



**Attila Online Commercial Terms
Standard Terms and Conditions**
Last Revised: April 4, 2020 Ver: 044

PLEASE READ THIS AGREEMENT CAREFULLY.

These Terms and Conditions, in connection with the Ordering Document that references this Agreement, is a legally binding contract between Attila Security, Inc., a Delaware corporation (“**Attila**”) with offices located at 10960 Grantchester Way, Suite 530, Columbia, MD 21044 and the other legal entity named on the Ordering Document that references this Agreement (“**Customer**”).

ATTILA PROVIDES THE PRODUCTS AND SERVICES SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT CUSTOMER ACCEPTS AND COMPLIES WITH THEM. BY CLICKING THE "ACCEPT" BUTTON OR OTHER MEANS PROVIDED FOR ACCEPTANCE OR USING THE PRODUCTS AND SERVICES, CUSTOMER AGREES TO (A) ACCEPT THIS AGREEMENT AND AGREES THAT CUSTOMER IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENTS AND WARRANTS THAT: (I) CUSTOMER IS OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (II) IF CUSTOMER IS A CORPORATION, GOVERNMENTAL ORGANIZATION, OR OTHER LEGAL ENTITY, CUSTOMER HAS THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND BIND SUCH PARTY TO ITS TERMS. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, ATTILA WILL NOT AND DOES NOT LICENSE THE PRODUCTS AND SERVICES TO CUSTOMER AND CUSTOMER MUST NOT DOWNLOAD OR INSTALL THE PRODUCTS AND SERVICES.

WHEREAS Attila offers Products and Services that serve as a portable security appliance firewall, VPN, and intrusion prevention system designed to increase user productivity while reducing IT security risk; and

WHEREAS Customer desires to utilize the Products and Services offered by Attila.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

- 1. Definitions.** Attila and Customer collectively shall be referred to herein as the “**Parties**” and each individually as a “**Party**.” The following terms used in this Agreement shall have the meanings set forth in this Section 1. Unless specifically stated otherwise, capitalized terms used in Exhibits and Ordering Documents shall have the meaning set forth in this Agreement.

“**Affiliate**” means any corporation or other entity that controls, is controlled by, or is under common control with a Party. A corporation or other entity shall be deemed to control another if it owns or controls directly or indirectly more than fifty percent (50%) of the voting stock or other ownership interest of the corporation or entity or has the right to direct the management of such entity.

“**Agreement**” means these Terms and Conditions, the attached Exhibits, and Ordering Documents.

“**Attila Hosted Services**” means cloud-based services, owned, operated or controlled by Attila consisting of various infrastructure components, including but not limited to servers, networking components, system software all as more specifically defined in Exhibit A (Customer Support) and an appropriate Ordering Document.

“Documentation” means all End User documentation made available by Attila to Customer and any succeeding changes thereto. The Documentation shall be considered a component of the Product or Service it is documenting.

“End User” means an authorized employee or other individual person who is designated by Customer as being licensed to use the Products and Services.

“Exhibits” mean the documents attached hereto and incorporated by this reference. In the event of any inconsistency, the documents shall take precedence in the following order: Cover Page, Terms and Conditions, Ordering Documents, all other Exhibits. Exhibits include, without limitation, the following:

Exhibit A: Customer Support

“Hosted Services” means Attila Hosted Services.

“Marks” means the trade names, trade dress, trademarks, service marks, commercial symbols, domain names, brands, designs, logos and/or any other marks used to denote the owner or licensors as the source of the products and services.

“Ordering Documents” means any document that places an order for Products and Services under the Terms of this Agreement. An Ordering Document may be styled as Statements of Work and/or Orders, executed quotes, task order, purchase order, or other type of authorizing agreement.

“Products” mean the hardware devices described in more detail in the Ordering Documents.

“Server Software” means proprietary Attila software that resides on servers to enable Attila Hosted Services.

“Services” means the Attila Hosted Services; and other services provided by Attila as documented in Ordering Documents.

“Software” means software embedded within Products and Server Software.

“Specifications” means, as appropriate (i) the specifications for the Products as set forth in any applicable Ordering Documents; (ii) the specifications for the Attila Hosted Services as set forth in Exhibit A (Customer Support) and any applicable Ordering Documents; .

“Statement of Work” or **“SOW”** means a statement of work document mutually agreed to and executed by the Parties. Statements of Work define the applicable elements of an engagement which may include Hosted Services and/or other deliverables to be provided under the terms of this Agreement including the Specifications, schedules, pricing, and other deliverable-specific requirements.

“Subscription Fee” means the recurring Price for use of the Hosted Services and/or Server Software for a defined duration set forth in Ordering Documents.

- 2. Term and Renewal.** This Agreement shall commence as of the date set forth on the Ordering Document to start use of the Products and Services, or if no such start date is specified on the Ordering Document, then the Agreement shall commence on the date of the Ordering Document. The initial term shall be for the initial period set forth on the Ordering Document unless no such period is specified in which case the initial period shall be for one year (the **“Initial Term”**). Unless terminated in accordance with the termination provisions of this Agreement, the Agreement shall automatically renew for successive one (1) year terms unless either Party provides advance written notice of its intention not to renew this Agreement at least sixty (60) days prior to the end of the Initial Term or any subsequent Term. The Initial Term and any and all renewal terms shall collectively be referred to as the **“Term”**.

