

Secure Settings End User License Agreement
July 29, 2021

This Secure Settings End User License Agreement (this “**Agreement**”) is a legal agreement between you, the customer that has purchased a license for the Software (“**you**” or “**your**”) and Samsung SDS America, Inc. (“**SDSA**”) that governs the use of the Software and its Documentation. By clicking the “Accept” button during the installation process, or by downloading, installing, copying, or otherwise using the Software or Documentation, you agree to be bound by the terms of this Agreement. If you do not agree to the terms of this Agreement, do not download, install, copy, or use the Software or Documentation.

YOU REPRESENT THAT YOU ARE OF LEGAL AGE TO ENTER INTO AN AGREEMENT, AND, IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY TO THIS AGREEMENT, IN WHICH CASE “**YOU**” WILL MEAN THE ENTITY YOU REPRESENT. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT ACCEPT ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, THEN SDSA DOES NOT AGREE TO LICENSE THE SOFTWARE TO YOU, AND YOU MAY NOT DOWNLOAD, INSTALL, COPY, OR USE IT.

1. License

1.1 **Software License.** Subject to your strict compliance with this Agreement, and on the basis of your representations and warranties (including those in Section 10.2 (By You)), SDSA hereby grants to you a non-exclusive, non-transferable, non-sublicensable, limited license for you and your employees and contractors who are acting on your behalf and with your permission to install and use the Software on a single Samsung mobile device during the License Term in the country or territory in which the Software license is purchased (“**Territory**”) for your internal business purposes. Any copy of the Software made by you or on your behalf: **(A)** will remain the exclusive property of SDSA and its third-party licensors (as applicable); **(B)** be subject to the terms and conditions of this Agreement; and **(C)** must include all copyright and any other Intellectual Property Rights notices contained in the original.

1.2 **Metrics.** The Software is licensed per device for the duration of the License Term that you have purchased.

1.3 **Restrictions.** Except as this Agreement expressly permits, you shall not, and you shall not permit any other Person to: **(A)** copy the Software, in whole or in part, or incorporate the Software or any Third-Party Materials into any other software; **(B)** modify or otherwise prepare derivative works or improvements of the Software; **(C)** rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make the Software available to any third party, including by acting as a consultant, service bureau, or application service provider, except as otherwise provided in a written amendment to this Agreement that has been signed by you and SDSA; **(D)** reverse engineer, disassemble, decompile, decode, or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part (except where this restriction is inconsistent with applicable Law); **(E)** bypass or breach any security device or protection (such as encryption) used for or contained in the Software; **(F)** remove, delete, efface, alter, obscure, translate, combine, supplement, or otherwise change any trademarks, terms of the Documentation, warranties, disclaimers, or Intellectual Property Rights, proprietary rights or other symbols, notices, marks, or serial numbers on or relating to any copy of the Software or Documentation; **(G)** use the Software in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable Law; **(H)** use the Software for any purpose that is to SDSA’s detriment or

commercial disadvantage, including to develop or use a competing software product; **(I)** assert any claim against SDSA or its Affiliates for the infringement of any patent or other Intellectual Property Rights; or **(J)** use the Software or the Documentation in any manner or for any purpose or application that violates any provision of this Agreement.

1.4 **License Term.** The term of your license begins on the earlier of the date that we provide you with a license key for the Software or otherwise make the Software available for your use (“**Effective Date**”) and continues for the duration of the license that you have purchased, subject to an earlier termination in accordance with the terms of this Agreement (“**License Term**”). Unless otherwise indicated by us or our authorized reseller in writing, the License Term is one (1) year.

1.5 **Evaluation License.** If you are being provided with an unpaid license to evaluate the Software, including a pre-production or beta version or a production version (a “**Free Trial License**”), SDSA hereby grants to you a non-exclusive, non-transferable, non-sublicensable, revocable, limited license to install, execute, and run the Software on the number of devices and for the trial period specified by SDSA or its authorized reseller in writing or, if not specified, on up to ten (10) devices in the Territory for a period of fifteen (15) days. SDSA has no obligation under this Agreement to provide any maintenance, support, or other services relating to any Free Trial License, and SDSA has no obligation to make any beta or other pre-production feature or version of the Software commercially available. Subject to your strict compliance with this Agreement, and on the basis of your representations and warranties (including those in Section 10.2 (By You)), you may elect to convert your Free Trial License into a paid license for the Software effective at the end of the trial period. Unless you have already converted your Free Trial License into a paid version, you must immediately stop using and delete all trial Software in your possession at the end of the applicable trial period. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, INCLUDING THE WARRANTIES IN SECTIONS 10.3 (SOFTWARE WARRANTY) AND 10.4 (SERVICES WARRANTY), ALL SOFTWARE AND DOCUMENTATION, AND ANY SUPPORT AND MAINTENANCE, THAT ARE PROVIDED WITH A FREE TRIAL LICENSE ARE PROVIDED “AS IS,” AND SDSA AND ITS LICENSORS AND SERVICE SUPPLIERS HEREBY EXPRESSLY DISCLAIM ALL EXPRESS, IMPLIED, AND OTHER WARRANTIES WITH RESPECT THERETO, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND

ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. SDSA AND ITS LICENSORS AND SERVICE SUPPLIERS WILL HAVE NO LIABILITY ARISING FROM OR RELATING TO ANY FREE TRIAL LICENSE.

