



These Terms of Service ("**Agreement**") apply to the solution and services provided by Kodem Security Ltd. ("**Company**") to customers who signed a written purchase order with Company ("**Customer**" and "**Order**", respectively):

1. **Grant of Right to Use and Restrictions.**

1.1 **Right to Use.** Subject to the terms and conditions of this Agreement and the terms of the Order, Company hereby grants Customer and Customer accepts, a non-exclusive, non-sublicensable and non-transferable right to: (i) install certain sensors on Customer's environment, in order to enable the Solution to scan processes ("**Sensors**"); and (ii) use the Solution internally, during the applicable subscription term specified in the Order, solely for its intended purposes. "**Solution**" means the Company's proprietary solution that scans product processes during run-time (i.e. Scanned Services). For the purpose of the remainder of this Agreement, Solution shall also be deemed to include the Sensors.

1.2 **Restrictions.** Except as expressly permitted herein, Customer shall not, directly or indirectly: (i) sell, license (or sub-license), lease, assign, transfer, pledge, or share the Solution or Customer's account on the Solution with or to any third party; (ii) use or permit the Solution to be used in order to perform services for third parties, whether on a service bureau or time sharing basis or otherwise; (iii) disclose, publish or otherwise make publicly available the results of any benchmarking of the Solution; (iv) use the Solution for purposes of competitive analysis or the development of a competing software product or service; (v) use the Solution in any manner that is prohibited by law, including without limitation, to sell, distribute, download or export the Solution: (a) into (or to a resident of or corporation incorporated in) Cuba, Iran, Libya, North Korea, Sudan or Syria, (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals, (c) to any country to which such export or re-export is restricted or prohibited, or as to which the U.S. or Israeli government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval, or (d) otherwise in violation of any export or import restrictions, laws or regulations of the U.S., Israel or any foreign agency or authority. Customer agrees to the foregoing and warrant that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list; (vi) exceed any use limitations or other restrictions that are specified in the Order; (vii) contest Company's Intellectual Property Rights (as defined below) to the Company IPR (as defined below); (viii) use the Solution for any purpose other than as permitted by this Agreement or attempt to access any part of the Solution or its servers without authorization or by unauthorized means; (ix) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Solution, such as features that restrict or monitor use of the Solution; (x) use the Solution in order to scan any other software or process that infringes the rights of a third party; (xi) use the Sensors other than with the Solution; or (xii) cause or permit any third party to do any of the foregoing. Customer is solely responsible for acquiring and maintaining all of the hardware and software necessary to access and make use of the Solution.

2. **Consideration.** In consideration for the right to use the Solution, Customer shall pay Company the fees set forth in the Order. Unless otherwise specified in the Order, all amounts invoiced herein shall be due and payable within thirty (30) days of the date of Company's invoice. Except as otherwise expressly agreed by the parties in writing, amounts set forth in the applicable Order do not include applicable federal, state or local sales, use or excise taxes. Such amounts remain the obligation of the Customer, to be determined and remitted directly to the tax authorities as required by the Customer. Where applicable, as required by state regulations, that Company act as a conduit in collection of sales tax, such taxes shall be added by Company to the applicable invoice as a separate line item and Customer shall make prompt payment thereof in accordance with agreed payment terms. Customer is responsible for providing Company with any resale, exemption certificate or other documentation prior to establishing that a transaction is not subject to sales, use, and/or value added tax in any particular jurisdiction. For tax purposes, Customer means only Customer's headquarters per the address set forth above in this Agreement, as the user of the licenses. Any sales or use tax obligations arising from the extension of such license to Customer's employees, third party contractors and consultants which may be located in multiple states, will be

the sole obligation of Customer to collect and remit to the relevant tax authorities. In no event shall Company be required to pay any such taxes owed by Customer, and Customer shall remit to Company any such payment, as well as the payment of any fees, penalties or late charges related thereto which Company may be required to pay, as a result of any determination in connection with any contest with taxing authorities. Customer shall make payment of all amounts required hereunder without withholding or deduction, except as may be required by law. If Customer is required to withhold or deduct any amount from any payment under this Agreement, Customer shall gross-up the payment such that after the withholding or deduction Company shall receive full payment in the amount equal to the fees set forth in the Order. All payments not made when due shall bear interest at the rate of 1.5% per month, or at the highest interest rate allowed by law, whichever is lower.