3. Appointments

3.1 Attila’s Appointment as Service Provider. Customer hereby appoints Attila, and Attila hereby accepts appointment, as Customer's agent solely for purposes of providing the Attila Hosted Services set forth in Ordering Documents.

3.2 Not for Resale. Unless the Parties otherwise agree in writing, Customer’s purchase of the Products and Services indicated in Ordering Documents shall be for Customer’s own internal use and not for resale to third parties. This appointment is limited to Customer only and may not

be assigned or transferred by Customer or otherwise extended to any other party except as set for in Section 20.4 (Assignment) of the Agreement.

4. Licenses. Subject to the terms and conditions of this Agreement including any payment obligations, Attila grants to Customer, and Customer accepts, strictly during the Term of this Agreement the following licenses (collectively, the “**Licenses**”):

4.1 Attila Hosting License Grant. If Customer has contracted with Attila in an Ordering Document to license access to Attila Hosted Services (an “**Attila Hosted License**”), then Attila grants Customer, in consideration for the Customer’s payment obligations, a limited, nontransferable, and nonexclusive Attila Hosted License during the term set forth in the Ordering Document and in accordance with the Specifications consistent with the provisions of this Agreement and in Ordering Documents. No license is granted under any Attila Hosted License to access, copy, or use the software that supports the Attila Hosted Services, except in connection with the Attila Hosted Services.

4.2 Server Software License Grant. If Customer has contracted with Attila in an Ordering Document to license to operate and use the Server Software on computers or servers owned or controlled by Customer (an “**Server Software License**”), then Attila grants Customer, in consideration for the Customer’s payment obligations, a limited, nontransferable, and nonexclusive Server Software License during the term set forth in the Ordering Document and in accordance with the Specifications consistent with the provisions of this Agreement and in Ordering Documents. No license is granted under this Server Software License to access, copy, or use the source code to any Server Software.

4.3 Limitations on Use. No license is given to Customer to the source code to the Software. Without the express written authorization from Attila, Customer shall not (nor through any third party): (i) use, copy, duplicate or reproduce all or any portion of the Products or Services (including the Documentation) for any purpose other than as specified in this Agreement and Ordering Documents; (ii) decompile, disassemble, re-program, analyze, reverse engineer any of the Software (in whole or in part) or otherwise attempt to reconstruct, identify or discover any underlying ideas, underlying user interface techniques or algorithms, or source code, or disclose any of the foregoing (except to the extent such restriction is prohibited by law); (iii) except as expressly authorized herein, sell, rent, lease, license, sublicense or in any way redistribute any or all of the Product or Services; (iv) except as expressly authorized herein, use the Products or Services to create a service bureau, timesharing arrangement, or application service provider; (v) modify, adapt, translate, prepare derivative works of all or any portion of the Products or Services or attempt to do so; (vi) remove, obscure or alter Attila’s or its licensors’ product identification, copyright notices, Marks or other proprietary rights notices affixed to or contained within the Products or Services or Documentation; (vii) permit the Products or Services or Documentation to be used, examined, reviewed or inspected by others, other than by Customer’s employees, auditors or governmental agencies as required by law; (viii) disclose the results of any benchmark or evaluation of the Products or Services to any third party (whether or not obtained with Attila’s assistance) without Attila’s prior express written consent; (ix) use the Products or Services, Documentation or any information contained therein or otherwise provided by Attila or its licensors for the purposes of developing, or having developed, any products or services competitive with the Products or Services; (x) incorporate, link, or distribute the Software with any code or software licensed under the GNU General Public License (“**GPL**”), Lesser General Public License (“**LGPL**”), Mozilla, or any other open source license, in any manner that could cause or could be interpreted or asserted to cause the Software (or any modifications thereto) to become subject to the terms of the GPL, LGPL, Mozilla or such other open source license. Customer shall not authorize, or acquiesce in, any other person engaging in any of the foregoing activities, or attempting to do so.

4.4 End User License Agreement and Privacy Policy. Customer’s use of the Products or Services by End Users is subject to the terms and conditions of the End User license accompanying the Products or Services, including the applicable end user license agreement set forth under the General tab at <https://attilasec.zendesk.com> (the “**EULA**”) and the Attila privacy policy set forth at <https://attilasec.com/privacy-policy> (the “**Privacy Policy**”).

4.5 No License to Affiliates. Unless specified otherwise in an Ordering Document, any and all Licenses are granted to Customer and not, by implication or otherwise, to any Affiliate of Customer.

