



END USER SERVICES AGREEMENT

THIS IS A LEGAL AGREEMENT BETWEEN CUSTOMER AND CITRIX. BY ACCESSING AND/OR USING THE SERVICES, CUSTOMER IS AGREEING, ON BEHALF OF AN INDIVIDUAL AND/OR A LEGAL ENTITY, TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

1. **DEFINITIONS.** As used in the Agreement, the following defined terms shall apply:
 - 1.1. **Affiliate** means, with respect to a party, any entity which directly or indirectly controls, is controlled by, or is under common control with such party, where "control" means the power, directly or indirectly, to direct, or to cause the direction of, the management and policies of an entity, through majority ownership of voting securities or equity interests.
 - 1.2. **Agreement** means this End User Services Agreement, the Service Descriptions, and any other documents incorporated herein by reference.
 - 1.3. **Citrix** means the providing Citrix entity specified at <https://www.citrix.com/buy/licensing/citrix-providing-entities.html>.
 - 1.4. **Citrix Marks** means any name, logo, or mark belonging to Citrix or its Affiliates.
 - 1.5. **Customer** means the legal entity or individual that has ordered any Services from Citrix.
 - 1.6. **Customer Account** means an account for Customer that is required to access and utilize the applicable Services.
 - 1.7. **Customer Content** means any files, documents, recordings and other information belonging to Customer, users or others as uploaded to Customer's account for storage and/or used, presented or shared in connection with the Services, and is not related to Citrix servicing or accessing Customer's account.
 - 1.8. **Fees** means all Citrix fees applicable to the Services.
 - 1.9. **Open Source Software** means third party software distributed by Citrix under an open source licensing model (e.g., the GNU General Public License, BSD or a license similar to those approved by the Open Source Initiative).
 - 1.10. **Order or Services Order** means any initial or subsequent ordering document, auto renewal (if applicable to the Service) and/or online request for access to the Services submitted to, or processed by, Citrix, a Citrix authorized reseller, and/or through Citrix product websites.
 - 1.11. **Privacy Policy** means Citrix Privacy Policy at <https://www.citrix.com/about/legal/privacy.html>, any privacy policy applicable to a specific Service, if any, which may be viewed by clicking the applicable "Privacy Policy" link listed in such Service Description.
 - 1.12. **Services** means the generally available Citrix software-as-a-service offerings inclusive of any services delivered through any unified, hosted Citrix service delivery platform (collectively "**SaaS Services**"), including any components provided with them, and Updates, all as further described in the Service Descriptions. Services availability is subject to the Citrix product lifecycle policy on www.citrix.com. Citrix may update the Services with Updates at any time in its sole discretion, and all Services set forth in the Services Descriptions may not be available to all Customers. Services are of an electronic nature delivered to you remotely via a technology infrastructure and with minimal or no human intervention.

- 1.13. **Service Descriptions** means the overview and other terms applicable to the Services, as amended from time to time, as found at <https://www.citrix.com/buy/licensing/saas-service-descriptions.html>.
- 1.14. **Taxes** means all applicable transactional taxes on Services (including but not limited to withholding tax, sales tax, services tax, value-added tax (VAT), goods and services tax (GST), and tariffs and/or duties) imposed by any government entity or collecting agency based on the Services. Taxes shall not include those taxes based on Citrix' net income, and/or those taxes for which Customer has provided a valid certificate confirming Customer is exempt.
- 1.15. **Updates** means any corrections, bug fixes, new features or functions added to or removed from the Services, but shall not include any new Service(s) version(s) that Citrix markets and sells separately.
- 1.16. **Use Level** means the model by which Citrix measures, prices and offers the Services to Customer as set forth on the applicable price list, websites, Order, and/or Service Description.
- 1.17. **User** means named authorized user of Customer.

