

CYBERBIT END USER LICENSE AGREEMENT

This End User License Agreement (this “Agreement”) is between You and Cyberbit (all capitalized terms are defined below).

BY CLICKING ON THE “ACCEPT” BUTTON BELOW, BY INSTALLING AND/OR USING THE PRODUCT, OR BY ENTERING INTO A PURCHASE ORDER, YOU WARRANT AND REPRESENT THAT: (I) YOU HAVE THE CAPACITY AND AUTHORITY TO BIND YOURSELF AND/OR THE ENTITY ON WHOSE BEHALF YOU ARE ACTING, AS THE CASE MAY BE, TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, AND (II) YOU HAVE READ ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, UNDERSTAND THEM, AND AGREE THEY ARE BINDING UPON YOURSELF AND/OR THE ENTITY ON WHOSE BEHALF YOU ARE ACTING, AS THE CASE MAY BE.

IF YOU DO NOT AGREE WITH ALL THE TERMS OF THIS AGREEMENT OR DO NOT HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT, YOU MUST NOT CLICK THE “ACCEPT” BUTTON OR ACCESS, OR USE THE PRODUCT, BUT RATHER CLICK THE “DISAGREE” BUTTON BELOW AND RETURN THE PRODUCT(S) TO CYBERBIT WITHIN FIVE (5) BUSINESS DAYS, WITH THE ORIGINAL PACKAGE AND THE PROOF OF PAYMENT TO THE PLACE YOU OBTAINED IT FOR A FULL REFUND.

WRITTEN APPROVAL IS NOT A PREREQUISITE TO THE VALIDITY OR ENFORCEABILITY OF THIS AGREEMENT AND NO SOLICITATION OF ANY SUCH WRITTEN APPROVAL BY OR ON YOUR BEHALF SHALL BE CONSTRUED AS AN INFERENCE TO THE CONTRARY.

YOU UNDERSTAND AND AGREE THAT NO RESELLER OR DISTRIBUTOR OF PRODUCT(S) IS: (I) AN AGENT OF CYBERBIT; (II) AUTHORIZED TO PROVIDE ANY WARRANTIES (STATUTORY OR OTHERWISE) OR REPRESENTATIONS ON BEHALF OF CYBERBIT; OR (III) AUTHORIZED TO MODIFY OR TO AMEND ANY PROVISIONS OF THIS AGREEMENT.

1. DEFINITIONS

1.1. “Affiliate” means, with respect to either Party, any entity that directly, or through one or more intermediaries, Controls, is Controlled by, or is under common Control with a Party, where “Control” means the ownership of at least fifty percent (50%) of such entity’s voting securities or the power to direct or cause the direction of the management of such company or entity, through contract, ownership of securities, or otherwise.

1.2. “Confidential Information” means all information disclosed by one Party (“Disclosing Party”) to the other (“Receiving Party”) including, without limitation, information in connection with the Product, Documentation, Services (as such term is defined below) excluding however information which Receiving Party can prove by written evidence that: (i) is or enters into the public domain, through no action or omission by Receiving Party, (ii) is lawfully received by Receiving Party from a third party who is not in breach of a legal or contractual obligation with respect to the Confidential Information; (iii) is independently developed by Receiving Party without use of the Confidential Information; or (iv) is rightfully known to Receiving Party prior to the disclosure by Cyberbit.

1.3. “COTS” means certain third-party commercial off the shelf hardware and software, which are required for the operation of the Product. Such COTS are not considered part of the Product, but may be provided with it, if Purchased as part of the Purchase Order. The list of the required COTS is included in the applicable SOW.

1.4. “Cyberbit” means Cyberbit Ltd. (incorporated under the laws of Israel) or Cyberbit, Inc., (incorporated under the laws of Delaware, USA) as further detailed in the Section titled “Contracting Party, Governing Law and Jurisdiction” below.

1.5. “Documentation” means Cyberbit’s solution brief, scenario guide, technical videos, app-tutorials and any technical manuals, instructions, user information, user manual, training materials, product description(s), and any and all other materials and documentation that accompany a Product, Maintenance & Support Services, Professional Services, or are otherwise provided and/or updated from time to time by Cyberbit and/or its Affiliates.

1.6. “Force Majeure” means any epidemics, fire, flood, unusually severe weather or any other extraordinary natural disturbance, acts of god or any public enemy, acts or regulations or decrees of any government (de facto or de jure) or governmental entity, any civil commotion, riots, sabotage, embargo, blockade, insurrection

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or hostilities, whether or not declared war, strikes, labor shortages or disputes or work stoppages, pandemics or other conditions that may adversely affect the safety of a Party's personnel and/or products, restrictions due to quarantines, severe and unforeseeable market shortage, or any other causes beyond the control of such Party that arise without the fault or negligence of such Party so long as such Party has exercised its best efforts to avoid such causes.

1.7. “Intellectual Property Rights” means patents, copyrights and related rights, trademarks, trade names, domain names and trade dress and the goodwill associated therewith, know-how, unpatented inventions, invention disclosures whether or not reduced to tangible form, trade secrets and other intellectual property rights of whatever nature, regardless of whether or not each of the above is patentable, copyrightable or protectable, and regardless of whether or not each of the above has been registered as a patent, copyright, trademark or protected in any other form, and regardless of whether or not each of the above constitutes a commercial or professional secret, and including all applications and rights to apply for such rights and/or similar or equivalent rights or forms of protection subsisting now or in the future, worldwide.

1.8. “License” means any license granted in accordance with and subject to the terms and conditions of the Section titled “License” below.

1.9. “License Scope” shall have the meaning ascribed to it in the Section titled “License Scope” below.

1.10. “License Term” shall mean the period of time in which the License granted hereunder is effective. The License Term shall be specified in the Purchase Order, and if no such term is specified then it shall be for twelve (12) months from its commencement.

1.11. “Maintenance & Support Services” shall have the meaning ascribed to it in the SLA (as defined below).

1.12. “Partner” means a distributor or reseller which Cyberbit has approved to resell or distribute its Products and/or Services whether by written agreement with Cyberbit, a one-off Purchase Order or other written approval by Cyberbit. For the avoidance of doubt, each and every Cyberbit Partner is an independent contractor and shall have no authority to bind or otherwise represent Cyberbit in any way.

1.13. “Party” means either You or Cyberbit and “Parties” means both You and Cyberbit.

1.14. “Permitted Purpose” means only one or more of the following: training purpose, educational purpose, skill assessment and skill development purpose.

1.15. “Person” means any individual, firm, corporation (including non-profit corporation), partnership, company, estate, unincorporated organization, limited liability company, division, trust, joint venture, association, government, governmental entity or agency, or any other form of entity or organization.