4.6 Reserved Rights. Attila reserves all rights not expressly granted under this Agreement.

5. Hosted Services.

5.1 Scope and Performance of Attila Hosted Services. Attila will implement the Attila Hosted Services in accordance with the Specifications. Attila will provide the Attila Hosted Services in accordance with the service levels set forth in Exhibit A (Customer Support). Attila will not be responsible for implementation delays or service degradations that are not within its control including, without limitation, implementation delays or service degradations caused by Customer, End Users, or third-party service providers or any interconnecting communications carrier. Title to any communications equipment and computer hardware installed by Attila in connection with the performance of the Attila Hosted Services will remain with Attila.

6. Customer Support Obligations of the Parties. Attila shall be responsible for Support Services as defined in Exhibit A (Customer Support) and in Ordering Documents.

7. Customer Obligations

7.1 Access and Passwords. After the Attila Hosted Services are ready for use by Customer, Attila shall issue (a) a link to Customer that will enable Customer to access the Attila Hosted Services; and (b) a password to access the Attila Hosted Services. Customer and its End Users are responsible for accessing the Attila Hosted Services in accordance with the terms of this Agreement and maintaining the confidentiality of all passwords at all times and for ensuring that issued passwords are used only by the authorized End User(s). Customer is entirely responsible for all activities that occur under Customer's account and all charges incurred in connection with use of the Attila Hosted Services using Customer's passwords. Customer shall immediately notify Attila of any unauthorized use of Customer's account, including, without limitation, each password of an End User accessing the Attila Hosted Services by means of Customer's account, or any other breach of this Agreement or any security breach known to Customer. Attila shall have no liability for any loss or damage arising from Customer's failure to comply with these requirements.

7.2 Cooperation and Assistance. Customer shall provide Attila with access to technical personnel and information in connection with performance of the Services and will furnish all information and assistance required to be provided by Customer under the Ordering Document. Customer will promptly notify Attila in sufficient detail of any defect, deficiency or error known to or discovered in the Services by Customer in sufficient detail to enable Attila to duplicate the condition.

7.3 Export of Services. All Products and Services, deliverables, documents, technical data, and any other materials delivered under this Agreement are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees to comply strictly with these laws and regulations and acknowledges that it has the responsibility to obtain any licenses to export, re-export, or import as may be required by law. Any delays attributable to Attila's ability to secure appropriate export licenses or other required export documentation shall not be considered a breach of this Agreement.

8. Changes to Products and Services; End-Of-Life

8.1 End-Of-Life Notice. During the Term, Attila shall make commercially reasonable efforts to provide the Customer with ninety (90) days prior written notice of any termination of support for specific Products and Services ("End-Of-Life"). Such notice shall be posted on Attila's website and shall contain the details of the last order by dates.

8.2 Product Changes. Attila in its sole discretion may alter the design of the Products or Services provided that the alteration: (i) does not result in any material deviation from the Specifications for such Product or Services; or (ii) is required to avoid infringement of any third party intellectual property; or (iii) such alteration is required to conform with laws or applicable governmental regulations.

9. Prices

9.1 Prices. In consideration for Customer's internal use of the Products and access to the Services, Customer shall pay the prices ("**Prices**") for such Products and Services in the price lists set forth in Ordering Documents (the "**Price List**") during the period of performance specified in the Ordering Document.

9.2 Taxes. Taxes are not included in Prices. Customer shall pay or reimburse Attila for taxes and any other expenses incurred for any licenses required for clearance at the ports of entry and destination. In addition, Customer shall pay all applicable sales, customs, duty, use, property, withholding, value-added, excise and any other taxes or duties imposed under the authority of any foreign, federal, state or local taxing jurisdiction, except any tax assessed upon Attila's net income. Customer shall not reduce any fees or charges owed to Attila as a result of any such taxes or duties.

10. Process for Orders

10.1 Placing Orders. Customer shall place orders for Products and Services ("**Orders**") purchased or licensed from Attila on Attila's then-current Orders form which shall specifically include a reference to this Agreement. By placing Orders, Customer makes an offer to purchase or license the Products and Services listed in Orders pursuant to the terms and conditions of this Agreement. Such Orders may include the quantity of Products and Services purchases or licensed, the requested delivery date, the unit price for each of the Products and Services consistent with the Price Lists, the billing address, and the delivery location but no other terms or conditions including but not limited to references to Customer's standard purchasing terms and conditions on purchase orders unless otherwise agreed to in writing by Attila. In the event Customer's Orders (or other communications of any kind including purchase orders) contain any additions or variations made to the terms and conditions of this Agreement, they are void and have no effect and this Agreement governs. Attila's failure to object to provisions contained in any communication from Customer shall not be deemed a waiver of the provisions herein. An inadvertent omission of a reference to this Agreement in Orders shall not affect the application of this Agreement to Orders.

10.2 Attila Acceptance of Orders. Orders shall not be binding on Attila until accepted or acknowledged ("**Acknowledgement**") in writing by Attila. Acknowledgment of Customer's Orders is expressly conditioned upon Customer's acceptance of these Terms and Conditions. Attila shall use commercially reasonable efforts to fill all Orders, but shall not be obligated to provide Acknowledgement of any Orders, particularly Orders which contain delivery dates, special requirements or other fulfillment terms that Attila, through reasonable commercial efforts, is unable to meet. In any of the foregoing events, Attila and Customer shall work cooperatively to determine the most appropriate delivery schedule. In addition, Attila shall not be obligated to provide Acknowledgement of any Orders should Customer fail to comply with the material terms of this Agreement, including meeting payment terms of previous Orders or due to the general financial condition of Customer, as interpreted by Attila's credit department.