2. **RIGHTS.**

- 2.1. **Right to Use Service for Business.** Subject to these terms, Citrix, with the assistance of Citrix third-party service providers, will provide the Services set forth in any Order that Citrix has accepted for Customer's use in accordance with the Agreement and applicable Use Levels. Customer acknowledges that Services are not intended for use by consumers. Customer may use Services only for business and professional purposes and as expressly granted in this Agreement. Citrix hereby grants to Customer a limited, personal, non-exclusive, non-transferable, non-sublicensable right to use any components provided as may be required to access and use the Services during the Term in accordance with the Agreement. Technical support for the Services is provided as set forth in the applicable Service Description. Updates to the Services are included in the Fees. Customer shall use the then-current version of the Services, including any Updates, as made available by Citrix. To the extent that Affiliates use the Services, Customer warrants that it has the authority to bind under this Agreement those Affiliates. Customer will be liable to Citrix in the event any Affiliate fails to comply with any term or condition of this Agreement.
- 2.2. **Limitations on Use.** Except to the extent permitted by applicable law, Customer agrees, on behalf of itself and its Users, not to (i) modify, distribute, prepare derivative works of, reverse engineer, reverse assemble, disassemble, decompile or attempt to decipher any code relating to the Services and/or Citrix technology; (ii) knowingly or negligently access or use the Services in a manner that abuses or disrupts the Citrix networks, security systems, User accounts, or Services of Citrix or any third party, or attempt to gain unauthorized access to any of the above through unauthorized means, (iii) transmit through or post on the Services any material that is deemed abusive, harassing, obscene, slanderous, fraudulent, libelous or otherwise objectionable or unlawful; (iv) market, offer to sell, and/or resell the Services alone, except pursuant to a Citrix resale program (v) use the Services to send unsolicited or unauthorized advertising, junk mail, or spam; (vi) harvest, collect, or gather information or data regarding other users without their consent unless permitted by applicable law; (vii) transmit through or post on the Services any material that may infringe the intellectual property rights or other rights of third parties, including, without limitation, trademark, copyright, data privacy or right of publicity; (viii) transmit or post on the Services any material that contains software viruses or other harmful or deleterious computer code, files or programs; (ix) if the Customer is a Citrix competitor for the relevant Services, use the Services directly or indirectly for competitive benchmarking or other competitive analysis, unless permitted under applicable law; (x) use or access the Services or permit a User to use or access the Services in a manner that violates the terms of this Agreement ; or (xi) make any representations with respect to Citrix or this Agreement (including, without limitation, that Citrix is a warrantor or co-seller of any of Customer's products and/or services). Furthermore, Customer shall not offer to sell or resell the Services, but the Services may be used by Customer in support of Customer's service offering(s). Except for Infringement Claims, Customer agrees to indemnify and hold Citrix harmless against any third party claim and/or liability resulting from Customer's use of the Services. **THE SERVICE DESCRIPTION FOR THE INDIVIDUAL SAAS SERVICES MAY CONTAIN ADDITIONAL RESTRICTIONS.**
- 2.3. **Violations of Limitations on Use.** If Customer becomes aware or receives notice from Citrix that any Customer Content or any User's access to or use of Customer Content violates [Section 2.2](#), Customer must take immediate action to remove the applicable part of the Customer Content or to suspend the User's access to the Services, as applicable. Citrix may ask Customer to remediate, and if Customer fails to comply with such request, Citrix may suspend the Services pursuant to [Section 10.8](#).

- 2.4 **Proprietary Rights.** Except for the limited subscription rights granted herein, Customer has no right, title or interest in or to the Citrix Marks or Services or any components provided by Citrix in connection with the Services or any intellectual property rights related thereto. Customer acknowledges that Citrix or its licensors retain all proprietary right, title and interest in and to, or practiced in connection with, the Citrix Marks and the Services and any components, including, without limitation, all modifications, improvements, enhancements, derivative works, configuration, translations, upgrades and interfaces thereto. This includes any information that Citrix and its service providers collect and analyze in connection with the Services, such as usage patterns, User feedback, and other information to improve and enhance the Services. Customer hereby grants Citrix a non-exclusive, perpetual, irrevocable, royalty-free, transferable, worldwide right and license, with the right to sublicense, to use, reproduce, perform, display, disclose, distribute, modify, prepare derivative works of, and otherwise exploit any User feedback without restriction in any manner now known or in the future conceived, and to make, use, sell, offer to sell, import and export any product or service that incorporates the feedback. No other rights with respect to the Services, any related Citrix product, or any related intellectual property rights are implied.
- 2.5 **Citrix Marks.** Unless expressly authorized under the terms of this Agreement, Customer agrees that it shall not use, register or apply for registration of any trademark, service mark, business name, company/trade name, domain name or social media account name or handle which is comprised of or incorporates in whole or in part any Citrix Mark, or is otherwise confusingly similar to a Citrix Mark. In the event of any breach of this provision, Customer agrees that it will do all things necessary to effect the transfer of any such same or similar trademark, service mark, business name, company/trade name, domain name or social media account name or handle to Citrix, including but not limited to executing assignment documentation. Except as expressly granted herein, no license regarding the use of Citrix copyrights, patents, trademarks, service marks or company/trade names is granted or will be implied. For any authorized use of the Citrix Marks, Customer represents that it has reviewed and will adhere to Citrix' Trademark & Copyright Guidelines, available at <https://www.citrix.com/about/legal/brand-guidelines.html>, and incorporated herein by reference and as may be periodically updated by Citrix.
- 2.6 **Open Source Software.** Customer may receive Open Source Software when Customer uses the Services. That Open Source Software is made available under the applicable open source licenses.
3. **ORDERS, FEES AND PAYMENT.**
- 3.1 **Orders.** Customer may order Services using the Citrix then-current ordering processes. Your Service may automatically renew or be extended by your purchase of a renewal. The Service offering you purchase determines how renewals work. In the event your offering includes automatic renewals, should you wish to allow the Service to expire at the end of your then current term, you must provide Citrix thirty (30) days advance written notice. All Orders, including auto renewals, are subject to acceptance by Citrix in its discretion. All Customer information provided by or on behalf of Customer must be current, complete and accurate, and Customer is responsible for keeping such information updated. Order information is subject to automatic processing by Citrix for the purposes of managing Customer's account.
- 3.2 **Fees, Taxes and Payment.** Customer is responsible for all Fees and Taxes. Fees may increase upon Service renewals, but shall be quoted upon request, and invoiced sufficiently in advance, such that Customer may choose to let the Service expire. If Customer fails to pay Taxes, Customer agrees to reimburse Citrix for any such Taxes assessed against Citrix and indemnify and hold Citrix harmless against any other claim, liability and/or penalties resulting therefrom. All purchases are final with no right to a refund, except as expressly provided under the warranty or the infringement indemnification terms of this Agreement.
- 3.3 **Additional Services.** Customer may order additional Services at any time. Additional Services may not be available on a coterminous basis with previously ordered Services.
- 3.4 **Late Payments.** Citrix reserves the right, in its discretion, to (i) suspend or terminate the Services or any portion thereof for non-payment of Fees, and (ii) impose a charge to restore archived data from delinquent accounts.
4. **TERM AND TERMINATION.**
- 4.1 **Term.** The terms of this Agreement shall apply for the period of Services set forth under accepted Orders, including auto renewals, or if none, for the period of paid or trial subscription.