2. Data.

2.1 Account Information. SDSA may: **(A)** collect and disclose any Account Information to any third party to the extent necessary for SDSA to perform its obligations or exercise its rights under this Agreement, or **(B)** use any Account Information for any marketing or promotional purposes, in each case in accordance with the SDSA Privacy Policy and all applicable Laws. You represent and warrant that you have obtained all of the consents required for SDSA to exercise its rights with respect to any Account Information.

2.2 Usage Data. The Software does not collect and disclose any data from the device on which it is installed.

2.3 Your Content. You retain all right, title, and interest in and to your own information and data that is processed by the Software ("**Your Content**"). You are solely responsible for taking appropriate measures to back up your devices, systems, and data and all other necessary measures to prevent any file or data corruption or loss.

3. **Delivery**. SDSA shall deliver one copy of the Software electronically, on tangible media, or by other means, in each case in SDSA's sole discretion. SDSA may, in its sole discretion, condition the provision of a license key to the Software upon your prior payment in full of any applicable license fees.

4. **New Releases**. During the License Term, SDSA may provide you with New Releases (including updated Documentation) that SDSA may, in its sole discretion, make generally available to its licensees at no additional charge. Any New Release that SDSA provides to you is deemed to be Software. You are entitled to any New Release that is issued during the License Term, subject to your consent to any license terms that specifically apply to the New Release. You must install any New Release promptly, and in no event more than thirty (30) days after it is made available by SDSA.

5. **Support and Maintenance**. SDSA may make Support and Maintenance available for the Software, subject to terms and conditions contained in a Support and Maintenance policy that, by its express terms, applies to the Secure Settings Software ("**Support Policy**"). The Support Policy, if any, will be effective when we post it on our website <https://www.samsungsds.com/us/etc/legal/legal.html>. Notwithstanding the foregoing, SDSA is not obligated to provide any Support and Maintenance for any Software, and SDSA may modify or withdraw any Support and Maintenance that may be provided. For Software licenses purchased outside of the United States, any Support and Maintenance that might be available to you will be provided by the authorized SDSA reseller from whom you purchased the Software licenses.

6. Fees and Payment.

6.1 Indirect Purchases. This Section 6 (Fees and Payment) only applies to Software licenses that you purchase

directly from SDSA. If you purchase any Software licenses through an authorized SDSA reseller, all fees, payment terms, and delivery terms will be as agreed between you and the applicable reseller.

6.2 Fees and Taxes. You shall pay all fees due under this Agreement to SDSA in accordance with the terms of this Section 6 (Fees and Payment). All fees and other amounts payable by you under this Agreement are exclusive of taxes and similar assessments. Without limiting the foregoing, you are responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by you under this Agreement, other than any taxes imposed on SDSA's income.

6.3 Payment. All fees, taxes, and other charges under this Agreement are due and payable in full within thirty (30) days after the date of their invoice. You shall make all payments under this Agreement in U.S. dollars. All payments are non-refundable.

6.4 Late Payment. If you fail to make any payment when due, then, in addition to all other remedies that may be available to SDSA: **(A)** SDSA may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable Law; **(B)** you shall reimburse SDSA for all costs incurred by SDSA in collecting any late payment of amounts due or related interest, including attorneys' fees, court costs, and collection agency fees; and **(C)** if such failure continues for ten (10) days following written notice thereof, SDSA may **(i)** disable your use of the Software (including by means of a disabling code, technology or device); **(ii)** withhold, suspend or revoke its grant of any license under this Agreement; and **(iii)** terminate this Agreement, including your license.

7. **Audits**. You shall create, retain, and provide to SDSA or its designated auditor all books, records, equipment, logs, and other information required for SDSA or its designated auditor to verify your use of the Software and Documentation in accordance with this Agreement. SDSA or its designated auditor may, in SDSA's sole discretion and on twenty-four (24) hours' notice, inspect and audit your use of the Software at all locations and in all networks or computing environments, and on all hardware and devices, at any time during the License Term and for a period of one (1) year following the expiration or earlier termination of this Agreement. You shall cooperate with any effort by SDSA or its auditor as may be requested by or on behalf of SDSA with respect to such audit. If the audit determines that your use of the Software exceeded the usage permitted by this Agreement, you shall pay to SDSA all amounts due for such excess use of the Software, at SDSA's standard pricing (without any discounts), plus interest on such amounts calculated at the rate specified in Section 6.4 (Late Payment) beginning as of the date on which the excess usage occurred. If the audit determines that such excess use equals or exceeds your permitted level of use, you shall also pay to SDSA all costs incurred by SDSA in conducting the audit. You shall make all payments required under this Section 7 (Audits) within thirty (30) days of the date of written notification of the audit results.

