



Deepbits Terms of Service

These Deepbits Terms of Service (“Agreement”) are between Deepbits Technology, Inc. or one of its affiliates (together, “Deepbits,” “Our,” “We,” “Us” or similar terms) and the customer (“Customer,” “You,” “Your” or similar terms) who accepts this Agreement, or accesses and/or uses the Services (as defined below). This Agreement governs Customer’s subscription to the Services described in the Purchase Order and constitutes a binding contract in connection with any paid or evaluation use of the Deepbits Services.

IF YOU DO NOT AGREE WITH ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT AND DO NOT WISH TO BE BOUND BY THIS AGREEMENT, YOU CANNOT ACCESS OR USE THE SERVICES. IF YOU ARE ACTING ON BEHALF OF YOUR EMPLOYER OR COMPANY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND YOUR EMPLOYER OR COMPANY TO THIS AGREEMENT.

ARTICLE I

DEFINITIONS

1.1. “Customer Application” means the application submitted by Customer for evaluation by Deepbits using the Services.

1.2. “Derivative Work” means a new or modified work that is based on or derived from a preexisting work, including, without limitation, a work that, in the absence of a license, would infringe the copyright in such preexisting work or that uses



trade secrets or other proprietary information with respect to such preexisting work.

1.3. “Documentation” means the user guides for use of the Services that Deepbits makes generally available in connection with the Services.

1.4. “Purchase Order” means the order documentation executed by Deepbits and Customer that forms a part of this Agreement.

1.5. “Services” means the Deepbits portal and associated services for security and privacy analysis of software applications and device management as described in the Purchase Order and any support services provided under the Support Terms.

1.6. “User” means any employee, contractor or agent who is authorized by Customer to utilize the Services in accordance with the terms and conditions of this Agreement and applicable Purchase Order.

ARTICLE II

RIGHT TO USE

2.1. Right to Use Services. If Customer has purchased the Services as set forth in a Purchase Order, then, subject to the terms and conditions of this Agreement, Deepbits (a) will use commercially reasonable efforts to make the Services available to Customer and its Users in accordance with the Documentation and this Agreement, and (b) hereby grants to Customer a limited, non-exclusive, non-transferable right: (i) to have Users access and use the Services solely for Customer’s internal business operations, consistent with this Agreement and the



limitations specified or referenced in the Documentation and the Purchase Order; and (ii) to use the Documentation in support of Customer's authorized access to or use of the Services.

2.2. Evaluation Offering. You may use the Services for Your own internal evaluation purposes only ("Evaluation") for a period of up to thirty (30) days from the start date of the Evaluation (the "Evaluation Period"). During Evaluation Period, You: (i) may have one User access and use, solely during the Evaluation Period, the Services to evaluate one Customer Application; (ii) shall comply with the use restrictions in Section 2.3; and (iii) shall cease access and use of the Services and return all Documentation in its possession to Us, and confirm to Us in writing (email accepted) of such deletion and uninstallation. You agree to provide Us Your evaluation and feedback on Your use of the Services during the Evaluation Period (collectively "Feedback"); such Feedback shall be deemed Our confidential information subject to Article VII of this Agreement and shall not disclosed or published by You. You understand and agree the Services provided during the Evaluation Period may be a limited version and not offer all features or functionality. You grant Us the irrevocable, worldwide, perpetual, royalty-free and exclusive right to use the Feedback for any purpose, including for improving and developing new features for the Services.