- 4.2. **Termination for Cause**. Either party may terminate the Agreement or a specific Services if the other party breaches any of its material obligations under the Agreement, or as to the specific Services, and fails to cure within thirty (30) days of receipt of written notice from the non-breaching party, and either party may immediately terminate the Agreement if the other party becomes insolvent or bankrupt, liquidated or is dissolved, or ceases substantially all of its business. Citrix may immediately terminate the Agreement if the Customer breaches Sections 2, 5 or 6.
- 4.3. **Effect of Termination**. Upon termination of the Agreement or affected specific Services, Customer will immediately discontinue all access and use of all Services under the Agreement or the specific Services. Citrix has no obligation to maintain Customer Content following termination, subject to compliance with applicable law. Subject to availability and the applicable Service Description, Customer shall have thirty (30) days to download Customer Content after termination and must contact Citrix technical support for download access and instructions. Neither party shall be liable for any damages resulting from termination of the Agreement, including without limitation unavailability of Customer Content arising therefrom; provided, however, termination shall not affect any claim arising prior to the effective termination date. Citrix shall have the right to invoice Customer and Customer agrees to pay for any use of the Services past the date of expiration or termination.
- 4.4. **Survival**. The provisions of Sections 1 (Definitions), 2.2 (Limitations on Use), 2.4 (Proprietary Rights), 2.6 (Open Source Software), 3 (Fees), 4.3 (Effect of Termination), 5 (Customer Content and Customer Accounts), 8 (Indemnification), 9 (Limitation of Liability), 10.15 (Notices), 10.17 (General), and 10.18 (Contracting Party, Choice of Law and Location for Resolving Disputes) shall survive any termination of the Agreement.