11. Invoicing, Payment and Billing

11.1 Calculation and Timing of Charges. Unless specified otherwise in an Ordering Document, the timing for the calculation of charges to be billed by Attila to Customer are as follows (the "**Charges**")

11.1.1 Products Billing. Attila shall calculate the Charges for the Products upon shipment of the Products from Attila's site based on the Prices.

11.1.2 Hosted Services Billing. Attila shall calculate the Charges for usage of the Hosted Services based on the time periods set forth in the Ordering Documents. If the Ordering Document indicates that the End-Customer shall be billed on an annual basis, then the Charges for the first year of Hosted Services shall be calculated upon Acknowledgement of the Orders and on the anniversary of such date thereafter for multi-year Orders. If the Ordering Document indicates that the End-Customer shall be billed on a monthly basis, then Attila shall calculate the Charges for usage of the Hosted Services on a monthly basis, in advance of service. Attila shall Charge Customer consistent with the Subscription Fees set forth in the Price List.

- 11.2 Payment Terms and Method.** The method of payment shall be from one of the following methods as specified in Ordering Documents:
- 11.2.1 **Payment By ACH.** If Customer has selected ACH as a payment method, then Customer hereby authorizes Attila to automatically debit (charge) Customer's checking account electronically via ACH on the date the Charges are calculated (the "**Due Date**") unless specified otherwise in Ordering Documents. "ACH" means the automated clearing house, which is the nationwide network of banking institutions that process electronic payments automatically between bank accounts. Attila shall submit to Customer on the Due Date a list of a detailed items included in the Charges.
- 11.2.2 **Invoices.** All Charges shall be invoiced on the date the Charges are calculated. All payments reflected on invoices are due net thirty (30) days the date of Customer's receipt of the invoice (the "**Due Date**"). Attila may provide invoices electronically via PayPal or email to Customer.
- 11.3 Late Payment Terms.** Any payment not made by Customer by the Due Date will be subject to interest from the Due Date through the date paid, at a rate of one and one half (1 ½%) percent per month, or the maximum rate allowable at law, if less. No discounts for early payment are authorized.
- 11.4 Currency.** Unless specified otherwise in Ordering Documents, all Prices and all payments made to Attila shall be in United States dollars.
- 11.5 Disputed Invoices.** If Customer disputes any part of any invoice or ACH charge, Customer must provide Attila with written notice of the dispute containing a detailed description of the request for each specific item disputed by the Due Date if invoiced or within thirty (30) days of the date of the ACH charge ("**Disputed Item**"). If Customer fails to provide Attila with such written notice of the dispute within such timeframe, then Attila shall not be obligated to investigate or revise the invoice.
- 11.6 Failure to Pay.** Failure to pay any fees or other charges or amounts (including Taxes) due, less Disputed Items, to Attila on or before the Due Date and after written notification by Attila shall be a breach of this Agreement ("**Failure to Pay**"). Notwithstanding anything else contained in this Agreement, in the event that a Failure to Pay is not cured within fifteen (15) days, Attila may suspend access to the Services and/or terminate this Agreement for default. Any suspension may be continued until the Failure to Pay has been cured. Attila shall be entitled to recover reasonable attorney's fees and costs incurred by Attila in collecting all unpaid amounts hereunder following a Failure to Pay.
- 11.7 No Setoffs or Accord and Satisfaction.** Customer is solely responsible for the payment of all Prices, fees, charges and other amounts as set forth in this Agreement. Customer shall not set off or withhold any amount from Attila, except for Disputed Items. Customer shall not place any condition or restrictive legend, such as "Paid in Full", on any check or instrument used to make a payment. The Parties agree that the negotiation of any such check or instrument so inscribed shall not constitute an accord and satisfaction or novation, and Customer waives its right to assert any such defense.

12. Intellectual Property Rights

- 12.1 Attila Intellectual Property Rights.** Customer acknowledges and agrees that the intellectual property rights underlying the Products, Software, and Services (collectively, "**Attila IP**") are owned by, and shall remain the sole property of Attila and its licensors, that the Attila IP contains, embodies and is based upon worldwide patented or patentable inventions, trade secrets, copyrights and other intellectual property rights (collectively, "**Intellectual Property Rights**") owned or licensed by Attila and its licensors, and that Attila and its licensors shall continue to be the sole owner of all Intellectual Property Rights in and to the Attila IP worldwide including, without limitation, any derivative works. This Agreement does not convey to Customer title or ownership of the Intellectual Property Rights underlying the Attila IP, but only a right of limited use in accordance with this Agreement. Customer acknowledges that the Attila IP provided by Attila pursuant to this Agreement is entitled to protection under applicable copyright and other intellectual property laws and constitute valuable assets, trade secrets and proprietary rights of Attila or its licensors.