1.16. “Product” means Cyberbit’s proprietary cyber security training and simulation software product known by various names, such as Cyberbit On-Prem or Cyberbit On-Prem Range, as described in the applicable Purchase Order, whether under the foregoing name and/or any other name.

1.17. “Professional Services” means professional services ordered under a Purchase Order (which may include, without limitation, training, installation, integration, consulting, customization and/or other professional services) as detailed in the SOW attached to such Purchase Order

1.18. “Proposal” means a quote, offer or proposal by Cyberbit offering You or a Partner to Purchase License(s) to the Product(s) and/or Services according to the prices and terms and conditions detailed therein.

1.19. “Purchase(d)” means to acquire a license to use the Product and/or a right to receive Services under the terms and conditions of this Agreement and a Purchase Order. Under no conditions shall the term “Purchase” be construed as a transfer or assignment of any Intellectual Property Rights in the Product and/or Services to You.

1.20. “Purchase Order” shall have the meaning ascribed to it in the Section titled “Purchase Orders” below.

1.21. “Services” shall mean Maintenance & Support Services and/or Professional Services.

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- 1.22. “SOW” means the statement of work, attached to, or issued by Cyberbit pursuant to a Purchase Order.
- 1.23. “Term” shall have the meaning ascribed to it in the Section titled “Term and Termination” below.
- 1.24. “Territory” means the territory detailed in the Purchase Order and in which the Product may be used.
- 1.25. “You” means an entity on whose behalf an individual is acting, or an individual acting on its own behalf, as the case may be.
- 1.26. “Your” means belonging to or associated with You.

2. PURCHASE ORDERS

2.1. Purchase Orders. Purchase of any License(s) to the Product(s) and/or Services shall be made through written and signed agreement(s) (including without limitation a purchase order or a sales order) between You and Cyberbit or between the respective Partner and Cyberbit (“Purchase Order”). Each Purchase Order shall specify, *inter alia*, the scope of respective License, the License Term, the Territory in which the License may be used and the applicable prices and payment terms. To the extent those details are not specified in the Purchase Order, then the corresponding details in Cyberbit’s Proposal shall apply.

2.2. Preprinted Provisions. Any pre-printed provisions on Your Purchase Order or other terms referenced from Your Purchase Order which are not explicitly agreed upon by Cyberbit in writing shall not apply and have no force or effect. Acknowledgement (whether express or implied) by Cyberbit of Your Purchase Order which contains additional, different or conflicting terms and conditions shall not constitute acceptance of such terms and conditions by Cyberbit. Only an agreement or Purchase Order physically signed or expressly agreed to by Cyberbit and by You, and which contains Cyberbit’s explicit and specific consent to terms and conditions not set forth herein, shall bind Cyberbit.

3. LICENSE

3.1. License Grant. Subject to the terms and conditions of this Agreement, full and timely payment of the applicable price in the Purchase Order, Cyberbit hereby grants You a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable license to use the Product and any related Documentation during the License Term, solely for the Permitted Purpose, within the Territory, subject to the limitations of the License Scope and as further detailed in the Purchase Order.

3.2. License Scope. The scope of the License is subject to following parameters and is limited by the quantities detailed in the Purchase Order: (i) the maximum number of concurrent Exercises that You may operate; (ii) the maximum number of Trainees that may train in each Exercise; (iii) the number and type of Exercises that are provided as part of the Product; and (iv) additional modules that may be provided as part of the Product (the “License Scope”). Any quantity in excess thereof is not permitted, is outside of the License Scope and is unauthorized by Cyberbit. You may not create, set-up or design any hardware, software, system, or activity which alters, exceeds or breaches the License Scope.

3.3. Exercises. Exercises may be operated either in a physical or virtual remote environment, or a combination of physical and virtual environments, provided however, that the total amount of Exercises and Trainees participating in each Exercise (respectively) operating simultaneously will not exceed the number of Exercises and Trainees (respectively) which is Purchased under the Purchase Order. A physical class of training stations will be located only within the Territory and Trainees of both virtual and physical Exercises shall be located inside of the Territory. “Exercise” means a single training session, whether conducted in a physical or virtual environment, in which You may utilize the Product and/or any of its respective Documentation, or any part thereof to train Trainees and a “Trainee” means an individual person which utilizes the Product.

3.4. COTS. COTS and COTS licenses may only be used in conjunction with the Product and not separately. If COTS have not been ordered in the Purchase Order, then they will be purchased separately by You, at Your expense and You shall be solely responsible the maintenance, proper functioning and any other issues arising from the purchased COTS.

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3.5. Your Responsibility. You will be responsible for the compliance of all Trainees with the terms of the License granted hereunder and with the applicable provisions of this Agreement. You may only operate the Product as a standalone product and You may not connect it to any network or environment.

3.6. Changes. Cyberbit reserves the right at any time to amend, revise, update the Product.

3.7. OTHER THAN THE LICENSE GRANTED IN THIS SECTION ABOVE, NO OTHER LICENSE IS GRANTED UNDER THIS AGREEMENT, WHETHER EXPRESSED OR IMPLIED. THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHTS TO USE OR ACCESS THE PRODUCT THAT ARE NOT ACQUIRED LAWFULLY OR ARE ACCESSED IN AN ILLEGITIMATE OR UNAUTHORIZED MANNER.

4. LICENSE RESTRICTIONS

4.1. Prohibited Activities. You will not, nor will you direct or allow any third party to: (i) sell, transfer, assign, rent, lease, distribute, loan, export, or sublicense the Product to any Person; (ii) engage in rental, timesharing, sharing on-line, operation of a service bureau (through cloud services or otherwise), subscription, hosting, public display or outsourcing of the Product, or allow any Person to use the Product, provided however, you will be entitled to provide training to Trainees; (iii) copy the Product or the Documentation, in whole or in part, other than one copy for disaster recovery purposes; (iv) decipher, reverse translate, decompile, disassemble or otherwise reverse engineer the Product or attempt to reconstruct or discover any source code or underlying ideas or algorithms or file formats or programming or interoperability interfaces of the Products by any means whatsoever or otherwise reduce the Product into human-readable form; (v) develop any products, modules, add-ons or other applications, features or functionality based upon, derivative from or otherwise utilizing the Product via any means or otherwise create data or executable programs which imitate data or functionality of the Product; (vi) use the Product to store or transmit offensive, obscene, infringing, defamatory, threatening, libelous, abusive, or otherwise unlawful or tortuous information or material or to store or transmit information or material in violation of third party privacy rights or intellectual property rights (vii) modify the Product or incorporate any portion of the Product into any other software; (viii) breach the security of the Product or perform any form of scanning, scraping, probing, robotic navigating, bulk extracting or hacking of the Product; (ix) interfere with, circumvent, manipulate, impair or disrupt the operation, or the functionality of the Product or any copyright protection mechanism or copy protection software contained in or related to the Product or work around or circumvent any technical limitations in the Product; (x) enable, or attempt to enable, features or functionalities of the Product that are otherwise disabled, inaccessible or undocumented in the Documentations; (xi) use the Product other than as detailed in the Documentation or outside the Permitted Purpose (including by using or exploiting the attacks or attack tools of whatever kind provided within the Product for any purpose other than using the Product for the Permitted Purpose); (xii) incorporate any virus or harmful code in the Product, including through any other software used in connection with the Product; (xiii) take any action that would, or that would be reasonably likely to, subject the Product to any freeware, open source or similar licensing or distribution models, including through linking to or calling to the Product; or (xiv) publicly disseminate performance information or analysis about the Product, including, without limitation, benchmarking test results, answers on how to complete the Exercises or about Intellectual Property contained in the Product.