5. **CUSTOMER CONTENT AND CUSTOMER ACCOUNTS.**

- 5.1. **Customer Content**. Customer retains all rights to any and all of its Customer Content, subject to a non-exclusive, worldwide, royalty-free, license to Citrix as necessary to provide the Services hereunder. Citrix shall not own any data, content, information or material in such Customer Content. Service interaction with Customer Content varies depending on the nature of the Service. Each party shall apply reasonable technical, organizational and administrative security measures, as appropriate relative to the Service, to keep Customer Content protected in accordance with industry standards, and Customer shall retain a current copy of Customer Content outside the Services. Services are designed to be delivered only within a larger Customer security environment. Customer shall ensure appropriate security functionality as its environment, including, but not limited to, access controls, firewalls, applications and networks, used in conjunction with the Service. Citrix and its service providers will monitor the overall performance and stability of the infrastructure of the Services, including as Citrix deems necessary in its sole discretion: (i) for providing or improving the Services, (ii) as directed or instructed by Customer and its Users, and/or (iii) for compliance with Citrix policies, applicable law, regulation, or governmental request. Customer may not block or interfere with that monitoring. If Citrix reasonably believes a problem with the Services may be attributable to Customer Content or use of the Services, Customer must cooperate with Citrix to identify the source of and to resolve the problem. Customer shall comply with all intellectual property laws related to the Customer Content and legal duties applicable to Customer as a data controller by virtue of the submission or storage of Customer Content within the Services, including providing all information or notices Customer is required by law to provide to Users and obtain consent of the Users, where required. Customer and its users shall not submit to or store in any Services any Customer Content that is governed by US International Traffic in Arms Regulations (ITAR) or similar regulations of any country that restricts import or export of defense articles or defense services. Customer and its Users shall not submit to or store any protected health information ("PHI") in any Services, unless Customer has specifically purchased a Service identified in the applicable Service Description as intended for retention of PHI, notified Citrix at privacy@sharefile.com, and entered into the applicable Business Associate Agreement (BAA) with Citrix at least thirty (30) days in advance of any PHI upload. Citrix has no obligation to maintain Customer Content following expiration of a subscription to the affected Services. Subject to availability and the applicable Service Description, Customer shall have thirty (30) days' to download Customer Content after expiration, and must contact Citrix technical support for download access and instructions. Notwithstanding anything in this Agreement to the contrary, this Section expresses the entirety of Citrix' obligations with respect to Customer Content.
- 5.2. **Customer Accounts**. Customer is solely responsible for (i) the configuration of Customer's Account, (ii) the operation, performance and security of Customer's equipment, networks and other computing resources used to connect to the Services, (iii) ensuring all Users exit or log off from the Services at the end of each session, (iv) maintaining the confidentiality of Customer's accounts, User id's, conference codes, passwords and/or personal identification numbers used in conjunction with the Services, and (v) all uses of the Services that

occur using Customer's password or account. Citrix reserves the right to suspend the Services or terminate the Agreement if Customer misuses or otherwise shares login information among Users. Customer will notify Citrix immediately of any unauthorized use of its account or any other breach of security. Ownership of Customer's account is directly linked to the individual or entity that completes the registration process for the account. Customer acknowledges that Citrix will rely on the information provided for issues arising with the Customer account. Citrix reserves the right to review Customer's account to the extent necessary to confirm compliance with Section 2.2, applicable Use Levels and this Section 5.2, and to terminate or suspend Customer's access for overuse and/or misuse. Customer agrees to pay for any overage in excess of permitted Use Levels.

- 5.3 **Customer Account Access/Instructions.** The Customer account owner, and any authorized User, will have access to information in the Customer account. Citrix will not provide access to any other User at any time. Customer agrees that Citrix may rely on instructions given by the account owner either through the account dashboard or via email from the address on file for the Customer account owner. Citrix shall bear no responsibility for any spoofed or otherwise fraudulent email instructions relating to Customer's account. Customer agrees that the Customer account owner Username and/or other alias of a sender contained in an email is legally sufficient to verify the sender's identity and the authenticity of the communication to Citrix and establishes the account owner as its originator without further investigation or verification by Citrix. Citrix will not arbitrate any dispute over ownership of the Customer account. Customer agrees not to request access or information about an account that is not owned by the Customer and to resolve any account related disputes directly with the other party. In the event of a dispute regarding Customer account data, Citrix will only release information to another party other than the Customer account owner pursuant to a court order or other notarized waiver and release as determined by Citrix.
6. **COMPLIANCE WITH LAWS**. In connection with the performance, access and use of the Services under the Agreement, each party agrees to comply with all laws, rules and regulations including, but not limited to, export and import, data protection, and privacy laws and regulations applicable to that party. Specifically, without limiting the generality of the foregoing, Customer shall provide the relevant persons and/or participants with all information or notices Customer is required by applicable privacy and data protection laws to provide and, if necessary, obtain the consent of or provide choices to such persons and/or participants as required. Citrix may cooperate with applicable government authorities with respect to the Services and Citrix provision of such Services to Customers.
7. **WARRANTIES AND WARRANTY DISCLAIMER**. CITRIX WARRANTS THAT THE SERVICES, INCLUDING WITHOUT LIMITATION ANY COMPONENTS DELIVERED WITH SERVICES, WILL MATERIALLY CONFORM TO THE SERVICE DESCRIPTIONS. CITRIX AND ITS AFFILIATES, LICENSORS AND SERVICE PROVIDERS DO NOT REPRESENT OR WARRANT THAT (I) THE USE OF SUCH SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR FREE, OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (II) SUCH SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS, (III) ALL ERRORS OR DEFECTS WILL BE CORRECTED, OR (IV) THE SERVICES WILL BE FREE FROM ANY HARMFUL COMPONENTS OR THAT ANY CONTENT, INCLUDING CUSTOMER OR THIRD PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. THE FOREGOING LIMITED WARRANTY DOES NOT COVER PROBLEMS ARISING BY ACCIDENT, ABUSE OR USE IN A MANNER INCONSISTENT WITH THIS AGREEMENT OR RESULTING FROM EVENTS BEYOND CITRIX' REASONABLE CONTROL. CITRIX' ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY UNDER THIS WARRANTY WILL BE, AT CITRIX' SOLE OPTION AND SUBJECT TO APPLICABLE LAW, TO PROVIDE CONFORMING SERVICES, INCLUDING REPLACEMENT COMPONENTS AS REQUIRED, OR TO TERMINATE THE NON-CONFORMING SERVICES, AND PROVIDE A PRO-RATED REFUND OF ANY PREPAID FEES FROM THE PERIOD OF NON-CONFORMANCE THROUGH THE END OF THE REMAINING TERM. TO THE EXTENT PERMITTED BY APPLICABLE LAW, CITRIX AND ITS AFFILIATES, LICENSORS AND SERVICE PROVIDERS DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, QUIET ENJOYMENT, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES AND CONDITIONS, THEREFORE SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO CUSTOMERS LOCATED IN SUCH JURISDICTIONS. THE SERVICE DESCRIPTIONS MAY CONTAIN ADDITIONAL LIMITED WARRANTIES AND/OR WARRANTY DISCLAIMERS APPLICABLE TO INDIVIDUAL SAAS SERVICES.