12.2 Customer Intellectual Property Rights. Attila acknowledges and agrees that the intellectual property rights underlying any intellectual property provided by Customer to Attila ("**Customer IP**") are owned by, and shall remain the sole property of Customer and its licensors, that the Customer IP contains, embodies and is based upon worldwide patented or patentable inventions, trade secrets, copyrights and other intellectual property rights (collectively, "**Intellectual Property Rights**") owned or licensed by Customer and its licensors, and that Customer and its licensors shall continue to be the sole owner of all Intellectual Property Rights in and to the Customer IP worldwide including, without limitation, any derivative works. This Agreement does not convey to Attila title or ownership of the Intellectual Property Rights underlying the Customer IP, but only a right of limited use and distribution in accordance with this Agreement. Attila acknowledges that the Customer IP provided by Customer pursuant to this Agreement is entitled to protection under applicable copyright and other intellectual property laws and constitute valuable assets, trade secrets and proprietary rights of Customer or its licensors.

12.3 Suggestions. Many of Attila's changes to user interfaces, features, functionality, and other aspects of the Products and Services come as a result of suggestions made by customers and partners, whether in the form of suggestions, enhancement requests, recommendations, or other feedback, with regard to the Products and Services (all of the foregoing, collectively, "**Suggestions**"). All customers benefit from Attila incorporating Suggestions in future releases of the Products and Services. Customer grants to Attila an irrevocable, worldwide, royalty-free, perpetual license to use as Attila deems appropriate any Suggestions that Customer, or any person or entity under the direction or control of Customer, provides to Attila, to incorporate such Suggestions in any form into the Products and Services (or any other products or services), and to exercise any other rights with respect to such Suggestions. Attila shall be entitled to use any Suggestions without restriction and without obligation to Customer or any third party.

13. Confidentiality.

13.1 "Confidential Information" means all such information, material and data received by one Party (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") or its clients, whether disclosed in writing or verbally, (i) that is labeled or designated in writing as confidential or proprietary, (ii) which Receiving Party is advised is proprietary or confidential or (iii) which, in view of the nature of such information or the circumstances of its disclosure, Receiving Party knows or reasonably should know is confidential or proprietary. Confidential Information includes the terms and conditions of this Agreement. Confidential Information shall not include information which (a) is or becomes publicly available through no act or omission of the Receiving Party; (b) is rightfully received from a third party without an obligation of confidence; (c) is independently developed by the Receiving Party without reference to Confidential Information; or (d) is required to be disclosed in accordance with a judicial or governmental order or decree, provided that the Receiving Party provides prompt notice of the order or decree to the Disclosing Party and reasonably cooperates with the Disclosing Party to limit the disclosure and use of the Confidential Information.

13.2 Use of Confidential Information. The Receiving Party will hold any Confidential Information in strict confidence for a period of three (3) years from termination of this Agreement, except that the obligation of the Receiving Party to maintain the confidentiality of trade secrets and personally identifiable data shall survive indefinitely. The Receiving Party will use such Confidential Information only in accordance with the terms of this Agreement. The Receiving Party shall limit the use of, and access to, the Confidential Information to its employees or agents whose use of or access to the Confidential Information is necessary to carry out the intent of this Agreement. The Receiving Party shall, by appropriate means, prevent the unauthorized disclosure, publication, display or use of any Confidential Information. Without limiting the generality of the foregoing, the Receiving Party shall require all employees, agents or contractors who shall have access to the Confidential Information to execute, prior to such access, a non-disclosure agreement providing for at least the same protection of the Confidential Information as is provided for by this section.

13.3 Destruction or Return of Confidential Information. Upon expiration or termination of this Agreement for any reason, the Receiving Party shall promptly return to the Disclosing Party, or, if requested, destroy all copies of the Disclosing Party's Confidential Information in its

possession. All copies, notes or other derivative material relating to the Confidential Information shall be promptly retrieved or destroyed, as agreed, and no such material shall be retained or used by the Receiving Party in any form or for any reason.

14. Security

- 14.1 Attila Systems and Security Obligations.** Attila will employ security measures in accordance with applicable law and industry practice.
- 14.2 Data Breach Procedures.** Attila maintains a data breach plan in accordance with applicable law and industry practice.
- 14.3 Customer Control and Responsibility.** Customer has and will retain sole responsibility for: (a) Customer's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Customer or through the use of third-party services ("**Customer Systems**"); (b) the security and use of Customer's access credentials to the Attila Hosted Services; and (c) all access to and use of the Attila Hosted Services directly or indirectly by or through the Customer Systems including all results obtained from, and all conclusions, decisions and actions based on, such access or use.