4.2. Compliance with Laws. You represent and warrant to Cyberbit that You will not use or allow the use of the Product or any portion thereof in violation of applicable laws or regulations (including without limitation Export Control and Privacy Laws as defined below).

4.3. Indemnification. You will indemnify and hold Cyberbit harmless from and against claims, losses, costs (including reasonable attorneys' fees) or liability, arising in connection with Your breach of your obligations, representations and warranties in this License Restrictions Section.

5. MAINTENANCE & SUPPORT SERVICES

5.1. Maintenance and Support. Maintenance and Support Services for the Product will be provided in accordance with and subject to Cyberbit's then applicable Service Level Agreement available at <https://www.cyberbit.com/legal> ("SLA"). Maintenance and Support Services will be provided during the Support Term, as defined in the SLA. The current SLA is attached hereto as Appendix A.

6. PROFESSIONAL SERVICES

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6.1. Professional Services. To the extent any Professional Services are ordered under a Purchase Order, Cyberbit shall perform such Professional Services according to the scope, schedule and other terms and conditions detailed in the applicable SOW and subject to payment of the respective fees detailed in the applicable Purchase Order. Cyberbit (or any of its Affiliates) will provide appropriately qualified personnel to perform the Professional Services and reserve the right to engage independent contractors to perform some or all of the Professional Services.

6.2. Prerequisites. All prerequisites which You are obligated to fulfill according to the SOW and/or the Purchase Order and all COTS You are obligated to provide under the SOW if any, will be provided and fulfilled by You, at Your sole expense. Such pre-requisites and COTS shall be fulfilled and/or provided by You within the agreed timeframe detailed in the SOW and/or the Purchase Order and any delay which is caused by You may impact the time and costs of the Professional Services in an amount to be determined by Cyberbit as a result thereof.

7. YOUR DATA SECURITY AND PRIVACY RESPONSIBILITIES

7.1. Compliance with Privacy Laws. The Product may retain and process personal data of the Trainees, such as user identifiers and training records. Therefore, Your use of the Product may be subject to data protection or privacy laws or regulations in certain jurisdictions (“Privacy Laws”), and You are solely responsible for ensuring that Your use of the Product is in accordance with the applicable Privacy Laws.

7.2. Personal Information provided to Cyberbit. When You, or anyone on Your behalf contact Cyberbit in connection with the Product and/or provision of Services, Cyberbit may collect personal information, including without limitation personal identifiers (full name, email address, phone number, title, company, etc.). Cyberbit may retain such information in its databases and use it for contacting You and Your representatives in connection with the Product, to enable You to receive Services, open and track support requests, etc. The personal information may include information required for Cyberbit to License the Product and/or provide the Services and Cyberbit may share it with third parties which assist Cyberbit in providing the Services, such as manufacturers or licensors of COTS, Third Party Software providers or Cyberbit’s Affiliates.

Specifically, you are advised that Cyberbit presently uses Zoho for providing Maintenance & Support Services. Zoho uses various cookies in order to create the user’s account and to provide the platform for opening and tracking support requests. Cyberbit is not responsible for the privacy practices of Zoho and their use of cookies. A list of cookies used by Zoho can be found here: <https://www.zoho.com/privacy/cookie-policy.html>. The Zoho Privacy Policy can be found here: <https://www.zoho.com/privacy.html> and the Zoho Privacy Policy for California residents can be found here: <https://www.zoho.com/us-ca/privacy.html>.

7.3. Data Security and Accuracy.

7.3.1. You are responsible for the accuracy of all data entered by You or Your Trainees through the Product or provided to Cyberbit in any other way in connection with the Product. For the avoidance of doubt, You are solely responsible for all content provided, transmitted, maintained, retained, or stored in connection with Your use of the Product.

7.3.2. It is Your obligation to implement and maintain adequate internal security measures in connection with the use of the Product, which are at least considered reasonable under current industry standards, and to immediately notify Cyberbit if you suspect a breach of your security measures.

7.3.3. You are responsible for configuring your information technology, computer programs and platforms to use the Product. You hereby undertake to use at least current industry-standard virus protection practices to protect your systems, networks, products and infrastructure against viruses, worms, malware or other similar security threats and to use commercially reasonable efforts to prevent unauthorized access to or use of the Product.

8. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

8.1. Ownership. The Product and Documentation are protected under applicable copyright, trademark, trade secret and patent laws. The Product and Documentation, including all of the Intellectual Property Rights therein or thereto, and any and all Intellectual Property Rights in the Services shall at all times remain the sole and exclusive property of Cyberbit, its Affiliates and respective licensors. Nothing in this Agreement shall constitute or

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be considered as constituting a transfer or sale or any similar action of any of Cyberbit's Intellectual Property Rights or any part thereof. All rights in and to Cyberbit's Intellectual Property Rights are expressly owned by Cyberbit, its Affiliates and licensors, and You shall not have any rights in or to Cyberbit's Intellectual Property Rights or otherwise, except as explicitly permitted in this Agreement.

8.2. Infringement Mitigation. If the Product or Documentation become, or in Cyberbit's reasonable judgment are likely to become, the subject of a claim of patent or copyright infringement, or be deemed in violation of a third party's intellectual property rights, or if Cyberbit settles a claim of infringement or violation, Cyberbit may at its sole option and discretion: (i) replace or modify the Product to make it non-infringing; or (ii) terminate the Purchase Order and return any consideration actually pre-paid to Cyberbit on account of the terminated License Term.

8.3. Proprietary Notices. You must reproduce and include the copyright notice and any other notices that appear in or on the Product. You will not and will not direct or allow any third party to remove any copyright or other proprietary notices from the Product.

