided by or through Entrust; (d) Customer and all Users will not use any Offering for any purposes prohibited by applicable laws, rules or regulations on trade controls, including related to nuclear, chemical, or biological weapons proliferation, arms trading, or in furtherance of terrorist financing; (e) neither Customer nor any User nor any of its affiliates, officers, directors, or employees is a Denied Party or directly or indirectly owned or controlled by a Denied Party; or (ii) located in, incorporated under the laws of, or owned (meaning 50% or greater ownership interest) or otherwise, directly or indirectly, controlled by, or acting on behalf of, a person located in, residing in, or organized under the laws of any Restricted Country; and (f) Customer and each of its Users is legally distinct from, and not an agent of any Denied Party. Entrust represents and warrants that neither Entrust, nor any of its affiliates, officers, directors, or employees is a Denied Party or an agent of any Denied Party. In the event any of the above representations and warranties is incorrect or a party or any of the Customer's Users engages in any conduct that is contrary to sanctions or trade controls or other applicable laws, regulations, or rules, any Agreements, purchase orders, performance of services, or other contractual obligations of the other party are immediately terminated.
- 8.4. Where Customer is provisioning services to Users using Entrust Offerings, it shall have and enforce appropriate procedures and controls to ensure services are not provisioned to a Denied Party or a User in a Restricted Country. Entrust further reserves the right to implement geo-blocking, require Users undergo Entrust's due diligence review, or such other measures as it deems necessary to ensure that the Offerings are not provided to a Denied Party or User in a Restricted Country or otherwise in violation of applicable export control, trade or financial sanctions laws, regulations, orders, directives, licenses and requirements of any governmental or relevant authority with jurisdiction over activities undertake in connection with this



Agreement. In the event that Entrust reasonably determines that a User may be a Denied Party or in a Restricted Country, Entrust may restrict access to said User without any further liability to Customer.

- 8.5. Customer shall immediately notify Entrust if, during the Term, it has breached the terms of this Section (Compliance with Applicable Laws) of the Agreement. If Entrust has reason to believe that a breach of this Section (Compliance with Applicable Laws) has occurred or may occur, Entrust shall have the right, in its sole discretion, to audit at its own expense Customer's business records, data, and other such documents and information that Entrust may deem relevant in order to satisfy itself that no such breach has occurred or will occur. Customer agrees in the context of any audit undertaken pursuant to this paragraph to use its best efforts to make or cause to be made available relevant individuals and/or information. Any breach of this Section (Compliance with Applicable Laws) shall be considered a material breach of the Agreement.
- 8.6. Customer understands and agrees that Entrust is not responsible for service interruptions or blocks that may be experienced by Users using third party devices (e.g. Huawei mobile phones) that may interoperate with an Entrust Offering, to the extent that trade compliance restrictions, legal obligations, or information security requirements applicable to Entrust do not allow for compliance with third party device requirements.

## **9. Disclaimer of Warranties.**

**Except as may be so expressly stated elsewhere in the Agreement, each Offering is provided "as is", and Entrust and its Affiliates, licensors and suppliers disclaim any and all representations, conditions or warranties of any kind, express or implied, including warranties of non-infringement, title, merchantability or fitness for a purpose, satisfactory quality, or any representations, conditions or warranties implied by statute, course of dealing, course of performance, or usage or trade. Entrust makes no representations, conditions or warranties regarding any third party product or service, with which any Offering may interoperate. Entrust makes no representations, conditions or warranties that any Software will perform without interruption or error.**

## **10. Indemnities.**

### **10.1. Intellectual Property Claims.**

**10.1.1. Intellectual Property Indemnity.** Entrust shall defend at its expense (including, for clarity, bearing court costs and reasonable attorney's fees) Customer against any claims by third parties that the Software, Hosted Service, or Hardware and Supplies furnished and used within the scope of the Agreement infringes upon or misappropriates a patent, trademark, copyright, trade secret or other intellectual or proprietary right (an "IP Claim"), and will pay any (i) amounts finally awarded against Customer by a court or arbitrator in any proceeding related to such IP Claim or (ii) settlement amounts approved in accordance with this Section (Indemnities).