2.3. Restrictions. Customer will not, and will not permit its Users or any third party to, (a) access, use or copy the Services (including the Documentation) except as expressly permitted by this Agreement; (b) relicense, sublicense, rent or lease



the Services or use the Services for third-party training, commercial time-sharing or service bureau use; (c) copy, modify, translate, reverse engineer, disassemble, or decompile the Services, attempt to determine source code or protocols from, the executable code of the Services, or create any Derivative Works based upon the Services, except to the extent expressly permitted by applicable law, and then only after Customer has notified Deepbits in writing of Customer's intended activities; (d) access or use the Services for any unlawful or tortious purpose; (e) use the Services to store or transmit any viruses, software routines or other code designed to permit unauthorized access, disable, erase or otherwise harm software, hardware or data, or to perform any other harmful actions; or (f) probe, scan or test (except for the limited Evaluation of the Services under Section 2.2 during the Evaluation Period) the efficacy or vulnerability of the Services, or take any action in an effort to circumvent or undermine the Services.

2.4. Users. Customer shall ensure that all Users of the Services comply with the terms and conditions of this Agreement, any applicable End User License Agreement, and all applicable laws and regulations. Customer shall be responsible for compliance with this Agreement by each User and shall monitor and manage all Users in connection with the use of the Services under this Agreement. Customer is liable for its Users' use of the Services and any breach of this Agreement or applicable laws or regulations.

2.5. Ownership. As between Deepbits and You, Deepbits retains all right, title and interest, including, without limitation, all patent rights, copyrights, trademarks,



trade secrets, and other intellectual property rights in and to the Services (or any portion thereof) thereof, including, without limitation, any copy or Derivative Work or Update (as defined below) of the Services (or any portion thereof). You agree to take any action reasonably requested by Deepbits to evidence, maintain, enforce or defend the foregoing. You shall not take any action to jeopardize, limit or interfere in any manner with Deepbits's ownership of and rights with respect to the Services, or any Derivative Work thereof. You shall have only those rights in or to the Services and any Derivative Work thereof granted to You pursuant to this Agreement.

2.6. Customer Application. If Customer is providing a Customer Application for analysis by the Services, then Customer represents and warrants that it has the right to provide the Customer Application to Deepbits for use and analysis in connection with the Services, that the Customer Application does not violate the copyright, patent, trademark, trade secret or other intellectual property right of any third party, and that the Customer Application does not contain any viruses, malware, ransomware, or any other destructive computer program or application.

2.7. Data. You will retain all right, title and interest in and to data specific to the Customer Applications created by Your use of the Services ("Your Data") and Deepbits will retain all right, title and interest in and to the results of the analysis of your Customer Application generated through Your use of the Services ("Deepbits Data"), provided that Deepbits will not disclose to third parties (except Our subcontractors under an obligation of confidentiality) or make publicly



available Deepbits Data specific to Your Customer Application, except in connection with a Deepbits certification program. You grant to Deepbits and its affiliates the worldwide right to use Your Data to test, improve, develop new features and refine the Services. Deepbits hereby grants and will grant to You a limited, non-exclusive, non-transferable license (without the right to sublicense) to use the Deepbits Data for Your internal business purposes only, in accordance with the terms and conditions of this Agreement, provided that you will not disclose to third parties (except Your subcontractors under an obligation of confidentiality) or make publicly available Deepbits Data specific to Your Customer Application and You will maintain the Deepbits Data as confidential under Article VII. For the avoidance of doubt, Deepbits will retain all right, title and interest in and to all anonymized crash reporting data generated by the Services and Deepbits shall automatically have a right to access and use such data for any purpose, including for a commercial purpose.

2.8. Support. Deepbits will provide support to You and the Users in accordance with the support terms at (“Support Terms”). Except as set forth in the Support Terms or as may otherwise be provided under a written support agreement entered into by Deepbits and You, Deepbits is under no obligation to provide engineering support services or otherwise to support the Service in any way, nor to provide any modification, error correction, bug fix, new release or other update (each an “Update”) to or for the Services. In the event Deepbits, in its sole discretion, supplies or makes available any Update to You, such Update shall be



deemed to be part of the Services hereunder, as applicable, and shall be subject to the terms and conditions of this Agreement.