8.4. Confidential Information. Receiving Party will protect the Confidential Information of the Disclosing Party in strict confidence and take all reasonable precautions to protect the Confidential Information, using at least those precautions it uses to protect its own Confidential Information, but no less than a reasonable standard of care. Receiving Party further agrees not to disclose the Confidential Information to any third party, except as expressly permitted by Disclosing Party in a document in writing duly signed an authorized representative of Disclosing Party. Receiving Party shall use the Confidential Information solely to the extent needed for exercising its rights in accordance with this Agreement and in no other manner. Receiving Party may disclose the Confidential Information to its Trainees or employees, on a need-to-know basis, provided each such Trainee or employee is bound by written confidentiality obligations at least as restrictive as those under this Agreement and provided that Receiving Party is solely and fully responsible for all liability related to any breach of confidentiality by any such Trainee or employee. Receiving Party shall promptly notify Disclosing Party if it becomes aware of any breach of these confidentiality obligations or unauthorized disclosure of the Confidential Information.

8.5. Remedies. Receiving Party acknowledges that the unauthorized disclosure of Disclosing Party's Confidential Information or interference with Disclosing Party's Intellectual Property Rights would cause irreparable harm and significant injury to Disclosing Party, its licensors and Affiliates (if applicable), which would be difficult to ascertain. Accordingly, Receiving Party agrees that Disclosing Party, its licensors and Affiliates (if applicable) shall be entitled to equitable relief, including injunctive relief, without the posting of any bond, in addition to all other remedies provided under this Agreement or available at law. Furthermore, Receiving Party shall indemnify Disclosing Party, its licensors and Affiliates (if applicable) against any loss and expense arising due to such unauthorized disclosure of Disclosing Party's Confidential Information or breach of Disclosing Party's Intellectual Property Rights.

8.6. Feedback. From time to time, You or Your Trainees may submit to Cyberbit comments, questions, enhancement requests, suggestions, ideas, corrections, process descriptions or other information related to the Product and/or Services ("Feedback"). You and your Trainees hereby grant Cyberbit and its Affiliates a worldwide, perpetual, irrevocable, royalty-free, fully paid-up license to use and exploit the Feedback, including without limitation all rights to use and incorporate the Feedback into the Product without restriction or payment to You or Your Trainees.

8.7. Services. No work product of Cyberbit, whether conceived during performance of Services or otherwise, shall be construed as or deemed to be a "work made for hire". Accordingly, You acknowledge that Cyberbit retains sole and exclusive ownership of all right, title and interest to all Intellectual Property Rights in and to the work products conceived in the course of performance of Services including, without limitation, in any copy, translation, modification, adaptation or derivation of such work products and in any improvement or development thereof.

9. LIMITED WARRANTY

9.1. LIMITED PRODUCT WARRANTY. CYBERBIT WARRANTS THAT THE ORIGINAL COPY OF THE PRODUCT ON THE MEDIA ON WHICH IT IS FURNISHED SHALL SUBSTANTIALLY CONFORM

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TO ITS PRODUCT DESCRIPTION FOR A PERIOD OF NINETY (90) DAYS FROM DELIVERY. CYBERBIT'S ENTIRE LIABILITY, AND YOUR EXCLUSIVE REMEDY FOR BREACH OF THIS LIMITED WARRANTY SHALL BE, AT CYBERBIT'S SOLE OPTION, EITHER: (I) REPAIR OR REPLACEMENT OF THE PRODUCT OR ANY PART THEREOF THAT DOES NOT MEET THIS LIMITED WARRANTY; OR (II) RETURN OF THE CONSIDERATION ACTUALLY PAID TO CYBERBIT FOR THE PRODUCT, WHICH SHALL RESULT IN THE TERMINATION OF THE APPLICABLE PURCHASE ORDER AND THIS AGREEMENT.

9.2. LIMITED PROFESSIONAL SERVICES WARRANTY. CYBERBIT WARRANTS THAT ANY PROFESSIONAL SERVICES PROVIDED BY CYBERBIT WILL BE RENDERED WITH REASONABLE CARE AND SKILL. CYBERBIT SHALL HAVE NO LIABILITY UNDER THIS LIMITED WARRANTY BEYOND NINETY (90) DAYS FROM THE PROVISION OF THE APPLICABLE PROFESSIONAL SERVICES, AND YOUR EXCLUSIVE REMEDY UNDER THIS LIMITED WARRANTY DURING SUCH NINETY (90) DAYS PERIOD SHALL BE, AT CYBERBIT'S SOLE OPTION, EITHER: (I) REPERFORMANCE OF SUCH PROFESSIONAL SERVICES; OR (II) RETURN OF THE CONSIDERATION ACTUALLY PAID TO CYBERBIT FOR THE APPLICABLE PROFESSIONAL SERVICES.

9.3. LIMITED COTS WARRANTY. TO THE EXTENT ANY COTS ARE PURCHASED UNDER THE PURCHASE ORDER, THEY ARE PROVIDED WITH THE WARRANTY OF THEIR MANUFACTURER OR LICENSOR (AS THE CASE MAY BE), IF ANY, AS EXISTING AT THE DATE OF DELIVERY. TO THE EXTENT THE MANUFACTURER OR LICENSOR OF THE COTS HAS PROVIDED NO WARRANTY, CYBERBIT'S ENTIRE LIABILITY WITH RESPECT TO THE DEFECTIVE COTS AND YOUR EXCLUSIVE REMEDY SHALL BE, AT CYBERBIT'S OPTION, AND DURING A PERIOD OF NINETY (90) DAYS FROM THE DELIVERY OF THE RESPECTIVE COTS, EITHER: (I) RETURN OF THE CONSIDERATION ACTUALLY PAID TO CYBERBIT FOR THE DEFECTIVE COTS, OR (II) REPAIR OR REPLACEMENT OF THE DEFECTIVE COTS.

9.4. NOTIFICATION. FOR THE AVOIDANCE OF DOUBT, ANY OF THE AFORESAID REMEDIES UNDER THE FOREGOING LIMITED WARRANTY PROVISIONS REQUIRE THAT YOU PROVIDE CYBERBIT WRITTEN NOTICE OF THE APPLICABLE WARRANTY BREACH PRIOR TO THE EXPIRY OF THE APPLICABLE NINETY (90) DAY PERIOD.