8. Confidentiality.

8.1 Confidential Information. In connection with this Agreement, each Party (as the “**Disclosing Party**”) may disclose or make available Confidential Information to the other Party (as the “**Receiving Party**”). Subject to Section 8.2 (Exclusions), “**Confidential Information**” means information in any form or medium (whether oral, written, electronic or other) that: **(A)** if disclosed in writing or other tangible form or medium, is marked “confidential” or “proprietary”; **(B)** if disclosed orally or in other intangible form or medium, is identified by the Disclosing Party or its Representative as confidential or proprietary when disclosed and summarized and marked “confidential” or “proprietary” in writing by the Disclosing Party or its Representative within ten (10) days after disclosure; or **(C)** due to the nature of its subject matter or the circumstances surrounding its disclosure, would reasonably be understood to be confidential or proprietary. The following information will be considered Confidential Information whether or not marked or identified as such: the Software, Documentation, performance reports, performance benchmarks, and know-how.

8.2 Exclusions. Confidential Information does not include information that: **(A)** was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement; **(B)** was or becomes generally known by the public other than by the Receiving Party’s or any of its Representatives’ noncompliance with this Agreement; **(C)** was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or **(D)** was or is independently developed by the Receiving Party without reference to or use of any Confidential Information, as demonstrated by written or other documentary records.

8.3 Protection. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall: **(A)** not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; **(B)** except as may be permitted under the terms and conditions of Section 8.4 (Compelled Disclosures), not disclose or permit access to Confidential Information other than to its Representatives who: **(i)** need to know such Confidential Information for purposes of the Receiving Party’s exercise of its rights or performance of its obligations under and in accordance with this Agreement; **(ii)** have been informed of the confidential nature of the Confidential Information and the Receiving Party’s obligations under this Section 8 (Confidentiality); and **(iii)** are bound by written confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 8 (Confidentiality); **(C)** safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its similarly sensitive information and in no event less than a reasonable degree of care; and **(D)** ensure its Representatives’ compliance with, and be responsible and liable for any of its Representatives’ non-compliance with, the terms of this Section 8 (Confidentiality). Notwithstanding any other provisions of this Agreement, the Receiving Party’s obligations under this Section 8

(Confidentiality) with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection.

8.4 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information, then, to the extent permitted by applicable Law, the Receiving Party shall: **(A)** promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 8.3 (Protection); and **(B)** provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 8.4 (Compelled Disclosures), the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party’s request, will use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

9. Intellectual Property Rights.

9.1 Ownership. You acknowledge and agree that: **(A)** the Software and Documentation are licensed, not sold, by SDSA and third-party licensors, and this Agreement does not give you or any third party any ownership interest in any Software or Documentation or in any Intellectual Property Rights relating thereto; **(B)** SDSA and its licensors are the sole and exclusive owners of all right, title, and interest in and to the Software and Documentation, including all related Intellectual Property Rights, except for the limited license expressly granted to you under this Agreement; and **(C)** except as provided in Section 2.3 (Your Content), you hereby unconditionally and irrevocably assign to SDSA your entire right, title, and interest in and to any Intellectual Property Rights that you have now or may have in the future in or relating to the Software or Documentation. This assignment obligation applies to any rights in derivative works or patent improvements relating to the Software or Documentation, whether held or acquired by operation of Law, contract, assignment, or otherwise.

9.2 Cooperation. You shall, during the License Term: **(A)** safeguard the Software and the Documentation (including all copies) from infringement, misappropriation, theft, misuse, and unauthorized access; **(B)** take all steps that SDSA may reasonably require you to take in order to assist SDSA in maintaining the validity, enforceability, and SDSA’s ownership of the Intellectual Property Rights in the Software and Documentation; **(C)** promptly notify SDSA in writing if you become aware of: **(i)** any actual or suspected infringement, misappropriation or other violation of SDSA’s Intellectual Property Rights in or relating to the Software or any Documentation; or **(ii)** any claim that the Software or Documentation, including any production, use, marketing, sale, or other disposition of the Software or Documentation, in whole or

in part, infringes, misappropriates or otherwise violates the Intellectual Property Rights or other rights of any Person; and **(D)** fully cooperate with and assist SDSA in all reasonable ways in the conduct of any Action that SDSA may bring to prevent or abate any actual or threatened infringement, misappropriation or violation of SDSA's rights in, and to attempt to resolve any Actions relating to, the Software or Documentation.

9.3 **No Implied Rights.** Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to you or any third party any right, title, or interest in or to the Software, Documentation, or any other information, data, code, or materials.

10. Representations and Warranties.

10.1 **Mutual Representations and Warranties.** Each Party represents and warrants to the other Party that: **(A)** it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; and **(B)** it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, and authorizations it grants and is required to grant under this Agreement.