8. **INDEMNIFICATION.**

8.1. **Indemnification by Citrix.** Subject to Sections 8.2. and 8.3. below, Citrix shall indemnify and defend Customer against any third party Infringement Claim, and pay reasonable attorneys' fees, court costs, damages finally awarded, or reasonable settlement costs with respect to such Infringement Claim; provided that: (i) Customer promptly notifies Citrix in writing of an Infringement Claim such that Citrix is not prejudiced by any delay of such notification; (ii) Citrix will have sole control over the defense and any settlement of any Infringement Claim; and (iii) Customer will provide reasonable assistance in the defense of same. For the purposes of these terms, "Infringement Claim" means any claim, suit or proceeding brought against a Customer based on an allegation that the Services, excluding any Open Source Software included in any software components distributed to Customer or used in conjunction with the Services, as delivered by Citrix, infringes upon any patent or copyright or violates any trade secret rights of any third party.

8.2. **Infringement Cures.** If Customer's use of any of the Services is, or in Citrix' opinion is likely to be, enjoined as a result of an Infringement Claim, Citrix shall, at its sole option and expense, either (i) procure for Customer the right to continue to use the Services as contemplated herein, or (ii) replace or modify the Services to make their use non-infringing without degradation in performance or a material reduction in functionality and notify Customer to discontinue use of the prior version, which Customer shall do immediately. If options (i) and (ii) above are not reasonably available, Citrix may, in its sole discretion and upon written notice to Customer, terminate this Agreement, cancel access to the Services and refund to Customer any prepaid, but unused Fees.

8.3. **Limitation.** Citrix assumes no liability, and shall have no liability, for any Infringement Claim based on (i) Customer's access to and/or use of the Services following notice of an Infringement Claim; (ii) any modification of the Services by Customer or at its direction; (iii) Customer's combination of the Services with third party programs, services, data, hardware, or other materials; or (iv) any trademark or copyright infringement involving any marking or branding not applied by Citrix or involving any marking or branding applied at Customer's request.

8.4. **Exclusive Remedy.** THE FOREGOING STATES CITRIX SOLE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT CLAIM HEREUNDER.

9. **LIMITATION ON LIABILITY.** NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PERSON FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL LOSS, EXEMPLARY OR OTHER DAMAGES, WHETHER DIRECT OR INDIRECT, ARISING OUT OF OR RELATING TO: (i) LOSS OF DATA, (ii) LOSS OF INCOME, (iii) LOSS OF OPPORTUNITY, (iv) LOST PROFITS, (v) COSTS OF RECOVERY, REPLACEMENT OR RESTORATION OF ANY LOST OR ALTERED CUSTOMER CONTENT, (vi) UNAVAILABILITY OR NON-PERFORMANCE OF ANY OR ALL OF THE SERVICES, (vii) COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, (ix) UNAUTHORIZED ACCESS TO, COMPROMISE, ALTERATION OR LOSS OF CUSTOMER CONTENT, (x) OR ANY OTHER DAMAGES, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR VIOLATION OF STATUTE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY. EXCEPT FOR (a) A PARTY'S INDEMNIFICATION OBLIGATIONS (b) A BREACH BY CUSTOMER OF SECTIONS 2 OR 5, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY AND THEIR RESPECTIVE AFFILIATES, LICENSORS AND SERVICE PROVIDERS ARISING OUT OF THIS AGREEMENT AND/OR THE TERMINATION THEREOF, SHALL BE LIMITED TO THE SUM OF THE AMOUNTS PAID FOR THE APPLICABLE SERVICE DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S OBLIGATIONS TO PAY ANY FEES AND/OR OTHER SUMS DUE UNDER ANY ORDER. THE SERVICE DESCRIPTIONS MAY CONTAIN ADDITIONAL LIMITATIONS OF LIABILITY APPLICABLE TO CITRIX THAT RELATED TO INDIVIDUAL SAAS SERVICES.