**10.1.2. Mitigation by Entrust.** If Entrust becomes aware of an actual or potential IP Claim, or if Customer provides Entrust with notice of an actual or potential IP Claim, Entrust may (or in the case of an injunction against Customer, shall), at Entrust's sole option and expense: (i) procure for Customer the right to continue to use the affected portion of the Software, Hosted Service, or Hardware and Supplies; (ii) modify or replace the affected portion of the Software, Hosted Service, or Hardware and Supplies with functionally equivalent or superior software or products so that Customer's use is non-infringing; or (iii) if (i) or (ii) are not commercially reasonable, terminate the Agreement with respect to the affected Software, Hosted Service, or Hardware and Supplies and refund to the Customer, as applicable, either (A) any perpetual purchase price paid for the affected Software or Hardware and Supplies depreciated over a three (3) year period from the date of delivery on a straight line basis less any outstanding moneys owed on such affected portion of the Software or Hardware and Supplies; or (B) any prepaid and unused subscription fees for the affected Software, Hosted Service or Hardware and Supplies for the terminated portion of the applicable Offering Term.

**10.1.3. Exceptions to Indemnity.** Entrust shall have no liability for any IP Claim in respect of any Software, Hosted Service, or Hardware and Supplies to the extent that: (i) such Software,



Hosted Service, or Hardware and Supplies is used by Customer outside the scope of the rights granted in the Agreement or in a manner or for a purpose other than that for which it was supplied, as contemplated by the Documentation; (ii) such Software, Hosted Service, or Hardware and Supplies is modified by Customer; (iii) such Software, Hosted Service, or Hardware and Supplies is used by Customer in combination with other software, services, or equipment not provided by Entrust and the infringement arises from such combination or the use thereof; (iv) the IP Claim arises from information, data or specifications provided by Customer; (v) the Software, Hosted Service, or Hardware and Supplies was provided on a beta testing, proof of concept, evaluation or “not for resale” basis; or (vi) the IP Claim relates to the use of any version of the Software other than the current, unaltered release, if such IP Claim would have been avoided by the use of a current unaltered release of the Software.

**10.1.4. THE PROVISIONS OF THIS SECTION 10.1 (INTELLECTUAL PROPERTY CLAIMS) ARE SUBJECT TO SECTION 11 (LIABILITY) AND STATE THE SOLE AND EXCLUSIVE LIABILITY OF ENTRUST AND ITS AFFILIATES AND THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER WITH RESPECT TO ANY CLAIM OF THE NATURE HEREIN.**

- 10.2. **Customer Data and Use Claims.** Customer agrees to defend, indemnify and hold harmless Entrust, its Affiliates and licensors, and each of their respective employees, officers, directors, and representatives against any and all third party claims, demands, suits or proceedings, fines, costs, damages, losses, settlement fees, and expenses (including investigation costs and attorney fees and disbursements) arising out of or related to: (a) Customer’s breach of, or errors in providing, the representations and warranties set out in Section 5 (Data Protection) or Section 8 (Compliance with Applicable Laws), (b) the Personal Data or Excluded Data provided by the Customer or its Users (c) any inaccuracies in any data provided by Customer or Users to Entrust, and (d) the misuse or misconfiguration of any Software or Hosted Service by the Customer or any of its Users (each of (a)-(d), a “Customer Indemnified Claim”).
- 10.3. **Conditions.** The obligations in this Section (Indemnities) will apply only if indemnified party: (i) provides the indemnifying party prompt written notice of the IP Claim or Customer Indemnified Claim (“Claim”), provided that failure by the indemnified party to provide prompt notice will relieve the indemnifying party of its obligations only to the extent that the indemnifying party was actually and materially prejudiced by such failure; (ii) gives the indemnifying party the exclusive right to control and direct the investigation and defense of such Claim, including appeals, negotiations, and any settlement or compromise thereof, provided that the indemnified party will have the right to reject any settlement or compromise that requires that it or they admit wrongdoing or liability or that subjects it or them to any ongoing affirmative obligations; (iii) has not compromised or settled the Claim; and (iv) agrees to cooperate and provide reasonable assistance (at indemnifying party’s sole expense) in the defense.

## **11. Liability.**

- 11.1. In this Section (Liability), “Entrust” will be deemed to mean Entrust Corporation, its Affiliates, and their respective suppliers, licensors, resellers, distributors, subcontractors, directors, officers, and personnel.
- 11.2. In no event will Entrust be liable for, and Customer waives any right it may have to, any consequential, indirect, special, incidental, punitive or exemplary damages or for any loss of business, opportunities, revenues, profits, savings, goodwill, reputation, customers, use, or data, or costs of reprourement or business interruption.
- 11.3. In no event will Entrust’s total aggregate liability arising out of or related to the Agreement exceed the fees paid to Entrust for the Offering(s) that gave rise to the liability for the twelve months before the liability arose, less any refunds, service credits or deductions.
- 11.4. The exclusions and limits in this Section (Liability) apply: (a) regardless of the form of action, whether in contract (including fundamental breach), tort (including negligence), warranty,



indemnity, breach of statutory duty, misrepresentation, strict liability, strict product liability, or otherwise; (b) on an aggregate basis, regardless of the number of claims, transactions, digital signatures or certificates; (c) even if the possibility of the damages in question was known or communicated in advance and even if such damages were foreseeable; and (d) even if the remedies fail of their essential purpose. Customer acknowledges that Entrust has set its prices and entered into the Agreement in reliance on the limitations and exclusions in this Section (Liability), which form an essential basis of the Agreement.