10.2 **By You.** You represent and warrant to SDSA that: **(A)** Your Content does not infringe upon the Intellectual Property Rights of any third party; **(B)** the use or combination of Your Content with the Software or Documentation will not infringe upon the Intellectual Property Rights of any third party; **(C)** Your Content does not contain any Personal Information; **(D)** the execution of this Agreement by your representative has been duly authorized by all necessary corporate or organizational action; and **(E)** this Agreement will constitute the legal, valid, and binding obligation of, and be enforceable against you in accordance with its terms.

10.3 **Limited Software Warranty.** Subject to the limitations and conditions set forth in this Section 10.3 (Limited Software Warranty), Section 10.4 (Services Warranty), and Section 10.5 (Disclaimer of Warranties), SDSA warrants that from a period of thirty (30) days after the Effective Date, the unmodified Software when installed, operated, and used as recommended in the Documentation and in accordance with this Agreement will function in substantial conformity with the Documentation ("**Software Warranty**"). This Software Warranty does not apply to any Software that: **(A)** has been altered by any Person other than SDSA, **(B)** has not been installed, operated, repaired, or maintained in accordance with the Documentation, **(C)** has been subjected to misuse, negligence, abuse, or accident; **(D)** is licensed for beta, evaluation, testing or demonstration purposes, including any Software licensed to you under a Free Trial License; **(E)** use of the Software in excess of the purchased entitlements; **(F)** any error that we cannot reproduce; or **(G)** any error or issue with the Software that is caused by the hardware on which it is installed. If you believe that SDSA has breached this Software Warranty, then you must notify SDSA of the failure of the Software to operate in substantial conformity with the Documentation ("**Error**") within thirty (30) days after the date on which the Error first occurred, and SDSA will use commercially reasonable efforts to correct the Error. If SDSA is unable to

correct the Error within a reasonable period of time after you provide notice of the breach, you will be entitled to terminate the license to the applicable Software and receive a pro-rated refund of any fees paid for that Software based on the number of days remaining in the License Term after the effective date of your termination under this Section 10.3. THE REMEDY STATED IN THIS SECTION 10.3 IS YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE SOFTWARE WARRANTY.

10.4 **Services Warranty.** This Section 10.4 only applies if SDSA elects to provide Support and Maintenance. Support and Maintenance will be performed in a professional and workmanlike manner and in accordance with industry standards for similar services ("**Services Warranty**"). If you believe that SDSA has breached this Services Warranty, then you must notify SDSA of the breach within thirty (30) days after the date on which the breach first occurred and SDSA will, at its own expense, use commercially reasonable efforts to correct or re-perform the portion of the Support and Maintenance identified in your notice that did not meet the Services Warranty. The remedy stated in this Section 10.4 is your sole and exclusive remedy for any breach of the Services Warranty.

10.5 **DISCLAIMER OF WARRANTIES.** EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN SECTIONS 10.3 (LIMITED SOFTWARE WARRANTY) AND 10.4 (SERVICES WARRANTY), ALL SOFTWARE, DOCUMENTATION, SERVICES, PRODUCTS, AND OTHER MATERIALS PROVIDED BY SDSA UNDER OR IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS," AND SDSA AND ITS LICENSORS, SUPPLIERS, AND SERVICE PROVIDERS (AS APPLICABLE) SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING DISCLAIMERS, SDSA MAKES NO WARRANTY OF ANY KIND THAT ANY SOFTWARE, DOCUMENTATION, SERVICES, PRODUCTS, OR OTHER MATERIALS PROVIDED UNDER OR IN CONNECTION WITH THIS AGREEMENT, OR THE RESULTS OF ANY USE OF THE SOFTWARE OR DOCUMENTATION, WILL: **(A)** MEET YOUR OR ANY OTHER PERSONS' REQUIREMENTS, **(B)** OPERATE WITHOUT INTERRUPTION, **(C)** ACHIEVE ANY INTENDED RESULT, **(D)** BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEMS, OR OTHER SERVICES, OR **(E)** BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY OF THEM IS STRICTLY BETWEEN YOU AND THE THIRD-PARTY OWNER, LICENSOR, OR DISTRIBUTOR OF SUCH THIRD-PARTY MATERIALS. SDSA DISCLAIMS ANY RESPONSIBILITY FOR ANY LOSS OF ANY OF YOUR CONTENT AND IS NOT RESPONSIBLE FOR THE BACKUP OF ANY OF YOUR CONTENT.