10. **ADDITIONAL TERMS.**

10.1. **European Union Customers.** The provisions of this Section 10.1 shall apply only to Customers residing in the European Union. If Customer desires to enter into standard contractual clauses with Citrix as it relates to the

processing of Customer information by Citrix, Customer may request a Data Processing Addendum ("DPA") by submitting a [DPA Request Form](#), and Citrix will provide Customer with a DPA for execution.

- 10.2 **U.S. Government End-Users.** If Customer is a U.S. Government agency, Customer hereby acknowledges and agrees that the software being accessed through Services, as well as any software that is downloaded by any User in connection with the Service, constitutes "Commercial Computer Software" as defined in Section 2.101 of the Federal Acquisition Regulation ("FAR"), 48 CFR 2.101. Therefore, in accordance with Section 12.212 of the FAR (48 CFR 12.212), and Sections 227.7202-1 and 227.7202-3 of the Defense Federal Acquisition Regulation Supplement ("DFARS") (48 CFR 227.7202-1 and 227.7202-3), the use, duplication, and disclosure of the software and related Documentation by the U.S. Government or any of its agencies is governed by, and is subject to, all of the terms, conditions, restrictions, and limitations set forth in this Agreement. If, for any reason, FAR 12.212 or DFARS 227.7202-1 or 227.7202-3 or these license terms are deemed not applicable, Customer hereby acknowledges that the Government's right to use, duplicate, or disclose the software and related Documentation are "Restricted Rights" as defined in 48 CFR Section 52.227-14(a) (May 2014) or DFARS 252.227-7014(a)(15) (Feb 2014), as applicable. Manufacturer is Citrix Systems, Inc., 851 West Cypress Creek Road, Fort Lauderdale, Florida 33309.
- 10.3 **Services Trial.** Citrix may make the Services available to Customer for a limited period of time on a demonstration or trial basis ("Trial Period"), as specified in the applicable Order. The Trial Period shall terminate (i) at the end of the stated Trial Period, or (ii) if no such date is specified, thirty (30) days from the date of Customer's initial access to the Services. Following expiration of the Trial Period, the Services will cease or automatically continue as specified in the Order unless cancelled by Customer, and Customer is responsible for payment of the applicable Fees set forth in the Order. During the Trial Period, CITRIX PROVIDES THE SERVICES "AS IS" AND WITHOUT WARRANTY OR INDEMNITY, TO THE EXTENT PERMITTED BY LAW, AND ALL OTHER TERMS OF THIS AGREEMENT OTHERWISE APPLY. Citrix reserves the right to modify or discontinue any trials or promotions at any time without notice.
- 10.4 **Beta, Tech Preview or Labs Services.** CUSTOMER ACKNOWLEDGES THAT BETA, TECH PREVIEW OR LABS SERVICES ARE OFFERED "AS-IS", WITHOUT WARRANTY, LIABILITY OR INDEMNITY OF ANY KIND BY CITRIX. SUCH SERVICES MAY CONTAIN BUGS, ERRORS AND OTHER DEFECTS. Citrix does not make any representations, promises or guarantees that such Services will be publicly announced or made generally available. Citrix has no obligation to provide technical support or continued availability, and such Services can be suspended or terminated at any time by Citrix in its sole discretion with or without notice to Customer. Customer may be asked to provide feedback regarding Customer's experience and use ("Feedback"). Customer acknowledges and expressly agrees that any contribution in the form of services, suggestions, ideas, reports, listing of defects or deficiencies, expenditures, logs or otherwise by Customer to any such improvements, updates, modifications or enhancements shall not give or grant Customer any right, title or interest in any such Feedback. Customer agrees to allow Citrix to incorporate into any commercial product or offering derived any suggested Feedback of any kind, without compensation or accounting and without retention by Customer of any proprietary claim. With respect to the Beta or Labs Services, these terms supersede any conflicting terms and conditions in the Agreement, but only to the extent necessary to resolve conflict.
- 10.5 **Third Party Features.** The Services may be linked to third party sites or applications ("Third Party Services"). Citrix does not endorse, warrant or control such Third Party Services and is not responsible for the legality, quality, accuracy, reliability, or availability of any Third Party Services. Customer has sole discretion whether to purchase or connect to any Third Party Services. Customer's use of Third Party Services is governed solely by the terms relating to such Third Party Services and Customer is responsible for reviewing, accepting, and complying with any third party terms of use or other restrictions applicable to the Third Party Services. Citrix is not liable for and makes no representations related thereto, including without limitation, content or the manner in which Third Party Services handle content and/or customer data. Citrix reserves the right to suspend or terminate the Third Party Services at any time. Citrix will use commercially reasonable efforts to the extent practical to provide reasonable notice of that suspension or termination.
- 10.6 **Copyright.** In the event Customer believes that the Services have been used in a manner that constitutes copyright infringement, Customer shall notify Citrix in writing at: Legal Department, Citrix Systems, Inc., 851 W Cypress Creek Road, Ft. Lauderdale, FL 33309 USA, and provide all of the following information, as required by the Digital Millennium Copyright Act ("DMCA"): (i) a statement that Customer has identified content in the Services that infringes a copyright of a third party for whom Customer is authorized to act; (ii) a description of the copyrighted work Customer claims has been infringed; (iii) a specific description of where the allegedly infringing material is located in the Services, including a URL or exact description of the content's location; (iv) Customer's name, address, telephone number, and e-mail address; (v) a statement that Customer has a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use); (vi) a statement that, under penalty of perjury, the information in Customer's