- 11.5. **Notwithstanding anything to the contrary in this Section (Liability) or elsewhere in the Agreement, to the extent required by applicable law Entrust neither excludes nor limits its liability for: (i) death or bodily injury caused by its own negligence; (ii) its own fraud or fraudulent misrepresentation; or (iii) other matters for which liability cannot be excluded or limited under applicable law.**
12. **Nature of Relationship.** Nothing contained in the Agreement will be deemed to constitute either party or any of its employees, the partner, agent, franchisee, or legal representative of the other party or to create any fiduciary relationship for any purpose whatsoever. Except as otherwise specifically provided in the Agreement, nothing in the Agreement will confer on either party or any of its employees any authority to act for, bind, or create or assume any obligation or responsibility on behalf of the other party. The parties agree that no Entrust personnel is or will be considered the personnel of Customer.
13. **Affiliates.** Entrust may use one or more Affiliate(s) or subcontractors to perform its obligations under the Agreement, provided that such use will not affect Entrust's obligations under the Agreement.
14. **Non-Solicitation.** Customer acknowledges that Entrust has specially trained personnel 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 who have been engaged in the performance of the Agreement and/or with whom Customer has contact by virtue of the Agreement, 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.
15. **Third Party Beneficiaries.** Except as expressly stated in the Agreement, the Agreement is made solely for the benefit of the parties hereto and their respective successors and permitted assigns, and no other person or entity will have or acquire any right or benefit under the Agreement, including under the UK Contracts (Rights of Third Parties) Act 1999.
16. **No Exclusivity.** Nothing in the Agreement shall prevent Entrust or its Affiliates from providing to a third party the same or similar products, services or deliverables as those provided to the Customer pursuant to the Agreement.
17. **Notices.** In any case where any notice or other communication is required or permitted to be given, such notice or communication will be in writing and (a) personally delivered, in which case it is deemed given and received upon receipt or (b) sent by international air courier service with confirmation of delivery to the addresses stated below, in which case it is deemed given and received when delivery is confirmed.
- Notices to Customer: the address stipulated in the Order.
- Notices to Entrust: 1187 Park Pl., Shakopee, MN 55379-3817, USA
18. **Choice of Law.** Any disputes related to the products and services offered under the Agreement, as well as the construction, validity, interpretation, enforceability and performance of the Agreement, and all claims arising out of or related to the Agreement, including tort claims, shall, (i) if Customer is located in Canada, be governed by the laws of the Province of Ontario, Canada, and shall be brought in the provincial or federal courts sitting in Ottawa, Ontario; (ii) if Customer is located in Europe, the Middle East, or Africa, be governed by the laws of England and Wales and shall be brought in the courts sitting in London, England; and (iii) if Customer is located anywhere else in the world, be governed by the laws of the State of Minnesota, United States, and shall be brought in the federal and state courts located in Hennepin County, Minnesota. Each party hereby agrees that the applicable courts identified in this Section (Choice of Law) shall have personal and exclusive jurisdiction over such disputes. In the event that any matter is brought in a provincial, state or federal court each party waives any right that such party may have to a jury trial. To the maximum extent permitted by applicable law, the parties agree that



the provisions of the United Nations Convention on Contracts for the International Sale of Goods, as amended, shall not apply to the Agreement.