9.5. WARRANTY EXCEPTION. THE LIMITED WARRANTIES DETAILED IN THIS LIMITED WARRANTY SECTION EXCLUDE, AND CYBERBIT, ITS LICENSORS AND AFFILIATES SHALL HAVE NO OBLIGATION TO REMEDY, ANY DEFECTS CAUSED BY, OR CONTRIBUTED TO, DUE TO ONE OR MORE OF THE FOLLOWING: (I) ALTERATIONS, ENHANCEMENTS OR REPAIRS OF THE PRODUCT OR COTS BY ANY PERSON OR ENTITY OTHER THAN CYBERBIT OR A REPRESENTATIVE OF THE COTS MANUFACTURER OR LICENSOR; (II) IMPROPER STORAGE, MISHANDLING, ABUSE, OR MISUSE OF THE PRODUCT OR COTS, INCLUDING IN ANY MANNER WHICH IS NOT IN ACCORDANCE WITH THE COTS OR PRODUCT DOCUMENTATION OR THIS AGREEMENT; (III) DAMAGE BY FIRE, EXPLOSION, POWER FAILURE, OR ANY FORCE MAJEURE EVENT;

9.6. WARRANTY DISCLAIMERS. EXCEPT FOR THE LIMITED WARRANTIES SET FORTH IN THIS LIMITED WARRANTY SECTION, CYBERBIT PROVIDES THE PRODUCT, THE COTS AND THE PROFESSIONAL SERVICES "AS IS", AND YOUR USE OF THE PRODUCT IS AT YOUR OWN RISK. CYBERBIT, ITS LICENSORS AND AFFILIATES HEREBY DISCLAIM, ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE PRODUCT AND/OR THE SERVICES AND/OR ANY RELATED DOCUMENTATION AND/OR LICENSES AND/OR COTS AND/OR ANY RESULTS FROM THE USE OF THE PRODUCT, INCLUDING WITHOUT LIMITATION, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE OF THE PRODUCT, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND TITLE, SATISFACTORY QUALITY, SUITABILITY, ACCURACY OR COMPLETENESS. CYBERBIT MAKES NO WARRANTY REGARDING NON-INTERRUPTION OF USE, FREEDOM FROM BUGS OR VIRUSES OR ERRORS IN CODE, NON-INTRUSION DUE TO HACKING OR OTHER SIMILAR MEANS OF UNAUTHORIZED ACCESS, UNINTERRUPTED OR ERROR-FREE OPERATION OF THE PRODUCT. YOU

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ACKNOWLEDGE AND AGREE THAT THE PRODUCT MAY NOT REFLECT REAL-WORLD SITUATIONS, AND ITS USE THEREOF SHALL NOT BE RELIED UPON AS ADVICE OR EVIDENCE FOR REAL-WORLD SITUATIONS.

THE FOREGOING ARE ESSENTIAL TERMS OF THIS AGREEMENT AND, IF ANY OF THESE TERMS ARE CONSTRUED AS UNENFORCEABLE, FAIL IN ESSENTIAL PURPOSE, OR BECOME VOID OR DETRIMENTAL TO CYBERBIT, ITS AFFILIATES, LICENSORS AND SUPPLIERS, FOR ANY REASON, THEN THE LICENSE AND ALL RIGHTS TO ACCESS OR USE THE PRODUCT SHALL TERMINATE IMMEDIATELY.

CYBERBIT SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE OF WHATEVER NATURE SUFFERED BY YOU AND ARISING OUT OF, OR IN CONNECTION WITH, ANY ACT, OMISSION, MISREPRESENTATION OR ERROR MADE BY YOU OR ON YOUR BEHALF OR ARISING FROM ANY CAUSE BEYOND CYBERBIT'S CONTROL.

9.7. Inability to Exclude Warranties. If a jurisdiction applicable to this Agreement restricts the exclusion of certain implied warranties, limitations on how long an implied warranty may last, or the exclusion or limitation of incidental, consequential, or special damages, then (i) each warranty which cannot be excluded is limited in time to ninety (90) days from the effective date of the respective Purchase Order; and (ii) Cyberbit's total liability for breach of all such warranties are limited as provided in Section titled "Limitation of Liability" below.

9.8. Basis of Bargain. You recognize and agree that the warranty disclaimers and liability and remedy limitations in this Agreement, including without limitation in the Limited Warranty Section and in the Limitation of Liability Section below have been bargained for and form the basis of this Agreement and that they have been taken into account and reflected in determining any amounts to be paid by You under the respective Purchase Order and in the decision to enter into this Agreement. Regardless of any amounts actually paid to Cyberbit, each and every term of this Agreement is supported by sufficient consideration in light of Your benefits from using the Product and/or Services and in light of Cyberbit's restrictions on Your use of the Product and/or Services.

10. LIMITATION OF LIABILITY

10.1. IN NO EVENT SHALL CYBERBIT, ITS LICENSORS AND/OR AFFILIATES AND/OR ANYONE ON THEIR BEHALF BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL (EXCEPT FOR DAMAGES RELATING TO DEATH OR PERSONAL INJURY IN JURISDICTIONS WHERE SUCH DAMAGES MAY NOT BE DISCLAIMED AS A MATTER OF LAW), PUNITIVE, EXEMPLARY OR RELIANCE DAMAGES, LOSSES OR EXPENSES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF BUSINESS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR LOSS OF USE OR DATA) RELATING TO OR ARISING OUT OF THIS AGREEMENT, THE PRODUCT, THE SERVICES HOWEVER CAUSED, AND WHETHER BASED ON CONTRACT, TORT, EQUITY OR ANY OTHER THEORY OF LIABILITY WHATSOEVER, EVEN IF CYBERBIT WAS NOTIFIED OR OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES OR EXPENSES.

10.2. THE TOTAL AND AGGREGATE LIABILITY OF CYBERBIT, ITS LICENSORS AND AFFILIATES AND ANYONE ON THEIR BEHALF, FOR ANY AND ALL CLAIMS RELATED TO THIS AGREEMENT REGARDLESS OF THE CAUSE OF ACTION (WHETHER BASED ON CONTRACT, TORT, EQUITY OR ANY OTHER THEORY OF LIABILITY WHATSOEVER), SHALL NOT EXCEED AN AMOUNT GREATER THAN THE CONSIDERATION ACTUALLY PAID TO CYBERBIT DURING THE PRIOR YEAR FOR THE SPECIFIC PRODUCT OR SERVICES GIVING RISE TO A CLAIM AGAINST CYBERBIT. REGARDLESS OF ANY AMOUNTS ACTUALLY PAID TO CYBERBIT, EACH AND EVERY TERM OF THIS AGREEMENT IS SUPPORTED BY SUFFICIENT CONSIDERATION IN LIGHT OF CUSTOMER'S BENEFITS FROM THESE TERMS AND CYBERBIT'S BENEFITS FROM THESE TERMS. THE LIMITATIONS CONTAINED IN THIS LIMITATION OF LIABILITY SECTION SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE AND/OR ANY REMEDY PROVIDED UNDER ANY TERM OF THIS AGREEMENT.

