

## SECURELOGIX CORPORATION CUSTOMER AGREEMENT

THIS END USER LICENSE, WARRANTY AND SERVICES AGREEMENT (“**AGREEMENT**”) IS A BINDING AGREEMENT BETWEEN SECURELOGIX CORPORATION (“**SECURELOGIX**”) AND THE ENTITY OR COMPANY THAT THAT IS THE AUTHORIZED PURCHASER, LICENSEE OR USER OF THE PRODUCTS (“**CUSTOMER**”). BY PURCHASING, ACCESSING, DOWNLOADING, INSTALLING OR IN ANY WAY USING A PRODUCT, CUSTOMER IS UNCONDITIONALLY CONSENTING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS AGREEMENT WITH SECURELOGIX. IF CUSTOMER DOES NOT UNCONDITIONALLY AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CUSTOMER IS NOT AUTHORIZED TO AND MAY NOT DOWNLOAD, ACCESS, INSTALL OR USE ANY OF THE PRODUCTS

### 1. **DEFINITIONS.**

- a. The term “**Product(s)**” shall mean SecureLogix’s hardware products (including any software contained therein), separately provided software products, documentation, equipment and items and the services (“**Services**”) offered by SecureLogix from time to time and includes those Products that Customer purchases from an authorized Vendor of SecureLogix’s Products. The Product(s) and the SecureLogix software and documentation, whether integral to the Product(s) or furnished on a standalone basis, are subject to the licensing provisions contained herein. Software programs provided by others that are included with or incorporated into the Product(s) are subject to the provider’s license provisions.
- b. “**Order**” shall mean an order for Products and/or Services submitted to SecureLogix, which, upon written acceptance by SecureLogix, shall become a binding contract for SecureLogix to sell and deliver and for Customer to purchase and pay for the Product and Services described in the Order. An Order may also be issued on Customer’s purchase order or other form document; provided, however, that Customer’s purchase order or other form document shall not alter, vary, amend, supplement or interpret the provisions of this Agreement.

### 2. **SCOPE OF LICENSE FOR CUSTOMER’S USE OF PRODUCT(S).**

- a. Subject to the provisions of this Agreement, upon the payment of any applicable fee(s), SecureLogix grants to Customer a nonexclusive, non-transferable license to use the Product(s) including any future versions, improvements, updates or enhancements that SecureLogix may supply in the future, solely for the performance of services for itself or third parties and the creation of reports in connection with such services. Customer shall use the Product(s) only with the quantities specified in the order for Product(s) that is placed with the Vendor and subsequently accepted by SecureLogix. Separately provided SecureLogix software may only be used on a single designated unit of equipment and in accordance with the provisions of this Agreement.
- b. Customer may not (i) reverse engineer, de-compile, disassemble, or otherwise translate any Product(s), (ii) copy any Product(s) other than making an archival copy of separately provided software, (iii) assign, sub-license, transfer, pledge, lease, rent, or share the Product(s) or Customer’s rights under this Agreement, or (iv) use the Product(s) to prepare hardware or software products or other works.
- c. SecureLogix provides the Product(s) to non-DOD agencies with RESTRICTED RIGHTS and documentation is provided with LIMITED RIGHTS. Use, duplication or disclosure by the Government is subject to the restrictions as set forth in subparagraph C of the Commercial Computer Software - Restricted Rights clause at FAR 52.227-19 (June 1987). In the event the sale is to a DOD agency, the government’s rights in software, supporting documentation and technical data are governed by the restrictions in the Technical Data Commercial Items clause at DFARS 252.227-7015 (Nov. 1995) and subpart DFARS 227.7202-3.
- d. Customer agrees to the provisions of this Agreement and Customer affirmatively acknowledges and understands that the Product(s) contain cryptographic software subject to export controls under the United States Export Administration Regulations (“U. S. Regulations”) and that Customer shall comply with such laws and regulations governing use, export, re-export, and transfer of or re-export the Product(s) (including any documentation or technical data related thereto). Product(s) are classified as telecommunications/networking equipment pursuant to U. S. Regulations and subject to Export Control Classification Number 5A002A.1 which authorizes export or re-export

to most government and commercial end users located in all territories except the embargoed destinations and countries designated as supporting terrorist activities listed in Part 746 of the EAR as embargoed destinations requiring a license.