15. Warranties

- 15.1 Mutual Warranties.** Each Party represents and warrants that it has the full corporate or organizational power to enter into and perform this Agreement, and that the execution and performance hereof has been duly authorized by all necessary corporate or other organizational action.
- 15.2 Attila Hosted Services Warranty.** Attila warrants during the period of performance for Attila Hosted Services set forth in any applicable Ordering Documents that the Attila Hosted Services will be provided in accordance with (a) Exhibit A (Customer Support); and (b) the Specifications for Attila Hosted Services. Customer's sole remedy for any claims under this Section 15.2 shall be to correct such failures at no charge to Customer.
- 15.3 Server Software Warranty.** Attila warrants during the period of performance for Server Software set forth in any applicable Ordering Documents that the Server Software will perform in accordance with the Specifications. Customer's sole remedy for any claims under this Section 15.3 shall be to correct such failures at no charge to Customer.
- 15.4 Products Warranty.**
- 15.4.1 Product Warranty Period.** Attila warrants that, during the warranty period for the Products as set forth in the applicable Ordering Documents (or if no such period is set forth in the applicable Ordering Document, then for a period of one (1) year from the date the Products are shipped to Customer (the "**Product Warranty Period**"), the Products will operate in material accordance with the Specifications for Products. Customer's sole remedy for any claims under this Section 15.4 shall be to repair or replace the Products at no charge to Customer.
- 15.4.2 RMA Process.** Prior to returning any Products to Attila for repairs or replacement, Customer must obtain a Return Merchandise Authorization number ("**RMA#**") from Attila by calling or emailing Attila's Customer Care group using the contact information set forth in Exhibit A (Customer Support). In addition to providing an RMA#, Attila shall provide the ship-to address for the returned Products. Products shipped to Attila without an RMA# will be returned to Customer at Customer's expense. Customer agrees to pay all shipping and freight charges, FOB Attila offices, for all Products sent to Attila. After repairing or replacing the Products, Attila shall pay all shipping and freight charges, FOB Attila offices, to return the Products back to Customer unless (i) Customer has sent Products to Attila that is out of warranty; or (ii) the Products sent to Attila are in working condition and not in need of repair or replacement; or (iii) the Products were sent to Attila without an RMA# issued by Attila. Under the preceding conditions, Customer agrees to pay or reimburse Attila for all shipping and freight charges. Customer acknowledges that it is solely responsible for backing-up and safeguarding any data stored on the Products at all times including before shipment to

Attila. If Customer ships any Products to Attila or its designee, Attila is only responsible for any loss or damage that occurs (a) while at the site of Attila or its designee and (b) where the loss or damage is caused by the negligence or willful misconduct of Attila or its designee. In that case, Customer's only remedy and Attila's sole liability to Customer shall be to repair or replace the lost or damaged Products.

15.5 WARRANTY DISCLAIMER. THE FOREGOING WARRANTIES ARE IN LIEU OF, AND THE PARTIES EXPRESSLY DISCLAIM, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE. ATTLA SPECIFICALLY DISCLAIMS ANY WARRANTY THAT THE OPERATION OF THE PRODUCTS OR SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

16. Indemnification.

16.1 Indemnification by Customer. Customer (the "**Indemnifying Party**") shall defend, indemnify and hold harmless Attila, and each of its officers, directors, owners, employees, agents or licensors (each, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**"), from and against all third party actions, suits, losses, liabilities, claims, expenses, damages, and costs of every kind and description including reasonable legal fees (collectively, "**Losses**") arising out of or in connection with (i) any use of the Products or Services that is outside of the intended use of the Products or Services as set in the Specifications; (ii) claims that Customer IP infringes any trademark, patent, copyright or misappropriates any trade secret enforceable in the United States (an "**IP Claim**"); (iii) any resale or distribution of the Products or Services that is not authorized under this Agreement; .

16.2 Indemnification by Attila. Attila (the "**Indemnifying Party**") shall defend, indemnify and hold harmless Customer and its officers and directors, owners, employees or agents (each, an "**Indemnified Party**" and, collectively, the "**Indemnified Parties**") from and against all third party actions, suits, losses, liabilities, claims, expenses, damages, and costs of every kind and description including reasonable legal fees (collectively, "**Losses**") arising out of or in connection with any specific third-party claim, suit, or allegation that the Products or Services provided by Attila under this Agreement specifically causes an infringement of a patent, trademark, copyright or other proprietary right of such third party that is enforceable in the United States (collectively the "**IP Claim**"). Attila shall not be liable for: (i) any costs or expenses incurred by Customer without Attila's prior written authorization; (ii) designs, instructions, data, materials, or any other intellectual property provided by Customer; (iii) infringement caused from unauthorized modifications to the Services; (iv) Customer's combination of the Products or Services with other products or services and the infringement would have been avoided but for such combination; (v) Attila's implementation of a Customer originated design or modification where infringement is due to such specified design or modification; or (vi) Customer's use of the Products or Services other than in accordance with the Specifications.

16.3 Indemnity Procedure. The Indemnified Party shall provide the Indemnifying Party with (i) prompt written notice of any claims under this Section 16 for which it seeks indemnification hereunder; (ii) full information and assistance in settling and/or defending the claims; and (iii) full authority and control of the defense and/or settlement of any such claims.