2.9. Modification. Deepbits may modify the Services from time to time in its sole discretion, provided that no such modification shall materially reduce the functionality of the Services subject to any Purchase Order then in effect. If such modification materially reduces the functionality of the Services, then You may terminate this Agreement with thirty (30) days' prior written notice to Deepbits, provided that if Deepbits provides a workaround or other resolution that mitigates such material reduction of functionality during such thirty (30) day period, then no such right of termination shall arise.

2.10. Subcontractors. Deepbits may from time to time engage consultants, independent contractors or subcontractors to assist Deepbits in providing the Services under this Agreement.

2.11. Compliance. In addition to any other remedies available to Deepbits, Deepbits may suspend Your or any User's access to and use of the Services if You or any such User fails to comply with the terms of this Agreement or if Deepbits reasonably suspects such failure to comply. Deepbits shall not be deemed to be in breach of this Agreement solely as a result of such suspension.

ARTICLE III

ORDERING OF SERVICES

3.1. Purchase Order. The Services provided to Customer will be set forth in a Purchase Order agreed to in writing by Customer and Deepbits, in each case



covering Customer's subscription to the applicable Services. For a Purchase Order to be valid, it must be executed by both the Customer and Deepbits. Unless otherwise expressly specified in the Purchase Order executed by Deepbits, the terms of this Agreement shall supersede any conflicting terms in a Purchase Order. Any form or writing submitted by Customer that is not accepted in writing by Deepbits is expressly rejected.

3.2. Charges. The total, non-refundable fees for use of the Services shall be set forth in Your Purchase Order and shall be payable in accordance with the terms and conditions of Your Purchase Order. If Customer has purchased a recurring subscription to the Services, then Customer shall either pay or provide a payment method (such as credit card) to pay the subscription fees on the first day of each subscription period.

3.3. Failure to Pay Fees. Deepbits shall have the right to terminate this Agreement or suspend Your access to the Services if Customer fails to timely pay fees when due. In addition, Deepbits shall have the right to charge interest on any past due amount at the rate of one percent (1%) per month until fees are paid in full. Customer also agrees to pay any and all costs, attorneys' fees and expenses incurred by Deepbits in collecting or bringing any action to recover any fees due under this Agreement or any Purchase Order.

ARTICLE IV

WARRANTIES AND REMEDIES



4.1. Disclaimer. Deepbits PROVIDES THE SERVICES ON AN AS-IS BASIS WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED. Deepbits EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, ACCURACY, TITLE AND NON-INFRINGEMENT, ANY WARRANTIES THAT MAY ARISE OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE. Deepbits does not warrant that the Services will operate in combination with hardware, software, systems or data not provided by Deepbits, except as expressly specified in the Documentation, or that the operation of the Services will be uninterrupted or error-free. You are responsible for the initial determination of whether a problem is caused by an error in the Services. Except as provided in Section 2.8, Deepbits does not provide assistance on the general use of the Services or problem diagnosis to customers that have not ordered support services from Deepbits. Deepbits shall have no liability for Your specific use of the Services.

ARTICLE V

INDEMNIFICATION

5.1. By Deepbits. Deepbits shall defend, indemnify and hold You harmless from and against any loss, liability, damage or cost (including reasonable attorneys' fees) in connection with any third-party claim of United States copyright



infringement or trade secret misappropriation relating to Your access to or use of the Services in accordance with the terms and conditions set forth in this Agreement and the Documentation, provided that You promptly notify Deepbits in writing of any such claim and allow Deepbits to control, and fully cooperate with Deepbits in, the defense of any such claim and all related settlement negotiations. In the event an injunction is sought or obtained against Your access to or use of the Services as a result of any such infringement claim, Deepbits may, at its sole option and expense, (a) procure for You the right to continue using the Services or (b) replace or modify the Services so that it does not infringe. Deepbits shall have no liability for and to the extent permissible under applicable law, You shall indemnify and hold Deepbits harmless from and against any loss, liability, damage or cost (including reasonable attorneys' fees) in connection with any third-party claim based upon (i) the Customer Application; (ii) Your use of other than the then-current, unaltered version of the Services, unless the infringing portion is also in the then-current, unaltered release; (iii) Your use, modification, operation or combination of the Services with non-Deepbits programs, data, equipment or documentation if such infringement would have been avoided but for such use, modification, operation or combination; (iv) compliance with Your designs, specifications or instructions; or (iv) any third-party software. THE FOREGOING CONSTITUTES THE ENTIRE LIABILITY OF Deepbits, AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO



ANY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF
THIRD-PARTY RIGHTS.