11. EXPORT CONTROL

Cyberbit Proprietary

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11.1. Export Control Laws. You acknowledge that the Product and any use thereof may be subject to applicable export control and trade laws and regulations, including of the United States and Israel (“Export Control Laws”). You will not use, convey, export, or re-export, either directly or indirectly, the Product (or any part thereof) by any way or to any destination restricted or prohibited by Export Control Laws, without first obtaining any and all necessary licenses from the government of the United States or Israel or any other applicable country that imposes Export Control Laws.

11.2. Prohibited Persons. You represent and warrant that You are not an individual or an entity which is: (i) located in, under the control of, or a national or resident of Cuba, North Korea, Iran, Syria, Lebanon, Sudan and the Crimea Region of Ukraine or such other countries as may be additionally designated from time to time by any applicable governments where Cyberbit and/or any of its Affiliates are incorporated; or (ii) listed under the United States Treasury Department’s Office of Foreign Asset Control list of “specially designated nationals and blocked persons,” the United States Commerce Department’s “denied parties list”, the United States Commerce Department’s “BIS Entity List” or such other applicable lists. You also represent and undertake that You shall not use the Product to provide services to any Person embargoed or sanctioned by the government of the United States or any Person which resides in Iran, Syria, Lebanon and the Crimea Region of Ukraine.

12. TERM AND TERMINATION

12.1. Term. This Agreement is effective from the earlier of: (i) the effective date of the applicable Purchase Order or (ii) the day of the acceptance of this agreement by You. Subject to the termination provisions detailed below, this Agreement shall expire at the expiration of the License Term (the “Term”).

12.2. Termination. Each Party may terminate this Agreement in case of a breach by the other Party of any of the provisions hereof or the breach of the applicable Purchase Order which is not cured within thirty (30) days from the prior written notice by the non-breaching Party to the other Party (and in case of a breach of a Purchase Order, the notice may be sent by or to the respective Partner who entered into the Purchase Order together with a copy to Cyberbit). Cyberbit may also immediately terminate this Agreement if Cyberbit, in its sole and absolute discretion, determines that Your use of a Product might give rise to a continuing breach of this Agreement or a third-party claim against Cyberbit.

In addition, each Party may terminate this Agreement with immediate effect upon the occurrence of any one of the following events: (i) a receiver, trustee, or liquidator of the other Party is appointed for any of its properties or assets; (ii) the other Party admits in writing its inability to pay its debts as they mature; (iii) the other Party makes a general assignment for the benefit of creditors; (iv) the other Party is adjudicated as bankrupt or insolvent; (v) a petition for the reorganization of the other Party or an arrangement with its creditors, or readjustment of its debts, or its dissolution or liquidation is filed under any law or statute; (vi) the other Party ceases its business activities, commences dissolution or liquidation.

12.3. Consequences of Termination or Expiration. Upon termination or expiration of this Agreement the following provisions shall apply: (i) any License to the Product shall terminate immediately, and (ii) You shall cease any and all use of the Product and any Third Party Software provided with it, or delete or uninstall the Product and any Third Party Software provided to You; and (iii) return all Documentation and any copies thereof and related materials provided to you; and (iv) unless the provisions of the Purchase Order so specify, then return any hardware provided to you under the Purchase Order. You are required to certify to Cyberbit of Your compliance with the foregoing provisions within fourteen (14) days of termination. Termination shall not affect any rights and/or remedies of Cyberbit, under contract or applicable laws.

12.4. Survival. The following Sections shall survive termination or expiration of this Agreement: Definitions, License Indemnification, License Restrictions, Intellectual Property, Force Majeure, Confidentiality, Limited Warranty, Limitation of Liability, Export Control, Contracting Party, Governing Law and Jurisdiction, and Miscellaneous.

13. CONTRACTING PARTY, GOVERNING LAW AND JURISDICTION

13.1. Americas and Gulf Countries. If You Purchased the Product in the Americas (USA, Canada, Mexico, Central America, South America, the Caribbean), or in one of the Gulf Countries, then the contracting

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party to this Agreement, referred to herein as Cyberbit is Cyberbit, Inc., and the substantive laws of the State of New York shall govern this Agreement as though this Agreement was entered into, and was to be entirely performed within, the State of New York. All claims or disputes arising out of or in connection with this Agreement shall be heard exclusively by any of the federal or state court(s) of competent jurisdiction located in the Borough of Manhattan, New York City, NY, USA. To that end, each Party irrevocably consents to the exclusive jurisdiction of, and venue in, such court(s), and waives any (i) objection it may have to any proceedings brought in any such court, (ii) claim that the proceedings have been brought in an inconvenient forum, and (iii) right to object (with respect to such proceedings) that such court does not have jurisdiction over such Party. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

13.2. China. If You Purchased the Product in China, then the contracting party to this Agreement, referred to herein as Cyberbit is Cyberbit Ltd. and this Agreement shall be governed, performed, construed and interpreted in accordance with the laws of Hong Kong, without giving effect to its conflict of laws provisions. Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center (“CIETAC”) in accordance with the Arbitration Rules of the CIETAC for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Hong Kong. The Tribunal shall consist of one (1) arbitrator. The language of the arbitration shall be English and the hearings, if any, shall be conducted in Hong Kong.

13.3. Rest of the World. If You Purchased the Product outside the Americas, China, or the Gulf Countries then the contracting party to this Agreement, referred to herein as Cyberbit is Cyberbit Ltd., and unless otherwise indicated in the Purchase Order, the laws of the State of Israel shall exclusively govern all issues arising under or relating to this Agreement, without giving effect to the conflict of laws principles thereof. All disputes arising under or relating to this Agreement shall be resolved exclusively in the competent courts in Tel Aviv, Israel.

13.4. Injunctive Remedies. Notwithstanding any other provision to the contrary, Cyberbit will always have the right, at its sole and absolute discretion, to file a claim or application for injunctive remedies against You, in the competent courts of the jurisdiction in which Your domicile is, according to the governing law in such jurisdiction, without reference to the other provisions in this “Contracting Party, Governing Law and Jurisdiction” section.

13.5. UCITA. This Agreement will not be governed by the United Nations Convention on Contracts for the International Sales of Goods, the application of which is expressly excluded nor will it be governed by the Uniform Computer Information Transactions Act (UCITA) as adopted by any state.

14. FORCE MAJEURE

14.1. Force Majeure Event. Neither Party shall be responsible or liable for a delay or failure in performance under this Agreement and the Purchase Order arising as a result of an occurrence of a Force Majeure event *provided however* that the provisions of this Force Majeure Section shall not be construed as relieving either Party from its obligation to pay any sums or consideration due the other Party.