notice is accurate and that Customer is authorized to act on behalf of the owner of the exclusive right that is allegedly infringed; and (vii) Customer's electronic or scanned physical signature. Citrix reserves the right to delete or disable allegedly infringing content, to terminate the accounts of Users who are repeat infringers, and to forward the information in the copyright-infringement notice to the User who allegedly provided the infringing content.

- 10.7. **Consent to Use Data.** Customer agrees that Citrix and its service providers may collect and use data and related information, including, but not limited to, technical information about devices, systems, related software, services, or peripherals associated with Customer's use of the Services (excluding Customer Content). Data collected may be used for purposes of facilitating the provision of software updates, license authentication, support, analytics and other purposes consistent with the Citrix Privacy Policy at <http://www.citrix.com/about/legal/privacy.html>. By using the Services or Citrix websites, Customer agrees to the Citrix Privacy Policy and use of cookies, which Citrix and its service providers use to facilitate use of the Services and website.
- 10.8. **Suspension of Service.** Citrix may temporarily suspend the Services if Citrix determines, in its sole discretion, that (i) payment for the Services is not received within 30 days from the date on which payment is due, (ii) Customer or its Users use of the Services are in breach of this Agreement, (iii) Customer failed to timely address Citrix' request to take action pursuant to [Section 2.3](#), (iv) Customer's use of the Services poses a security risk to the Services or to other users of the Services, or (v) suspension is required pursuant to a subpoena, court order or other legal process. Citrix agrees to notify Customer of any such suspension, if permitted by applicable law or unless Citrix reasonably determines that providing such notice presents a risk of harm to the Services, or to any person or property. Customer will remain responsible for all fees incurred before or during any suspension. Citrix' right to suspend Customer's or its Users' right to access or use the Services is in addition to Citrix' right to terminate this Agreement pursuant to [Section 4](#).
- 10.9. **High-Risk Use.** Customer acknowledges that the Services are not designed or intended for access and/or use in or during high-risk activities, including but not limited to: medical procedures; on-line control of aircraft, air traffic, aircraft navigation or aircraft communications; or the design, construction, operation or maintenance of any nuclear facility.
- 10.10. **Recordings.** Certain Services provide functionality that allows a Customer to record and/or store, use, transfer and/or present audio and/or data recordings and/or videos. Customer is solely responsible for complying with all federal, state, and local laws in the relevant jurisdiction when using this functionality. Citrix expressly disclaims all liability with respect to Customer's recording, storage, use, transfer and/or presentation of audio or shared data while using the Services, and Customer releases and agrees to hold Citrix harmless from and against any damages or liabilities related to this functionality.
- 10.11. **Voice and Data Charges; Customer Connectivity.** Customer is responsible for all fees and charges imposed by Customer's telephone carriers, wireless providers, and other voice and/or data transmission providers arising out of access to and use of the Services. If Customer's broadband connection and/or telephone service fails, or Customer experiences a power or other failure or interruption, the Services may also cease to function for reasons outside of Citrix' control. STANDARD DATA FEES AND TEXT MESSAGING RATES MAY APPLY BASED ON CUSTOMER'S PLAN WITH ITS MOBILE PHONE OR OTHER APPLICABLE CARRIER. As mobile access and text message delivery is subject to Customer's mobile carrier network availability, such access and delivery is not guaranteed.
- 10.12. **Assignment.** Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part without Citrix prior written consent, except that Customer may assign this Agreement as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its assets, provided that the assignee abides by these terms. Any attempted assignment in violation of the foregoing shall be void. This Agreement will bind and inure to the benefit of each party's successors or permitted assigns.
- 10.13. **Export Restriction.** Customer acknowledges that the Services are subject to U.S., foreign, and international export controls and economic sanctions laws and regulations and agrees to comply with all such applicable laws and regulations, including, but not limited to, the U.S. Export Administration Regulations ("EAR") and regulations promulgated by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"). Customer also specifically agrees not to, directly or indirectly, allow access to or use of the Services in embargoed or sanctioned countries/regions, by sanctioned or denied persons, or for prohibited end-uses under U.S. law without authorization from the U.S. government.
- 10.14. **Audit.** Not more frequently than annually and at Citrix' expense, Citrix may audit Customer's use of any Service, including without limitation on-premises components provided with the Services. If an audit reveals that Customer has underpaid fees for any Services, in addition to other remedies provided for herein,