16.4 IP Claim Infringement Remedy. In the event of an IP Claim, the Indemnifying Party shall, at Indemnifying Party's option and at no expense to the Indemnified Party: (a) by license or other release from claim of infringement, obtain for the Indemnified Party any rights to that it has under this Agreement to the product or service in question; (b) substitute an equivalent non-infringing product or service reasonably acceptable to the Indemnified Party, which meets the Specifications, and extend this indemnity thereto; or (c) modify the product or service to make it non-infringing but continue to meet the Specifications therefore, and extend this indemnity thereto.

16.5 Exclusive Remedy for Indemnification. The remedies set forth in this Section 16 (Indemnification) shall be the exclusive remedies of the Parties with reference to any claims for indemnification and IP Claims.

17. Limitation of Liability.

17.1 LIMITATION ON INDIRECT DAMAGES. NEITHER OF THE PARTIES NOR THEIR LICENSORS SHALL BE LIABLE TO THE OTHER PARTY FOR INDIRECT, PUNITIVE, CONSEQUENTIAL, ECONOMIC, SPECIAL, INCIDENTAL OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOSS OF BUSINESS REVENUE OR EARNINGS, LOST DATA, DAMAGES CAUSED BY DELAYS, OR A FAILURE TO REALIZE EXPECTED SAVINGS) DIRECTLY OR INDIRECTLY ARISING OUT OF OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, WHETHER OR NOT SUCH DAMAGES COULD REASONABLY BE FORESEEN OR THEIR LIKELIHOOD HAS BEEN DISCLOSED TO EITHER PARTY OR THEIR LICENSORS.

17.2 LIMITATION ON DIRECT DAMAGES. BOTH PARTIES SHALL BE LIABLE TO THE OTHER PARTY FOR DIRECT DAMAGES ONLY, IN AN AMOUNT NOT TO EXCEED, IN THE AGGREGATE FOR ALL CLAIMS, THE TOTAL AMOUNT OF REVENUE GENERATED UNDER THE APPLICABLE ORDERING DOCUMENT FROM WHICH THE CLAIM AROSE IN THE MOST RECENT TWELVE (12) MONTH PERIOD FROM WHEN THE CLAIM AROSE.

18. Suspension. Upon Attila' reasonable belief that criminal or otherwise improper activity may be associated with Customer's use of the Products or Services, Attila may, without incurring any liability, temporarily suspend or discontinue Customer's use of the Services.

19. Termination.

19.1 Termination By Either Party. A non-breaching Party may terminate this Agreement for cause by written notice to breaching Party upon the occurrence of any of the following events: (i) the material breach by breaching Party of any term, provision, representation or warranty of this Agreement that remains uncured thirty (30) days after the non-breaching Party provides written notice thereof; (ii) a material breach of any of its intellectual property, confidentiality obligations; or (iii) Party becomes insolvent or subject to any proceeding under the federal bankruptcy laws or other similar laws for the protection of creditors, and such event continues for ninety (90) days after the non-breaching Party provides written notice thereof.

19.2 Attila Termination. Attila may terminate this Agreement for cause by written notice to Customer upon Customer's failure to pay any amounts due to Attila within fifteen (15) days following a Failure to Pay.

19.3 Rights Upon Termination. Upon termination of this Agreement by either Party:

- a) all Licenses granted hereunder shall terminate immediately;
- b) Each Party will promptly cease using and destroy or return to the other Party all items that contain any Confidential Information of the other Party;
- c) Attila shall immediately invoice Customer for any outstanding sums which may be owing and Customer immediately shall pay such invoices; and
- d) termination or expiration of this Agreement shall not release either party from: (i) any liability which has already accrued to the other Party hereto at the time of termination or expiration; (ii) any liability which thereafter may accrue with respect to any act or omission prior to termination or expiration; or (iii) any obligation which is expressly stated herein to survive termination or expiration.

20. General Provisions

20.1 Arbitration. Any dispute, controversy, or claim arising out of, relating to, or having any connection with the Agreement will be exclusively and finally settled by arbitration conducted by one or three arbitrators, as mutually determined by the Parties, in accordance with the Commercial Arbitration Rules of the American Arbitration Association, conducted in the English language and located in Baltimore, Maryland.

20.2 Publicity. Neither Party shall issue a press release or make any similar public announcement without the other Party's prior written consent to the specific language and intended distribution of such press release or announcement. Notwithstanding the foregoing, the Parties agree to issue a joint press release so that both Parties can make reference to this in marketing and

promotional material. Attila may use Customer's name and logo in Attila's customer lists which may be posted on Attila's website.