14.2. Notification. The delayed Party shall send written notice of the delay and the reason thereof to the other Party as soon as possible after the occurrence of the Force Majeure and the time for performance of both Parties’ obligations hereunder shall automatically be extended for a period equal to the duration of any such delay.

14.3. Right of Termination. In the event that performance cannot be restored within a mutually agreeable time frame, then either Party may terminate this Agreement without further liability of one Party to the other for damages on account of such termination, by providing the other Party a ninety (90) day prior written notice.

15. MISCELLANEOUS

15.1. Assignment. You may not assign Your rights or obligations under this Agreement without the prior consent of Cyberbit in a document physically signed by both Party’s authorized representatives. Cyberbit or You may each assign this Agreement to a successor corporation resulting from its merger or acquisition, or to its

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Affiliate, by written notification to the other Party.

15.2. Severability. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, that provision of the Agreement will be enforced to the maximum extent permissible so as to affect the original intent of the Agreement, and the remainder of the provisions of this Agreement shall remain in full force and effect.

15.3. Certification Regarding Use. At Cyberbit's request, You will certify to Cyberbit Your compliance with the terms and conditions of this Agreement and allow Cyberbit or its designee to verify such compliance during regular business hours after within ten (10) days of such request by Cyberbit. In addition, Cyberbit and its Affiliates shall have the right to inspect Your facilities, computer systems, networks, books, and records at any time this Agreement is in effect and within one (1) year after termination or expiration of this Agreement, but in any case, no more than once per year, to verify Your compliance with the License terms and Scope. Such inspection may be performed either by Cyberbit or its Affiliates or by a third-party auditor. If the inspection evinces the Scope of License has been exceeded, then you shall promptly pay to Cyberbit any shortfall according to Cyberbit's standard prices. Cyberbit shall bear the costs of any such audit, except where the audit evinces a shortfall exceeding five percent (5%) of the applicable price in the Purchase Order in which case You shall bear the costs of any such audit.

Third Party Software and Hardware. Cyberbit may deliver in conjunction with the Product, or the Product may contain third party software programs which are (i) available under open source; or (ii) free software licenses or; (iii) commercial proprietary software ("Third Party Software"). Your use of such Third-Party Software is governed by its respective agreement available at Third Party Software website and subject to its terms or by other third-party terms which may be provided by Cyberbit. This Agreement does not modify any rights or obligations You may have under those Third Party Software licenses, however, to the extent permitted under the Third Party Software licenses, the terms of the License shall also apply to such Third Party Software. Notwithstanding anything to the contrary contained in such licenses, the Limited Warranty and the Limitation of Liability provisions in this Agreement shall apply to such Third-Party Software. The Product may incorporate IBM's Qradar SIEM ("Qradar"), the use of which is subject to the terms and conditions of the specific license under which it is distributed, available for your review at [https://www-03.ibm.com/software/sla/sladb.nsf/pdf/ipla/\\$file/ipla_en.pdf](https://www-03.ibm.com/software/sla/sladb.nsf/pdf/ipla/$file/ipla_en.pdf) ("IPLA"). You will defend, indemnify and hold Cyberbit harmless from and against any and all liability or claim arising from or in connection to your violation of any Third Party's rights and/or your misuse of Third-Party's Software and/or your breach of third party's license agreement.

15.4. Entire Agreement; Amendments. This Agreement sets forth the entire understanding and agreement between You and Cyberbit with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous communications, understandings, or agreements (whether written or oral). Cyberbit may amend this Agreement or any part thereof by updating this Agreement on <https://www.cyberbit.com/legal>. Amendments to the Agreement apply to any License(s) and Services acquired or renewed after the date of modification.

15.5. U.S. Government Rights. The software included in the Product and the Documentation are "commercial computer software" or "commercial computer software documentation" as defined in FAR 2.101 and FAR 12.212 and they are provided only with the rights under this EULA and with no other or additional rights under the FARs or DFARs. Any use, modification, reproduction release, performance, display or disclosure of such software and Documentation by the U.S. Government shall be solely in accordance with the terms of this Agreement.

Last updated: June 28, 2022

Appendix A**Cyberbit Service Level Agreement**

This Service Level Agreement (“SLA”) between You and Cyberbit sets forth the terms and conditions of the maintenance and support services to be provided by Cyberbit (the “Maintenance & Support Services”), to the extent You Purchased Maintenance & Support under a Purchase Order.

The terms and conditions of the End User License Agreement to which this SLA is appended (“EULA”) are incorporated herein by reference and shall apply, *mutatis mutandis*, to this SLA.

Capitalized terms that are not defined herein shall have the same meanings ascribed to them in the EULA.

1. Definitions

- 1.1. “Current Version” means the most updated version of the Product which is currently generally available.
- 1.2. “Failure” means a reproducible or continuous condition in the Product, which does not result from the Operating Environment (or from any of the circumstances detailed in Section 2.10 below) and which causes the Product not to operate or materially fail to function according to the Product description (which will be provided to You upon Your request). A Failure is recognized as such only after Cyberbit’s confirmation.
- 1.3. “Fix” means the repair or replacement of object or executable code versions of the Product to remedy a Failure including by a Workaround.
- 1.4. “Operating Environment” means a combination of hardware and/or operating system and/or other relevant software other than the Product, required for operating the Product.
- 1.5. “Product Update Release” means a revision or a change to the Product which is made available by Cyberbit as part of the Maintenance & Support Services, and which includes: (i) minor Product performance improvements or enhancements of existing Product features and/or functionality and/or (ii) a Fix(es) meant to address a certain Failure(s).
- 1.6. “Response Time” means the interval between the receipt of a Support Ticket by Cyberbit and the initial response by Cyberbit.
- 1.7. “Service Hours” means:

For End Users Based in:	Service Hours:
The Americas	Monday through Friday, 9:00 am to 5:00 pm Eastern Time, not including national holidays in the United States and Israel.
Europe, Middle-East and Africa	Sunday through Thursday, 9:00 am to 5:00 pm Israel time, not including local national holidays and national holidays in Israel.
Asia Pacific	Monday through Friday, 9:00 am to 5:00 pm Singapore Time, not including local national holidays and national holidays in Israel.

- 1.8. “Support Term” means the term for which You purchased Maintenance & Support Services, as explicitly defined in the applicable Purchase Order. For the avoidance of doubt, it is hereby clarified that the price of a subscription License includes Maintenance & Support Services during the License Term.
- 1.9. “Support Ticket” means a request for Maintenance & Support Services opened by You through the Support Portal, in accordance with the provisions of this SLA.
- 1.10. “Workaround” means an alternate process/approach/method for achieving a task or goal while bypassing the problem which, in Cyberbit’s sole discretion, does not substantially restrict the use of one or more features of the Product.