3. **TECHNICAL SUPPORT.** The following provisions will apply when SecureLogix accepts an Order for technical support ("**Technical Support**"). Customer shall initially call the Vendor to seek Technical Support. If the Vendor cannot resolve the problem, Technical Support shall be available from SecureLogix to Customer via SecureLogix's designated toll-free number (1-877-752-4435) during business hours (7:00 a.m. to 5:00 p.m. Central Time, Monday through Friday, national holidays excepted) for minor problems and technical assistance. For service affecting support requirements, our after-hours call center will escalate your request to an on-call Technical Support Engineer. Technical Support is also available by e-mail to **SUPPORT@SECURELOGIX.COM**. Situations caused by improper use or configuration, untrained Customer's personnel, failure to conform to applicable specifications or which are determined to not have been caused by the Product(s) are billable at SecureLogix's then current support rates.
4. **SECURELOGIX SOFTWARE MAINTENANCE.** The following provisions will apply when SecureLogix accepts an Order for SecureLogix software maintenance ("**Software Maintenance**"). SecureLogix Software Maintenance includes revisions and new releases to the SecureLogix software but does not include future products having differing functionality or features. Such future products will be made available to Customer in accordance with SecureLogix's then existing terms, conditions and fees.
5. **CONSULTING AND/OR TRAINING SERVICES.** The following provisions will apply when SecureLogix accepts an Order to provide training services ("**Training Services**") and/or consulting services ("**Consulting Services**"). Training Services and/or Consulting Services shall consist of and be performed in accordance with the scope of work and dates set forth in the Order and in accordance with SecureLogix's then existing terms, conditions and fees.
6. **EQUIPMENT SERVICES.** The following provisions will apply when SecureLogix accepts an Order to provide installation and/or maintenance for the hardware component of the Product(s) ("**Equipment Services**"). Installation Services will be performed as mutually agreed in the accepted Order. Requests for Equipment Services for the Product(s) shall be made to SecureLogix via SecureLogix's designated toll-free number. Following SecureLogix's verification of a hardware problem, a Return Material Authorization ("**RMA**") number will be issued to Customer. The RMA will authorize Customer to receive an exchange unit on a freight prepaid basis. Customer shall return the malfunctioning Product(s) (or a component thereof) to SecureLogix by second business day delivery, freight prepaid and shall be responsible for payment to SecureLogix of the published price of any units not returned within five (5) business days following receipt of the exchange unit by Customer. Weekends and SecureLogix holidays are excluded. After the warranty period and if Equipment Services are not provided on a contract basis, Customer shall be responsible for all freight charges for the returned Product(s). Supplies and expendable items shall be provided in accordance with SecureLogix's prices in effect on the date shipped. Equipment Services that are outside those specified herein, shall be on a time, materials and transportation basis at SecureLogix's prices in effect at the time such Equipment Services are provided. Provision of such Equipment Services shall be at the discretion of SecureLogix and shall be subject to the availability of personnel and parts. All parts or units that are replaced by parts or units provided by SecureLogix on an exchange basis shall become the property of SecureLogix. The part or unit supplied by SecureLogix shall become the property of the recipient. Parts or units that are provided by SecureLogix may be new or refurbished parts or units that are functionally equivalent to new parts or units and may be from different sources than the original equipment manufacturer. Maintenance aids, including, but not limited to, software or documentation utilized by SecureLogix are either SecureLogix's property or property of third parties. No license or right to use any such maintenance aids is granted hereunder.
7. **CUSTOMER RESPONSIBILITIES.** Customer shall, at its expense, prepare and maintain the site where the Product(s) will be used in accordance with the published specifications for operating environments. Customer assumes the full responsibility to back-up and/or otherwise protect its data against loss, damage or destruction before Services are performed by SecureLogix and/or the Vendor. Customer also agrees to permit prompt access to equipment consistent with Customer's generally applicable standard security requirements and to provide reasonable assistance and facilities so as to expedite the performance of Services by SecureLogix and/or the Vendor. Customer shall provide SecureLogix and/or the Vendor with an accurate description of all communication lines, modems, networks, software and other devices and related items (collectively, "**Devices**") that may be necessary for SecureLogix and/or the Vendor to access during the performance of Services or the provision of any deliverables hereunder. Customer hereby authorizes SecureLogix and/or the Vendor to