Customer shall be invoiced for such underpaid fees. If the underpaid fees exceed ten percent (10%) of the Fees paid, then Customer shall also pay Citrix' reasonable costs of conducting the audit.

- 10.15. **Notices.** All legal notices required under this Agreement shall be in writing and delivered in person or by certified or registered express mail to the address last designated on the account for Customer, and the Citrix contracting entity as specified below, or such other address as either party may specify by notice to the other party as provided herein. Notice shall be deemed given (i) upon personal delivery; (ii) if delivered by air courier or email, upon confirmation of receipt; or (iii) five (5) days after deposit in the US mail. Non-legal notices and notices pursuant to [Sections 4.2 and 10.8](#) may be provided to the email address specified on the applicable Order and shall be deemed effective on the next business day following the date and time stamp on the sender's email. Citrix may also provide Customer with notice postings on the Citrix website. A copy of all Customer legal notices must also be sent to contract-notice@citrix.com.
- 10.16. **Entire Agreement; Order of Precedence.** The Agreement sets forth the entire agreement and understanding of the parties relating to the Services and supersedes all prior and contemporaneous oral and written agreements. For any conflict between these terms and supplementary BAA terms related to PHI, this Agreement shall control. For any conflict between these terms and the Service Descriptions related to a specific Service, the Service Descriptions shall control with respect to the affected Services. Nothing contained in any Order or other document submitted by Customer shall in any way add to or otherwise modify the Agreement or any Citrix license program terms under which an Order is submitted. The terms of this Agreement and/or Service Descriptions or other referenced documents may be updated by Citrix from time to time without notice (but will be identified by the last updated date) and may be reviewed anytime at https://www.citrix.com/content/dam/citrix/en_us/documents/buy/enterprise-saas-eusa.pdf. It is Customer's responsibility to check the foregoing link for updates. Customer's continued access to and use of the Services constitutes acceptance of the then-current terms.
- 10.17. **General Terms.** Captions and headings are used herein for convenience only, are not a part of this Agreement, and shall not be used in interpreting or construing this Agreement. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable, such provision shall be severed from this Agreement and the other provisions shall remain in full force and effect. The parties are independent contractors and nothing in this Agreement creates a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between or among the parties. No person or entity not a party to this Agreement will be deemed to be a third party beneficiary of this Agreement or any provision hereof. Citrix authorized resellers and distributors do not have the right to make modifications to this Agreement or to make any additional representations, commitments, or warranties binding on Citrix. No waiver or amendment of any term or condition of this Agreement shall be valid or binding on any party unless agreed to in writing by such party. Citrix failure to enforce any term of this Agreement will not be construed as a waiver of the right to enforce any such terms in the future. Unless otherwise specified, remedies are cumulative. This Agreement may be agreed to online, by use of the Services and/or executed by electronic signature and in one or more counterparts. No party will be responsible for any delay, interruption or other failure to perform under this Agreement due to force majeure events and acts beyond a party's reasonable control. Force majeure events may include: natural disasters; wars; terrorist activities, activities of local exchange carriers, telephone carriers, wireless carriers, and Internet service providers; cyberattacks; industrial disturbances, electrical or power outage or utilities failures; labor disputes; and acts of government.
- 10.18. **Contracting Party, Choice of Law and Location for Resolving Disputes.** The Citrix contracting entity under this Agreement, and governing law and jurisdiction to resolve any dispute, are identified at <https://www.citrix.com/buy/licensing/citrix-providing-entities.html>.

CTX_code: EUSA 01/01/2018