5.2. By Customer. Customer shall defend, indemnify and hold Deepbits and its affiliated and related entities, and each of their officers, employees, contractors and agents harmless from and against any loss, liability, damage or cost (including reasonable attorneys' fees) in connection with any claim, loss, liability, damages and expenses (including attorneys' fees) (collectively a "Deepbits Indemnity Claim") relating to or arising out of the Customer Application and any data, information or material provided by Customer in connection with its use of the Services, provided that Deepbits promptly notifies customer in writing of any such Deepbits Indemnity Claim and allows Customer to control, and fully cooperates with Deepbits in, the defense of any such claim and all related settlement negotiations, provided that any settlement is subject to the prior written approval of Deepbits.

ARTICLE VI

TERMINATION

6.1. Term. This Agreement is effective until the expiration date set forth in Your Purchase Order or until terminated in accordance with Sections 2.2, 3.3 or 6. Subscriptions shall automatically renew for each successive subscription period, unless You provide notice of cancellation at least five (5) days prior to the next subscription period.



6.2. Termination for Breach. Deepbits may terminate this Agreement at any time upon Your breach of any of the provisions hereof.

6.3. Suspension of Services. In addition to any other remedies, Deepbits may suspend access to the Services if You fail to pay the charges due under any Purchase Orders within thirty (30) days after the applicable due date. Deepbits shall not be deemed to be in breach of this Agreement solely as a result of such suspension.

6.4. Effect of Termination. Upon expiration or termination of this Agreement, (a) the provisions of Sections 2.2 (with respect to the license to Feedback only), 2.3, 2.5, 2.7 (with respect to the license to Your Data), and 6.4, and Articles 7, 8, 9 and 10 shall survive, and (b) You will cease all use of the Services, return to Deepbits or destroy all Documentation and related materials in Your possession, and so certify to Deepbits.

ARTICLE VII

CONFIDENTIAL INFORMATION AND PRIVACY

7.1. You shall treat and hold the Services, the terms of this Agreement, Deepbits Data, and any other confidential information provided by Deepbits to You in connection herewith in strict confidence and shall restrict access to the Services to Users. To the extent the performance of its obligations under this Agreement requires Deepbits to be exposed to any information that is identified prior to disclosure by You as being confidential or proprietary, Deepbits shall not disclose such information to any third parties and shall use such information only to the



extent necessary to perform under this Agreement; provided, however, no such obligations shall apply to information in the public domain, received from third parties under no obligation of confidentiality or previously known by the applicable party. The parties shall hold the terms of this Agreement in confidence.

7.2 Any personal information or personal data of any User or provided by Customer under this Agreement shall be used by Deepbits in accordance with its Privacy Policy, which is incorporated herein by reference. Customer represents and warrants that it has provided all notices and obtained all consents necessary to provide the personal data of any User, employee or contractor to Deepbits for purposes of administering this Agreement or providing the Services. Each party shall be responsible for complying with applicable laws with respect to its use of personal information.

ARTICLE VIII

LIMITATION OF LIABILITY

8.1. To the extent allowed by applicable law, Deepbits's entire liability to You for damages concerning performance or nonperformance by Deepbits or in any way related to the subject matter of this Agreement, regardless of whether the claim for such damages is based in contract, tort, strict liability, or otherwise, shall not exceed the amounts received by Deepbits under this Agreement.