11. Indemnification.

11.1 **By You.** You shall defend SDSA, SDSA's Affiliates, and its and their respective officers, directors, employees, agents, permitted successors and permitted assigns (each, a "**SDSA Indemnitee**") against any Action brought by a third party against the SDSA Indemnitee, and defend and hold the SDSA Indemnitee harmless from any Losses finally awarded by a

court of competent jurisdiction against the SDSA Indemnitee resulting from any Action brought by a third party against a SDSA Indemnitee: **(A)** alleging that any Intellectual Property Rights or other right of any Person, or any Law, is or will be infringed, misappropriated, or otherwise violated by any **(i)** use or combination of the Software by you or any of your Representatives or on your behalf with any hardware, software, system, network, service, or other matter whatsoever that is neither provided by SDSA nor authorized by SDSA in this Agreement or the Documentation; or **(ii)** information, materials, or technology directly or indirectly provided by you or directed by you to be installed, combined, integrated, or used with, as part of, or in connection with the Software or Documentation, including Your Content; or **(B)** relating to any use of the Software or Documentation in connection with the design, construction, maintenance, or operation of any hazardous environment, system, or application, including any use or application where a failure of the Software to operate as intended could lead to environmental harm, personal injury, or severe physical or property damage.

11.2 Indemnification Procedure. Each SDSA Indemnitee shall promptly notify you in writing of any Action for which the SDSA Indemnitee believes it is entitled to be indemnified pursuant to Section 11.1 (By You). The SDSA Indemnitee shall cooperate with you at your sole cost and expense. You shall promptly assume control of the defense and investigation of such Action and shall employ counsel reasonably acceptable to the SDSA Indemnitee to handle and defend the same, at your sole cost and expense. The SDSA Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing. You shall not settle any Action on any terms or in any manner that adversely affects the rights of any SDSA Indemnitee without the SDSA Indemnitee's prior written consent, which may not be unreasonably withheld or delayed. If you fail or refuse to assume control of the defense of such Action, the SDSA Indemnitee will have the right, but no obligation, to defend against or settle the Action after giving notice to you, in each case in such manner and on such terms as the SDSA Indemnitee may deem to be appropriate. The SDSA Indemnitee's failure to perform any obligations under this Section 11.2 (Indemnification Procedure) will not relieve you of any of your obligations under Section 11 (Indemnification), except to the extent that you can demonstrate that your ability to defend the Action has been materially prejudiced as a result of such failure.

11.3 Mitigation. If the Software, or any part of the Software, is, or in SDSA's opinion is likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if your use of the Software is enjoined or threatened to be enjoined, SDSA may, at its option and sole cost and expense: **(A)** obtain the right for you to continue to using the Software materially as contemplated by this Agreement; **(B)** modify or replace the Software, in whole or in part, to seek to make the Software non-infringing, while providing materially equivalent features and functionality, and such modified or replacement software will constitute Software under this Agreement; or **(C)** terminate this Agreement, in its entirety or with respect to the affected part or feature of the Software, effective immediately on written notice to you, in which event: **(i)**

you shall cease all use of the Software and Documentation immediately on receipt of SDSA's notice; and **(ii)** provided that you fully comply with your post-termination obligations set forth in Section 13.2 (Effect of Termination or Expiration), SDSA shall promptly refund to you, on a pro rata basis, the share of any license fees prepaid by you for the future portion of the License Term that would have remained but for such termination. THIS SECTION 11.3 (MITIGATION) SETS FORTH YOUR SOLE REMEDY, AND SDSA'S SOLE LIABILITY AND OBLIGATION, FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE OR DOCUMENTATION OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

12. Limitation of Liability.

12.1 EXCLUSION OF DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.3 (EXCEPTIONS), IN NO EVENT WILL SDSA, OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS, BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY **(A)** INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES OR PROFITS; **(B)** LOSS OF GOODWILL OR REPUTATION, **(C)** USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY LICENSED SOFTWARE OR THIRD-PARTY MATERIALS; **(D)** LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA; **(E)** COST OF REPLACEMENT GOODS OR SERVICES; **(F)** CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; OR **(G)** BREACH OF DATA OR SYSTEM SECURITY, INCLUDING ANY UNAUTHORIZED ACCESS TO, COMPROMISE, ALTERATION, OR LOSS OF ANY DEVICE, NETWORK, OR YOUR CONTENT, IN EACH CASE REGARDLESS OF WHETHER YOU WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

12.2 CAP ON MONETARY LIABILITY. EXCEPT AS OTHERWISE PROVIDED IN SECTION 12.3 (EXCEPTIONS), IN NO EVENT WILL THE AGGREGATE LIABILITY OF SDSA AND ITS LICENSORS, SUPPLIERS AND SERVICE PROVIDERS ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO SDSA UNDER THIS AGREEMENT DURING THE ONE (1) YEAR PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12.3 Exceptions. The exclusions and limitations in Section 12.1 (Exclusion of Damages) and Section 12.2 (Cap on Monetary Liability) do not apply to the extent prohibited by applicable Law.