3. **Confidentiality.** Each party (“**Receiving Party**”) may have access to certain non-public or proprietary information or materials of the other party (“**Disclosing Party**”) whether in tangible or intangible form (“**Confidential Information**”). Without derogating from the foregoing, the Solution and terms of the Agreement and the Order shall be deemed as Confidential Information. Receiving Party may use the Confidential Information solely for the purpose of exercising its rights under this Agreement. Receiving Party shall not disclose or make available the Confidential Information to any third party, except to its employees and consultants that have a need-to-know such information and that are bound by obligations at least as protective as provided herein. Receiving Party shall protect the Confidential Information using measures at least as protective as those taken to protect its own confidential information of like nature (but in no event less than a reasonable level of care). Receiving Party will promptly notify Disclosing Party in writing in the event of any actual or suspected unauthorized use or disclosure of any Confidential Information. Confidential Information shall not include: (i) information that was in the public domain at the time of disclosure or becomes in the public domain after disclosure not due to breach of this Agreement by Receiving Party; (ii) information that was already in the possession of the Receiving Party before disclosure herein; and (iii) information disclosed to Receiving Party by any third party who is not subject to confidentiality restrictions. Notwithstanding the foregoing, Receiving Party may disclose Confidential Information that it is required to disclose pursuant to applicable laws or an order of any competent authority or court, provided that Receiving Party shall, if permitted by law, notify Disclosing Party in advance of such disclosure in order to enable Disclosing Party to seek confidential treatment or a protective order.
4. **Ownership.** Company or its licensors retain all right, title, interest in and to the Solution, Feedback and all related documentation and Confidential Information and any modifications, improvements and derivatives thereof and all intellectual property rights thereto (“**Company IPR**”). This Agreement does not convey to Customer an interest in or to any Company IPR but only the limited right to use the Solution pursuant to Section 1 above.
5. **Feedback.** Customer may provide Company with feedback regarding the Solution and its use, including without limitation suggestions, ideas, bug notes and user experience reviews (collectively, “**Feedback**”). Company may, at no cost, freely use such Feedback, for any purpose whatsoever and Customer hereby assigns all right, title and interest in and to all Feedback to Company upon creation thereof.
6. **Privacy.** Company’s privacy policy is available at: [Kodem Privacy Policy](#). Customer shall ensure to establish the legal basis of processing of the personal information of its personnel and, if required by law, obtain the consent, of its users and any data subjects.
7. **Disclaimer of Warranty.**
 - 7.1. THE SOLUTION IS PROVIDED “AS IS”, WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY LAW, COMPANY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE AND NON-INFRINGEMENT. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE SOLUTION REMAINS WITH CUSTOMER.

- 7.2. COMPANY DOES NOT WARRANT THAT THE SOLUTION WILL BE UNINTERRUPTED OR ERROR-FREE; OR THAT ERRORS/BUGS ARE REPRODUCIBLE AND DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR THE RESULTS OF THE USE OF THE SOLUTION.
8. **Limitation of Liability.** EXCEPT FOR FRAUD, WILLFUL MISCONDUCT, BREACH OF CONFIDENTIALITY OR INDEMNIFICATION FOR THIRD PARTY INFRINGEMENT CLAIMS PURSUANT TO SECTION 9 BELOW, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPANY AND ITS AFFILIATES, SHAREHOLDERS, SUPPLIERS, MANAGERS, DIRECTORS, OFFICERS, EMPLOYEES AND/OR LICENSORS (COLLECTIVELY, “**AFFILIATES**”) SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, UNDER ANY LEGAL THEORY, WHETHER UNDER CONTRACT, TORT OR OTHERWISE, FOR ANY LOSS OR DAMAGE, INCLUDING, WITHOUT LIMITATION ANY LOSS OF BUSINESS, LOST PROFITS OR LOST OR DAMAGED DATA, SUFFERED BY ANY PERSON OR ENTITY, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY, IN NO EVENT SHALL COMPANY'S AND ITS AFFILIATES' AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE AMOUNT OF PAYMENTS ACTUALLY MADE TO COMPANY FOR THE SOLUTION DURING THE TWELVE (12) MONTHS PERIOD PRECEDING THE EVENT THAT GAVE RISE TO THE CLAIM.
9. **Indemnification.** Company agrees to defend Customer from and against any and all claims alleging that the Solution infringe any intellectual property rights of a third party. Company shall indemnify Customer against any damages and losses finally awarded in judgment or settlement as a result of such claim, including reasonable attorney's fees. Company's indemnification obligation shall be subject to the following: (i) Customer provides written notice of the claim to Company promptly after becoming aware thereof; (ii) Company has sole control of the defense and settlement of the claim; and (iii) Customer shall provide reasonable assistance in the defense at Company's expense.
10. **Term and Termination.**
- 10.1. The term of this Agreement shall be as set forth in the Order and may be terminated earlier in accordance with this Section (“**Term**”).
- 10.2. Either party may terminate this Agreement upon thirty (30) days' written notice in the event of a material breach by the other party, unless the other party remedies such breach within the notice period.
- 10.3. Upon termination or expiration of this Agreement: (i) the rights granted to Customer under this Agreement shall expire and Customer shall discontinue all further use of the Solution; (ii) Customer shall pay in full all amounts due and owed to Company; and (iii) Customer shall, at Company's election, erase or return to Company all Confidential Information in its possession or under its control. Sections 1.2, 2-9, 10.2 and 11 shall survive any termination of this Agreement.
11. **Miscellaneous.** This Agreement shall be construed and governed by the laws of Israel, without regards to the conflict of law provisions therein. Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by the competent courts in Tel Aviv-Jaffa, Israel, and each party hereby submits itself to the exclusive jurisdiction of these courts. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. This Agreement represents the entire agreement between Customer and Company regarding the subject matter herein and may be amended only by a written agreement of both parties. Company may collect, retain, use and transfer aggregate data regarding use of the Solution without any restrictions. To the extent any conflict arises between the terms and conditions of this Agreement and those contained in the Order, the terms and conditions contained in this Agreement shall prevail. The failure of either party to enforce any rights granted herein or to take action against the other party in the event of any breach herein shall



not be deemed a waiver by that party. If any provision of this Agreement is held to be unenforceable, such provision shall be reformed only to the extent necessary to make it enforceable. Customer may not assign its rights or obligations under this Agreement without the prior written consent of Company. Company may assign its rights and obligations under this Agreement to an affiliate or in connection with a merger, consolidation, reorganization or sale of all or substantially all of its assets. Company may use Customer's name and logo on Company's website and other marketing materials and presentations. The Customer agrees to: (i) act as a public reference for the Company, and agrees to provide testimonial regarding the Company and the Solution; (ii) contribute to a press release issued by the Company regarding the engagement herein; and (iii) cooperate in authoring a case study and testimonials about the use of the Solution and the benefits gained therefrom.