ARTICLE IX

CONSEQUENTIAL DAMAGES WAIVER



9.1. TO THE EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL Deepbits BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, DAMAGES FOR LOST PROFITS, LOST DATA OR LOST BUSINESS, OR ANY OTHER INDIRECT DAMAGES, EVEN IF Deepbits HAS BEEN ADVISED AS TO THE POSSIBILITY OF SUCH DAMAGES.

Deepbits shall have no liability with respect to claims relating to or arising from the use of non-Deepbits products and services, even if Deepbits has recommended, referred or introduced You to such products and services.

ARTICLE X

GENERAL TERMS

10.1. Governing Law. This Agreement and all matters arising out of or relating to this Agreement will be governed by the internal laws of the State of California, without giving effect to any choice of law rule. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded. In the event of any controversy, claim or dispute between the parties arising out of or relating to this Agreement, such controversy, claim or dispute may be tried solely in a state or federal court for Santa Clara County, California, and the parties hereby irrevocably consent to the jurisdiction and venue of such courts.

10.2. Severability and Waiver. If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, such provision will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable



of such enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force and effect. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

10.3. No Assignment. You may not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law, merger, change in control or otherwise, this Agreement or any rights or obligations under this Agreement without the prior written consent of Deepbits. Deepbits may freely assign, sell, transfer, delegate or otherwise dispose of this Agreement or any rights or obligations under this Agreement. Any purported assignment, transfer or delegation by You will be null and void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

10.4. Export Administration and Compliance with Laws. You will comply fully with all relevant export laws and regulations of the United States, including, without limitation, the U.S. Export Administration Regulations (collectively "Export Controls"). Without limiting the generality of the foregoing, You will not, and You will require Your representatives not to, export, direct or transfer the Services, or any direct product thereof, to any destination, person or entity restricted or prohibited by the Export Controls. You agree not to export the Services, directly or indirectly, separately or as part of a system, without first obtaining proper



authority to do so from the appropriate governmental agencies or entities, as may be required by law.

10.5. Government End-User Rights. You agree that the Services (and Derivative Works thereof) are “Commercial Items” as defined in 48 C.F.R. 2.101, and Your use, duplication, reproduction, release, modification, disclosure or transfer of this commercial product and software is restricted in accordance with 48 C.F.R. §12.211, 48 C.F.R. §12.212, 48 C.F.R. §227.7102-2, and 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.211, 48 C.F.R. §12.212, 48 C.F.R. §227.7102-1 through 48 C.F.R. §227.7102-3, and 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, this commercial product and software are licensed to U.S. federal government end users (i) only as Commercial Items, and (ii) with only those rights as are granted to all other users pursuant to this Agreement.

10.6. Relationship of the Parties. This Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties, and the parties shall at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever.



10.7. Notices. Any notice, request, demand, or other communication required or permitted hereunder shall be in writing, shall reference this Agreement and shall be deemed to be properly given: (a) when delivered personally; (b) when sent by facsimile, with written confirmation of receipt by the sending facsimile machine; (c) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) two (2) business days after deposit with an express courier, with written confirmation of receipt. All notices to You shall be sent to the address specified on Your Purchase Order (or to such other address as may be designated by a party by giving written notice to the other party pursuant to this Section). All notices to Deepbits shall be sent to 8200 Greensboro Dr Ste 750, McLean, VA 22102-3892 US.

10.8. Entire Agreement. This Agreement and the Purchase Order constitute the entire agreement between the parties and, other than any Deepbits standard form customer agreement signed by the parties, supersede all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. In the event of a conflict between the terms of this Agreement and a signed Deepbits standard form customer agreement, the terms of the signed customer agreement will control. This Agreement may not be modified or amended except in a writing signed by a duly authorized representative of each party; no other act, document, usage or custom will be deemed to amend or modify this Agreement. It is expressly agreed that the



terms of this Agreement and the Purchase Order will supersede the terms in any of Your purchase orders or other ordering documents.