- 20.3 Force Majeure.** Neither Party shall be liable to the other Party or shall be subject to termination of the Agreement by the other Party for any delay, nonperformance, loss or damage (other than for failure to pay any amount when due) because of reasons beyond its reasonable control including, but not limited to, acts of God, natural casualties, acts of government, floods, fires, earthquakes, pandemic outbreaks, civil unrest, acts of terror, labor or material shortages, strikes, communication systems failures, internet service provider failures or delays, or denial of service attacks, war, riots, power failures, transportation conditions or other causes beyond the reasonable control of the respective Party or not anticipated by the respective Party in its business judgment (each a "**Force Majeure Event**"). Attila will attempt to fill Acknowledged Orders as promptly as practical, subject to delays caused by Force Majeure Events. The Party seeking relief from the Force Majeure Event will notify the other Party in a timely fashion if it is unable to perform due to a Force Majeure Event. The other Party agrees that the Party seeking relief shall not be responsible or liable in any way for any delay or non-performance due to a Force Majeure Event (other than for failure to pay any amount when due).
- 20.4 Assignment.** This Agreement and the rights and obligations hereunder may not be assigned, delegated, sublicensed or transferred without the prior written consent of the other Party. Notwithstanding the foregoing, either Party shall be free to assign its rights and obligations hereunder (in whole or in part) to a successor or affiliate at any time or to a third party in connection with a sale by such Party of a part of its business to that third party provided that the assignee: (a) agrees to be bound by the terms and conditions of this Agreement and (b) is not a competitor of the other Party.
- 20.5 Subcontractors Permitted.** Attila may engage subcontractors to perform all or any portion of its duties under this Agreement provided that any such subcontractor agrees in writing to be bound by confidentiality obligations at least as protective as the terms of this Agreement regarding confidentiality, and provided further that Attila remains responsible for the performance of such subcontractors.
- 20.6 Amendments.** This Agreement may be updated from time-to-time by Attila by its posting changes thereto at <https://attilasec.zendesk.com>, provided that no such changes shall impact any pre-existing Ordering Documents. If Customer does not agree to the amended terms, Customer shall not provide Attila with any additional Ordering Documents. Except as set forth in this Section, no modification of these Terms and Conditions is authorized and no modification shall be binding on Attila, unless in writing and signed by an authorized officer or director of Attila.
- 20.7 Compliance with Laws.** Each Party agrees to abide by all local, state, national, and international laws and regulations applicable to such Party's performance under this Agreement, including, without limitation, all intellectual property and privacy laws.
- 20.8 Non-Solicitation.** No member of either Party's personnel shall during the Term of this Agreement and for one year thereafter, without the prior written consent of the other Party, solicit the employment of any employee, former employee (separated less than 6 months), or consultant or subcontractor of the other Party or hire any employee, former employee, or consultant or subcontractor of the other Party who has been involved in the negotiation, operation or performance under this Agreement or any amendment or extension thereof.
- 20.9 Attorneys' Fees.** In the event that either Party breaches the terms of this Agreement and arbitration or suit is brought for any breach and/or enforcement thereof, then the arbitrator or court shall award the prevailing Party reasonable attorney's fees and related costs.
- 20.10 US Government Rights.** The software underlying the Products and Services is commercial computer software, as such term is defined in 48 C.F.R. §2.101. Accordingly, if Customer is the US Government or any contractor therefor, Customer shall receive only those rights with respect to the Products and Services 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.

20.11 Miscellaneous Provisions. A failure or delay of either Party to this Agreement to enforce any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions. In the event that any provision of this Agreement shall be held to be invalid, the remaining provisions of this Agreement shall be unimpaired and the invalid provisions shall be replaced by a mutually acceptable provision. The Parties agree that where the context of any provision indicates an intent that it shall survive the termination of this Agreement, then it shall so survive. This Agreement shall not create, or in any way be interpreted as a joint venture, partnership or formal business organization of any kind. Except as set forth in this Agreement, neither Party has the right to make commitments of any kind for the other Party. Under no circumstances shall any personnel of either Party be considered to be an employee or agent of the other Party. There are no intended third party beneficiaries of any provision of this Agreement. Damages may be an inadequate remedy in the event of a breach by either Party to this Agreement and that any such breach by either Party may cause the other Party great and irreparable injury and damage. Accordingly, both Parties agree that the Party claiming breach shall be entitled, without posting a bond or waiving any additional rights or remedies otherwise available to it at law or in equity or by statute, to injunctive and other equitable relief. This Agreement constitutes the entire understanding between the Parties concerning the subject matter hereof and supersedes all prior discussions, agreements and representations, whether oral or written and whether or not executed by the Parties. All notices required hereunder shall be in writing and transmitted to Attila at its address as first set forth in these Terms and Conditions, and to Customer's address as set forth in the applicable Ordering Document unless Customer provides Attila with a different address (except for Orders and Acknowledgements which shall be handled as provided in Section 10 (Process for Orders)). Notices shall be effective upon the date of confirmed delivery or at such time as delivery is refused by addressee upon presentation. The preamble hereto shall form an integral part of this Agreement. The headings in this Agreement are for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent, or intent of this Agreement or any of its provisions. All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require. This Agreement shall be governed by the laws of the State of Maryland without regard to its conflict of laws provisions.

-- EXHIBITS FOLLOW ON NEXT PAGE --

**EXHIBIT A
CUSTOMER SUPPORT**

1. Types of Support. Attila offers two methods of support:

1.1 Self-serve portal at <https://attilasec.zendesk.com>

1.2 Global Help Desk

a) Phone number: +1 410-849-9472

b) Hours of Operation: Monday through Friday, from 8:00am to 5:00pm Eastern Time,