access the Devices for the purposes of performing such Services or providing such deliverables. Customer warrants that it owns or possesses all rights necessary to authorize SecureLogix to access such Devices.

8. **EXCLUSIVE WARRANTY AND EXCLUSIVE REMEDY.**

- a. SecureLogix's exclusive limited Product(s) warranty is that the Product(s), under normal use and service, will substantially perform all of the functions described in the specifications for the Product(s). The warranty periods are, from date of delivery, (i) one (1) year for hardware products (including any software contained therein) and (ii) sixty (60) days for separately provided software products. In the event SecureLogix breaches this warranty, Customer's exclusive remedy shall be, at SecureLogix's option and expense, (i) to have SecureLogix correct any discrepancy in performance that materially impairs the functionality of the Product(s), or (ii) SecureLogix shall refund the price paid to SecureLogix for the Product(s) provided that Customer returns the Product(s) prepaid within thirty (30) days of the discovery of the discrepancy during the warranty period.
- b. With respect to Services, SecureLogix's exclusive warranty is that the Services shall be performed in a workmanlike fashion. In the event SecureLogix breaches this warranty, Customer's exclusive remedy shall be, at SecureLogix's option and expense, (i) to have SecureLogix correct such Services or (ii) SecureLogix shall refund the price paid for the applicable portion of the Services.
- c. EXCEPT AS EXPRESSLY PROVIDED HEREIN, SECURELOGIX MAKES NO REPRESENTATION OR GUARANTEE WHATSOEVER AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE NOR DOES SECURELOGIX MAKE ANY REPRESENTATION AS TO PREVENTING OR RESOLVING ANY PROBLEMS OR PRODUCING ANY SPECIFIC RESULTS
- d. IT IS HEREBY ACKNOWLEDGED BY CUSTOMER THE VENDOR HAS NOT AND CANNOT MAKE ANY WARRANTIES OR REPRESENTATIONS ON BEHALF OF SECURELOGIX NOR CAN THE VENDOR BIND SECURELOGIX TO ANY CONTRACT OR AGREEMENT.

9. **LIMITATION OF LIABILITY.** EXCEPT FOR CUSTOMER'S BREACH OF SECTION 2.b ABOVE, NEITHER CUSTOMER, SECURELOGIX NOR THE VENDOR SHALL HAVE ANY LIABILITY WITH RESPECT TO ANY OBLIGATIONS UNDER THIS AGREEMENT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES EVEN IF ANY OF THEM HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPTING SECURELOGIX'S OBLIGATIONS CONCERNING INFRINGEMENT SET FORTH IN SECTION 11 BELOW, IN NO EVENT SHALL SECURELOGIX'S OR THE VENDOR'S LIABILITY ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT OR OTHERWISE EXCEED THE LESSER OF CUSTOMER'S ACTUAL AND DIRECT DAMAGES OR THE AMOUNTS PAID TO SECURELOGIX BY CUSTOMER UNDER THIS AGREEMENT FOR THE PRODUCT OR SERVICE THAT CAUSED THE DAMAGES.