13. Termination.

13.1 Termination. Either Party may terminate this

Agreement effective immediately upon notice to the other Party, if the other Party: **(A)** is dissolved or liquidated or takes any corporate or other action for such purpose; **(B)** becomes insolvent or is generally unable to pay its debts as they become due; **(C)** becomes the subject of any voluntary or involuntary bankruptcy proceeding under any domestic or foreign bankruptcy or insolvency Law; **(D)** makes or seeks to make a general assignment for the benefit of its creditors; **(E)** applies for, or consents to, the appointment of a trustee, receiver, or custodian for a substantial part of its property; or **(F)** materially breaches this Agreement and fails to cure that breach within thirty (30) days after its receipt of notice of the breach from the non-breaching Party, except that SDSA may terminate this Agreement and any license effective immediately if SDSA believes, in its sole discretion, that any breach by you or any of your Authorized Users of Section 1.3 (Restrictions) has occurred.

13.2 Effect of Termination or Expiration. On the expiration or earlier termination of this Agreement, all rights, licenses, and authorizations granted to you under this Agreement will immediately terminate, and you shall: **(A)** immediately cease all use of and other activities with respect to the Software and Documentation; **(B)** deliver to SDSA, or at SDSA's written request destroy and permanently erase from all devices and systems that you directly or indirectly control, the Software, Documentation, and SDSA's Confidential Information, except for information that you are required to retain under Section 7 (Audits), which you shall not return or delete until after the end of the one (1) year period immediately following the termination or earlier expiration of this Agreement; and **(C)** certify to SDSA in a signed written instrument that you have complied with the requirements of this Section 13.2 (Effect of Termination or Expiration). The provisions set forth in the following sections, and any other right, obligation, or provision under this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Sections 1.3 (Restrictions), 2.1 (Account Information), 2.3 (Your Content), 6 (Fees and Payment), 7 (Audits), 8 (Confidentiality), 9 (Intellectual Property Rights), 10.5 (Disclaimer of Warranties), 11 (Indemnification), 12 (Limitation of Liability), 13.2 (Effect of Termination or Expiration), and 14 (Miscellaneous).

14. Miscellaneous.

14.1 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement will be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties, and neither Party will have authority to contract for or bind the other Party in any manner whatsoever.

14.2 Public Announcements. Neither Party may issue or release any announcement, statement, press release, or other publicity or marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks, service marks, trade names, logos, domain names, or other indicia of source, association or sponsorship, in each case, without the prior written consent of the other Party, which may not be unreasonably delayed or withheld; provided, however, that SDSA may, without your

consent, include your name and other indicia in its lists of SDSA's current or former customers in promotional and marketing materials.

14.3 Notices.

(a) For contractual purposes, you consent to receive communications from us electronically. To be valid, any notice that we send to you under this Agreement must be in writing, properly addressed, and sent by email, certified mail with a return receipt requested, or internationally recognized overnight courier (e.g., FedEx, UPS, or DHL), with a signature required upon delivery. To be valid, any notice that you send to us under this Agreement must be in writing, properly addressed, and sent by certified mail, return receipt requested, or internationally recognized overnight courier (e.g., FedEx, UPS, or DHL) with a signature required upon delivery. A notice is properly addressed if it is sent to a party at the address provided below or to another address specified by a Party in a notice sent in accordance with this Section 14.3.

(b) Notices are effective upon receipt. Notices sent by email are deemed to be received when the email is sent and all other notices are deemed to be received upon actual delivery, as indicated in the signed delivery receipt, except as follows: **(A)** if any notice is received on any day other than a Business Day, or on a Business Day but after 5:00 p.m. at the recipient's location, then the notice will be deemed to be effective on the following Business Day; and **(B)** any notice that is rejected or cannot be delivered because of a change of address for which notice was not provided will be deemed to be received upon the rejection or failed delivery.

(c) Any notice sent to SDSA must be addressed to SDSA as follows: Samsung SDS America, Inc., 100 Challenger Road, 6th Floor, Ridgefield Park, New Jersey 07660, Attn.: General Counsel, or to an address provided to you by SDSA in accordance with this Section 14.3. Any notice sent to you must be sent to the physical or email address you provided to SDSA or its authorized reseller when purchasing your Software license, or to an address provided to SDSA by you in accordance with this Section 14.3.

14.4 Interpretation. For purposes of this Agreement: **(A)** the words "include," "includes," and "including" are deemed to be followed by the words "without limitation"; **(B)** the word "or" is not exclusive; **(C)** the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole; **(D)** words denoting the singular have a comparable meaning when used in the plural, and vice versa; and **(E)** words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: **(x)** to sections, exhibits, schedules, attachments, policies, and appendices mean the sections of, and exhibits, schedules, attachments, policies, and appendices to, this Agreement; **(y)** to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and **(z)** to a statute, rule, or regulation, including any "Law," means that statute, rule, or regulation as amended from time to time and includes any successor legislation thereto and any rules or regulations promulgated thereunder.

The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth herein in their entirety.

14.5 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

14.6 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related exhibits, schedules, attachments, policies, and appendices and any other documents incorporated herein by reference, the following order of precedence governs: **(A)** first, Exhibit A (Local Terms and Conditions (UK)) to this Agreement; **(B)** second, this Secure Settings End User License Agreement; and **(C)** third, all exhibits, schedules, attachments, policies, and appendices to this Agreement (other than Exhibit A (Local Terms and Conditions (UK))).