19. **Force Majeure.** “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, designation as a Restricted Country, changes in applicable laws or regulations, and shelter-in-place or similar orders, and acts or defaults of third party suppliers or service providers. In the event that 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.
20. **No Waiver.** No failure to exercise, no delay in exercising, and no statement or representation other than by any authorized representative in an explicit written waiver, of any right, remedy, or power will operate as a waiver thereof, nor will single or partial exercise of any right, remedy, or power under the Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, or power provided in the Agreement, in law, or in equity. The waiver of the time for performance of any act or condition under the Agreement does not constitute a waiver of the act or condition itself.
21. **Successors; Assignment.** Each party agrees that it will not (and neither party has any right to) assign, sell, transfer, or otherwise dispose of, whether voluntarily, involuntarily, by operation of law, or otherwise, the Agreement or any right or obligation under the Agreement without the prior written consent of the other party. Any purported assignment, sale, transfer, delegation or other disposition in violation of this Section (Successors; Assignment) will be null and void. Notwithstanding the foregoing, Entrust may, without the consent of Customer, assign the Agreement together with all of its rights and obligations under the Agreement (i) to an Affiliate, or (ii) as part of a sale, merger, or other transfer of all or substantially all the assets of the business to which the Agreement relates. Subject to the foregoing limits on assignment and delegation, the Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and permitted assigns.
22. **No Other Rights Granted.** The rights granted under the Agreement are only as expressly set forth in the Agreement. No other right or interest is or will be deemed to be granted, whether by implication, estoppel, inference or otherwise, by or as a result of the Agreement or any conduct of either party under the Agreement. Entrust and its licensors expressly retain all ownership rights, title, and interest in the products and services provided by Entrust (including any modifications, enhancements and derivative works thereof). Any permitted copy of all or part of any item provided to Customer must include all copyright notices, restricted rights legends, proprietary markings and the like exactly as they appear on the copy delivered by Entrust to Customer.
23. **Feedback.** “Feedback” refers to Customer’s and Users’ suggestions, comments, or other feedback pertaining to Entrust’s Offerings. Customer agrees that Entrust will own all Feedback and all associated intellectual property rights in or to Feedback, and Customer hereby assigns to Entrust all of Customer’s (and Users’) right, title, and interest thereto, including without limitation intellectual property rights.
24. **Audits and Assessments.** Except as otherwise specifically provided in the Agreement, Entrust has no obligation to participate in any Customer-requested audit, assessment, inspection, due diligence exercise, questionnaire, or other similar review of Entrust’s policies, procedures, documentation, operations, or practices (“Customer Review”). If Entrust agrees to participate in any Customer Review, Customer shall be responsible for all related costs and expenses, including any third-party fees.
25. **Order of Precedence.** A provision in an Order executed by both parties will prevail over any conflicting provision elsewhere in the Agreement, and, subject to the foregoing, a provision in a Schedule will prevail with respect to the applicable Offering over any conflicting provision in the Agreement.
26. **Entire Agreement.** The Agreement (as defined in Section 1 (Contract Structure and Parties)) and items expressly incorporated into any part of the Agreement form the entire agreement of the parties. All terms and conditions on any purchase orders, supplier registration forms, supplier code of conduct, or similar document issued by



Customer shall not amend the terms of the Agreement and will be of no force or effect notwithstanding any term or statement to the contrary made in such document. Neither party has entered into the Agreement in reliance upon any representation, warranty, condition or undertaking of the other party that is not set out or referred to in the Agreement.

27. **Amendment**. The Agreement may not be modified except by formal agreement in writing executed by both parties.
28. **Severability**. To the extent permitted by applicable law, the parties hereby waive any provision of law that would render any provision of the Agreement invalid or otherwise unenforceable in any respect. In the event that a provision of the Agreement is held to be invalid or otherwise unenforceable in application to particular facts or circumstances: (a) such provision will be interpreted and amended to the extent necessary to fulfill its intended purpose to the maximum extent permitted by applicable law and its validity and enforceability as applied to any other facts or circumstances will not be affected or impaired; and (b) the remaining provisions of the Agreement will continue in full force and effect. For greater certainty, it is expressly understood and intended that each provision that deals with limitations and exclusions of liability, disclaimers of representations, warranties and conditions, or indemnification is severable from any other provisions.
29. **Language**. The definitive version of this Agreement is written in English. If this Agreement is translated into another language and there is a conflict between the English version and the translated version, the English language version controls. If Customer is located in Quebec, the parties hereby confirm that they have requested that this Agreement and all related documents be drafted in English; les parties ont exigé que le présent contrat et tous les documents connexes soient rédigés en anglais. Some versions of the Offerings which have been designated as localized or country-specific may nonetheless contain certain components and/or interfaces that are in the English language only.
30. **Interpretation**. The parties agree that the Agreement will be fairly interpreted in accordance with its terms without any strict construction in favor of or against either party, and that ambiguities will not be interpreted against the party that drafted the relevant language. In the Agreement, the words “including”, “include” and “includes” will each be deemed to be followed by the phrase “without limitation”. The section or other headings in the Agreement are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of the Agreement. Any exhibit, document or schedule referred to in the Agreement means such exhibit or schedule as amended, supplemented and modified from time to time to the extent permitted by the applicable provisions thereof and by the Agreement. References to any statute or regulation mean such statute or regulation as amended at the time and includes any successor statute or regulation. Unless otherwise stated, references to recitals, sections, subsections, paragraphs, schedules and exhibits will be references to recitals, sections, subsections, paragraphs, schedules and exhibits of the Agreement. All dollar amounts in the Agreement are in U.S. currency unless otherwise indicated.