10. **EXCLUSIVE PROVISION REGARDING INFRINGEMENT.** SecureLogix's exclusive warranty regarding infringement is that SecureLogix has developed the Products and deliverables and/or has all right, title and interest in and to the Products and deliverables necessary to grant the rights under this Agreement and that the Products and deliverables do not infringe any United States patent, copyright or trade secret. SecureLogix agrees to defend Customer against a lawsuit and pay all damages, costs and reasonable attorney's fees finally awarded against Customer resulting from any claim that any Products or deliverables created or provided by SecureLogix infringe any of the foregoing provided Customer gives SecureLogix prompt written notice of any claim, and provides reasonable cooperation to SecureLogix in the investigation and defense of such claim and grants SecureLogix exclusive control of the defense and settlement thereof; provided, however, that no such claim or action in which Customer is named as a defendant may be settled or compromised without Customer's express written consent, which may be conditioned upon the execution of a release of all claims against Customer by the party bringing such claim or action but which shall otherwise not be unreasonably withheld or delayed by Customer. In the event of any such infringement, SecureLogix shall, at its option and expense, either (i) replace or modify the Products or deliverables so that they become non-infringing, or (ii) accept return of the Products or deliverables and refund an amount equal to Customer's depreciated value of the returned items found to be infringing. SecureLogix shall have no liability for infringements caused in whole or in part by Customer, third parties not hired by SecureLogix or alterations or combinations not reviewed and approved in writing in advance by SecureLogix or that are not performed or provided by SecureLogix. The foregoing constitutes the exclusive warranty of SecureLogix and exclusive remedy of Customer with respect to any claim or action for

infringement. Customer may fully participate in the defense and/or settlement or compromise of any claim of infringement at Customer's expense.

11. **SECURELOGIX'S EMPLOYEES.** SecureLogix and/or Vendor reserve the right to determine which of its employees will be assigned to a particular project, to replace or reassign such employees and/or subcontract to qualified third persons part or all of the performance of any Services requested hereunder. Customer may request the removal or reassignment of SecureLogix's and/or Vendor's employees on a nondiscriminatory basis at any time and SecureLogix and/or Vendor will promptly provide a suitable replacement. SecureLogix's and/or Vendor's employees will comply with all generally applicable work and security rules of Customer.
12. **FORCE MAJEURE.** SecureLogix and Vendor shall not be liable for any delay or failure to perform any obligations due directly to any cause beyond its reasonable control, including, without limitation, lack of cooperation or assistance by Customer, labor difficulties, fire, accident, act of the public enemy, war, public disturbances, sabotage, transportation delay, shortage of raw material, energy, or machinery, or act of God, government or the judiciary or information or telecommunications systems disruption caused by a third party that materially impairs SecureLogix's and/or Vendor's performance hereunder.
13. **INDEPENDENT CONTRACTORS.** The parties' relationship during the term of this Agreement shall be that of independent contractors. Neither party shall have, nor shall represent that it has, any power, right or authority to bind the other, or to assume or create any obligation or responsibility, express or implied, on behalf of the other or in such other party's name, except as herein expressly provided. Nothing stated in this Agreement shall be construed as constituting a partnership, joint venture or as creating the relationships of employer/employee, franchisor/franchisee or principal/agent between the parties.
14. **NOTICES.** All notices shall be in writing and all notices and payments shall be sent to the recipient at its respective address set forth above or to such other address as may, from time to time, be designated by written notice. Each party agrees to promptly provide written notice of the specifics of any claim of breach or for damages and to provide the other with a reasonable opportunity to investigate and cure any curable matter.
15. **WAIVER.** Any waiver of any breach of this Agreement shall not be effective unless set forth in a writing signed by an officer of the waiving party.
16. **TERM.** This Agreement shall be effective as of the last date written below and shall continue until Customer ceases to use the Product(s) or the date of Customer's breach of any of the provisions of this Agreement at which time Customer's rights hereunder shall terminate.
17. **ASSIGNMENT.** Customer may not assign this Agreement without SecureLogix's specific prior written consent which SecureLogix may, in its discretion, withhold, and any attempted assignment in violation of the foregoing will be void.
18. **ARBITRATION OF DISPUTES** The parties agree that any controversy or claim (whether such controversy or claim is based upon or sounds in statute, contract, tort or otherwise) arising out of or relating to this Agreement, any performance or dealings between the parties (including the Vendor), or any dispute arising out of the interpretation or application of this Agreement or any dealings between Customer, SecureLogix and/or Vendor or their respective directors, officers, employees or agents, which the parties are not able to resolve, will be settled exclusively by arbitration in San Antonio, Texas by a single arbitrator pursuant to the American Arbitration Association's Commercial Arbitration Rules, including the Optional Rules for Emergency Measures of Protection, then in effect and judgment upon the award rendered by the arbitrator shall be entered in any court having jurisdiction thereof and such arbitrator will have the authority to grant injunctive relief in a form similar to that which a court of law would otherwise grant. The arbitrator will be mutually chosen from a panel of licensed attorneys familiar with the subject matter of this Agreement having at least fifteen (15) years of professional experience and will be appointed within thirty (30) days of the date the demand for arbitration was sent to the other party. Discovery will be permitted in accordance with the Federal Rules of Civil Procedure of the United States of America. If an arbitration proceeding is brought pursuant to this Agreement, the prevailing party will be entitled to recover reasonable attorneys' fees, costs and necessary disbursements incurred in addition to any other relief to which such party may be entitled. Neither the parties nor the arbitrator may disclose the existence, content or results of the arbitration, except as necessary to enforce award or to comply with legal or regulatory requirements. Before making any such disclosure, the party intending to make the disclosure shall give the other party written notice of such intention and shall afford the other party a reasonable opportunity to protect