14.7 Assignment. You shall not assign or otherwise transfer any of your rights, or delegate or otherwise transfer any of your obligations or performance under this Agreement, in each case whether voluntarily, involuntarily, by operation of law, or otherwise, without SDSA's prior written consent. No assignment, delegation, or transfer will relieve you of any of your obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 14.7 is void. This Agreement is binding on and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.

14.8 Export Regulation. The Software may be subject to U.S. export control laws, including the U.S. Export Control Reform Act and its associated regulations. You will not directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any country, jurisdiction or Person to which export, re-export, or release is prohibited by any U.S. export control laws or any other applicable Law. You shall comply with all applicable Laws and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making the Software available outside the U.S. If you or any of your Representatives or users of the Software export or import any Software or Documentation outside the country where the transaction for the Software licenses takes place, SDSA will not be deemed to serve as the exporter or importer.

14.9 U.S. Government Rights. Each of the Documentation and the software components that constitute the Software is a "commercial item," as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and

"commercial computer software documentation," as those terms are used in 48 C.F.R. 12.212. Accordingly, if you are an agency of the US Government or any contractor for any US Government agency, you only receive those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with **(A)** 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or **(B)** 48 C.F.R. §12.212, with respect to all other US Government licensees and their contractors.

14.10 Force Majeure.

(a) No Breach or Default. Neither Party will be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments) when and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control (a "**Force Majeure Event**"), including acts of God, pandemics, epidemics, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the Effective Date, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances, passage of Law or any action taken by a governmental or public authority, including imposing an export or import restriction, quota, or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation.

(b) Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected Party will give prompt written notice to the other Party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

14.11 No Third-Party Beneficiaries. Except for SDSA Indemnitees, this Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer on any other Person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

14.12 Amendment and Modification; Waiver. No amendment or modification to this Agreement is effective unless it is in writing and signed by an authorized representative of each Party, except that SDSA may amend: **(A)** the SDSA Privacy Policy, as provided therein; **(B)** this Secure Settings End User License Agreement at any time during the License Term, provided that any amendment to the Secure Settings End User License Agreement will not become effective with respect to your existing licenses until the date on which you renew them for a subsequent License Term unless you accept the amendment by installing a New Release that is accompanied by an amendment; and **(C)** the Support Policy, if any, by posting a new version on our website. No waiver by any Party of any of the provisions hereof is effective unless explicitly set forth in writing and signed by the Party making the waiver. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof; nor will any single or

partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

14.13 **Severability.** If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon any determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.14 **Governing Law; Submission to Jurisdiction.** This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of Law provision or rule that would require or permit the application of the Laws of any jurisdiction other than those of the State of California. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of California, in each case located in the city of San Jose and County of Santa Clara, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. The United Nations Convention on Contracts for the International Sale of Goods does not apply to transactions under this Agreement.

14.15 **Waiver of Jury Trial.** EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

14.16 **Equitable Relief.** You acknowledge and agree that a breach or threatened breach by you of any of your obligations under this Agreement would cause SDSA irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, SDSA will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

15. **Definitions.** The following capitalized terms, if not otherwise defined elsewhere in this Agreement, have the meanings set forth below:

“Account Information” means any data or information concerning you, your employees, and your contractors that you provide or otherwise make accessible to SDSA with respect to any transaction to purchase a license to

the Software or obtain any Support and Maintenance that might be available.

“Action” means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise, and whether the action is meritorious or meritless.

“Affiliate” of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term “control” (including the terms “controlled by” and “under common control with”) means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

“Authorized User” means a specific named individual who is working for your organization, either as an employee or contractor, and who is authorized by you to use the Software for your internal business purposes.

“Business Day” means a day other than a Saturday, Sunday, or other day on which commercial banks in New York City are authorized or required by Law to be closed for business.

“Documentation” means SDSA’s user manuals, handbooks, and installation guides relating to the Software and any other end user documentation relating to the Software, or any other information that SDSA provides or makes available to you in any form or medium that describes the functionality, components, features, or requirements of the Software, including any aspect of the installation, configuration, integration, operation, or use of the Software.

“Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights Laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“Law” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any US federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

“Losses” means all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees, expert fees, and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers.

“New Release” means any generally available version of the Software that introduces any new features,

functionalities, enhancements, bug fixes, patches, or other updates, excluding any optional feature packages or add-ons that SDSA may, in its sole discretion, license separately. All New Releases are Software.

“Party” means a party to this Agreement.

“Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

“Personal Information” means any data that identifies, or can be used either alone or in combination with any other data to identify, any individual or entity, including personal data (as defined in the EU General Data Protection Regulation (EU 2016/679)), personal information (as defined in the California Consumer Privacy Act of 2018), cardholder data (as defined in the Payment Card Industry Data Security Standard), nonpublic personal information (as defined in the Gramm-Leach-Bliley Act), Protected Health Information (as defined in the Health Insurance Portability and Accountability Act, as amended by the Health Information Technology for Economic and Clinical Health Act), or any other sensitive financial, healthcare, genetic, or other information that is subject to any data privacy or security Laws or regulations.

“Representatives” means, with respect to a Party, that Party’s and its Affiliates’ employees, officers, directors, consultants, agents, independent contractors, service providers, subcontractors, and legal advisors.

“SDSA Privacy Policy” means SDSA’s privacy policy at <https://www.samsungsds.com/us/etc/privacy.html>, as it may be moved to another URL or amended by SDSA from time to time.

“Software” means the executable, object code version of the Secure Settings software, and any New Releases provided to you pursuant to this Agreement.

“Support and Maintenance” means any services that SDSA or its authorized reseller (including an Affiliate who resells Software licenses) provides for the support and maintenance of the Software, as specified in a Support Policy, if any.

“Third-Party Materials” means materials and information, in any form or medium, that are not proprietary to SDSA, including any third-party: **(A)** documents, data, content, or specifications; **(B)** software, hardware, or other products, facilities, equipment, services, or devices; and **(C)** accessories, components, parts, or features of any of the foregoing.

EXHIBIT A
LOCAL TERMS AND CONDITIONS

UNITED KINGDOM

The following terms apply to you if your principal offices or residence is located within the United Kingdom and the transaction pursuant to which you obtain a Software license takes place in the United Kingdom, without regard to conflict of Law principles. Unless otherwise provided in this Exhibit A, capitalized terms have the meanings given to them in the Secure Settings End User License Agreement.

1. Despite Section 14.14 (Governing Law) of this Agreement, this Agreement and your relationship with SDSA will be subject to the Laws of England and Wales.

2. Despite any term in Section 1.3 (Restrictions) or elsewhere in this Agreement to the contrary, and to the extent required by Directive 91/250/EEC on the legal protection of computer programs as implemented in your jurisdiction, for the time while you have the right to use the Software (i.e., during the License Term), you have the right to:

2.1 make a back-up copy to the extent that it is necessary to do so to use the Software;

2.2 observe, study, or test the functioning of the Software in order to determine the ideas and principles that underlie any element of the Software if you do so while performing any of the acts of loading, displaying, running, transmitting, or storing the Software that you are entitled to do under the Agreement; and

2.3 disassemble, decompile, reverse engineer, or create derivative works based on the whole, or any part, of the Software, but in either case only to the extent that such actions cannot be prohibited because they are essential for the purpose of achieving inter-operability of the Software with another software program, and provided that the information obtained by you during such activities: **(A)** is used only for the purpose of achieving inter-operability of the Software with another software program **(B)** is not unnecessarily disclosed or communicated to any third party without SDSA's prior written consent; and **(C)** is not used to develop, produce, or market any software that is substantially similar to the Software or for any other act that infringes copyright.

3. Nothing in this Agreement (in particular, Sections 10.5 (Disclaimer of Warranties) and 12 (Limitations of Liability)) shall exclude or limit, or be taken as seeking to exclude or limit, any liability that the applicable Law does not permit to be excluded, or, as the case may be, limited but only to the extent that such exclusion or limitation is not permitted or would make the Agreement unenforceable. Depending on the applicable Law, this may include willful misconduct, gross negligence, death or injury caused by negligence, fraud, fraudulent misrepresentation, or warranties as to ownership, in each case only to the extent that the liability cannot be excluded by Law.

4. Notwithstanding Section 14.14 (Governing Law; Submission to Jurisdiction), you unconditionally consent and agree that any Action (whether in contract, tort, or otherwise) that you may have against SDSA or its officers, directors, agents, or employees arising out of, relating to, or connected in any way with the Software or this Agreement (including its existence,

validity or termination) must be finally settled by arbitration under the Rules of Arbitration ("**Rules**") of the International Chamber of Commerce ("**ICC**") by one or more arbitrators appointed in accordance with the Rules; provided, however, that each Party may enforce its or its Affiliate's Intellectual Property Rights in any court of competent jurisdiction, including but not limited to equitable relief. Arbitrations will be conducted in English in London, England. Arbitrations involving a government or government entity will have three (3) arbitrators appointed in accordance with the Rules. In any arbitration involving three (3) arbitrators, the third arbitrator, who shall act as president of the arbitral tribunal, shall be jointly nominated by the Parties within thirty (30) days of the appointment of the second arbitrator. If the president of the arbitral tribunal is not nominated within this time period, the ICC shall appoint such arbitrator. Except to the extent entry of judgment and any subsequent enforcement may require disclosure, the Parties agree to keep confidential the existence of the arbitration, the arbitral proceedings, the submissions made by the Parties and the decisions made by the arbitral tribunal, including its awards, except as required by applicable Law and to the extent not already in the public domain.