2. Maintenance & Support Services

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- 2.1. Cyberbit shall provide You with Maintenance & Support Services in connection with the Product, during the Support Term. The language for all communications related to the Maintenance & Support Services shall be English.
- 2.2. To open a Support Ticket, You will need to register / create an account in Cyberbit's support portal (<https://www.cyberbit.com/support>) (the "Support Portal") and fill in an online form in Cyberbit's Support Portal.
- 2.3. Following the receipt of a Support Ticket, Cyberbit's support team shall confirm that the Support Ticket was received and provide You with a Ticket number for reference. Cyberbit's support team, may request You to provide technical information which is necessary to effectively handle the Support Ticket.
- 2.4. The Support Ticket's severity will be determined by Cyberbit's support team who will assess the severity of the matter for which the Support Ticket was opened based on its impact on the use of the Product. The following table defines the different classification levels:

Classification Level	Description
Critical Severity (Severity 1):	A total loss of core functionality in the Product or a down system that severely affects Your business operations.
High Severity (Severity 2)	A severe issue in the Product that has a noticeable impact on the use of the Product and on Your business operations.
Medium Severity (Severity 3)	An issue in the Product that causes only moderate impact on the use of the Product and on Your business operations.
Low Severity (Severity 4)	A reported anomaly in the Product that does not substantially restrict the use of one or more features of the Product.

- 2.5. Unless otherwise specifically stated in a Purchase Order, the Response Time to a Support Ticket shall be as follows: Four (4) Service Hours for Critical (Severity 1) Support Tickets, and next business day for High (Severity 2) and Medium (Severity 3) Support Tickets.
- 2.6. The Maintenance & Support Services shall be provided via remote access to the Product, and You will be responsible to enable the Cyberbit support team such remote access, including any and all information and system facilities determined necessary by Cyberbit's support team. Without remote access, Cyberbit shall not be able to provide the Maintenance & Support Services and any delays in providing the remote access shall result in delays in the Response Times.
- 2.7. Cyberbit will use commercially reasonable efforts to resolve each Medium/High/Critical Severity Support Ticket including, without limitation, by providing a reasonable Workaround and/or a software update (which can be provided in the next Product Update Release), and/or a specific action plan for handling the Failure. It is hereby clarified that Cyberbit will determine, in its sole and exclusive discretion, if, how and when to handle Low Severity Supports Tickets.
- 2.8. Cyberbit may perform the Maintenance & Support Services by any of its Affiliates and authorized subcontractors.
- 2.9. Cyberbit has no obligation to provide Maintenance & Support Services in connection with Failures which occur in any version of the Product other than the Current Version or the version of Product which preceded the Current Version.
- 2.10. The Maintenance & Support Services shall not include, and Cyberbit shall not be responsible for or liable to correct any Failure caused by: (i) alterations, enhancements or repairs of the Product or COTS by any person or entity other than Cyberbit (or anyone on its behalf); (ii) improper storage, mishandling, abuse, or misuse of the Product or COTS, including in a manner which is not in accordance with the Documentation or the EULA; (iii) damage by fire, explosion, power failure, or any Force Majeure event (iv) Your failure to maintain the Operating Environment set out in the Documentation (in particular, the

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site preparation guide provided by Cyberbit) and SOW; or (v) Your failure to incorporate any Product Update Release provided by Cyberbit to You as set forth herein.

2.11. In the event You Purchased the “Cyberbit On Orem Pro” with the capability to create new networks and/or exercises, it is hereby clarified that Cyberbit does not provide Maintenance & Support Services to customized or new networks and exercises which You have created.

2.12. In order to receive Maintenance & Support Services, You will nominate a representative which will have applicable technical knowledge and experience and will be the sole point of contact for communications related to Maintenance & Support Services. Such representative shall have the capability to execute procedures and recommendations provided by Cyberbit’s support team, including the capability to enable Cyberbit both remote and physical access to the Product (as shall be requested by Cyberbit), and provide relevant data from or about the Product as requested by Cyberbit.

3. **COT(s) and Hardware Support**

3.1. Cyberbit shall provide Maintenance & Support Services only for COTS which were purchased and provided by Cyberbit to You and the provisions of this Section below shall apply only to such COTS, unless otherwise stated in the applicable Purchase Order.

3.2. If COTS are purchased by You, then Cyberbit shall not be responsible or liable for their maintenance and support. You hereby acknowledge that without adequate maintenance and support for the COTS, Cyberbit will not be able to ensure the Product’s operation.

3.3. COTS maintenance and support shall be provided for the period during which the third-party manufacturer or supplier of the applicable COTS provides maintenance and support services subject to the support terms and conditions and in accordance with the response times of the third-party manufacturer or supplier of such COTS.

3.4. In the event that Cyberbit’s support team determines that a Failure is caused as a result of a malfunction in hardware provided by Cyberbit, You might be required to allow a representative of the third-party supplier of the defective hardware to physically access to the applicable hardware and/or to ship the defective hardware to Cyberbit or to the applicable supplier for replacement.

3.5. If You Purchased a subscription License for a period of three (3) years or more, You will not be required to return to Cyberbit any hardware provided under the applicable Purchase Order upon the termination or expiration of the License Term.

4. **Miscellaneous**

4.1. In addition to Maintenance & Support Services, Cyberbit may develop new modules and/or remove obsolete or unused features and/or make changes or upgrades to the Product that include substantial performance improvements and/or architectural changes and/or new Product features and/or new functionalities (each, a “Product Upgrade Release”). Cyberbit may offer You to Purchase a Product Upgrade Release (if and when made generally available during the Support Term), in consideration for an additional fee to be determined in accordance with Cyberbit’s then applicable price list.

4.2. If You Purchased a subscription License, then during the License Term, Cyberbit will provide You (without additional fees) new Exercises which are designated by Cyberbit to be included in the Exercise package(s) that You have Purchased under the Purchase Order. If You did not Purchase a subscription License, then You will not be entitled to new Exercises on a free of charge basis.

4.3. Cyberbit reserves the right in its sole, absolute discretion discontinue to provide the Maintenance & Support Services upon a One Hundred and Eighty (180) days prior written notice to You. Cyberbit shall either (according to its sole discretion and as Your sole remedy) offer You substantially similar Maintenance & Support Services or refund You (or the Partner from whom You Purchased such Maintenance & Support Services) the respective portion of prepaid fees which were paid to Cyberbit in advance for Maintenance and Support Services which were discontinued.