its interests, which such period shall not be less than twenty (20) days from the non-disclosing party's receipt of the aforementioned written notice. The parties expressly agree that this Agreement and any award rendered pursuant to it shall be governed by the 1958 United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards. All proceedings and filings will be in the English language.

19. **REJECTION OF U.N. CONVENTION, ETC.** THE PARTIES AGREE THAT THE PROVISIONS OF THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, UNIFORM COMPUTER INFORMATION TRANSACTIONS ACT, THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, THE UNIFORM ELECTRONIC TRANSACTIONS ACT, ANY STATUTORY ADOPTIONS OR EQUIVALENTS OF THE AFOREMENTIONED ACTS AND CONVENTION, AND ANY OTHER LAWS OR REGULATIONS OF ANY STATE OR COUNTRY RELATED TO ELECTRONIC CONTRACTS, ELECTRONIC SIGNATURES, OR ELECTRONIC RECORDS SHALL NOT APPLY TO THE PARTIES, ANY ORDER OR THIS AGREEMENT .
20. **ENTIRE AGREEMENT.** This Agreement shall be construed in accordance with the laws of the State of Texas excluding its conflicts of laws rules and jurisdiction to enforce the arbitration provisions contained herein shall reside in the courts within the State of Texas. This Agreement constitutes the entire agreement between the parties and may only be modified by a written instrument executed by an authorized officer of both parties. All proposals, negotiations and representations (if any) made by SecureLogix and/or Vendor prior, and with reference to the subject matter of this Agreement, are merged herein. Whenever the Vendor is mentioned in this Agreement, the Vendor shall be deemed a third-party beneficiary of this Agreement. This Agreement may be executed in two (2) or more counterparts and each counterpart will be deemed an original, but all counterparts together will constitute a single instrument. This Agreement has been negotiated by the parties and their respective counsel and will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party. Neither SecureLogix nor Customer shall be bound by any oral agreement or representation, irrespective of when made. This Agreement, together with any Order accepted by SecureLogix that conforms to this Agreement, is the complete statement of the terms and conditions that apply to the subject matter of this Agreement. SecureLogix and Customer agree that use of preprinted forms, such as purchase orders or acknowledgments, are for convenience only and all terms and conditions stated thereon, except for the information requested by this Agreement, are void and of no effect. In the event of any conflict between this Agreement and the terms and conditions on an Order, this Agreement will govern.