



## WICKR ON-PREMISE LICENSE AGREEMENT

Your use of the Software is subject to the terms and conditions of the Wickr On-Premise License Agreement, but only to the extent that all terms and conditions in the Wickr On-Premise License Agreement are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341 and 41 U.S.C. §6301), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (41 U.S.C.6405), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Wickr On-Premise License Agreement or these Service Specific Terms are inconsistent with Federal Law (See FAR 12.212(a)), they shall be deemed deleted and unenforceable as applied to any Orders under these Service Specific Terms.

This Wickr On-Premise License Agreement (the “**Agreement**”) is by and between Wickr Inc., a Delaware corporation (“**Wickr**”), and [REDACTED], a [REDACTED] (“**Company**”), and is effective as of [REDACTED] (the “**Effective Date**”). Together, Wickr and Company are referred to as the “**Parties**” and individually each as a “**Party**.” The purpose of this Agreement is to set forth the terms and conditions on which Wickr agrees to license to Company the Solution (as defined below).

### AGREEMENT

**1. DEFINITIONS.** As used in this Agreement definitions are applicable both to their singular and plural forms as the context may require. In addition to those terms defined throughout the Agreement, the following terms shall have the following meanings:

**1.1 “Documentation”** means any applicable how-to guides delivered with the Solution or made available on Wickr’s website that relate to the Solution.

**1.2 “Feedback”** means all recommendations, feature enhancements and requests, suggestions, comments, and other such feedback provided by Company or a User to Wickr.

**1.3 “Fees”** means the consideration due from Company to Wickr, as specified in Exhibit A attached hereto, for the license(s) granted hereunder as well as those other obligations of Wickr required by this Agreement.

**1.4 “Intellectual Property Rights”** collectively means all worldwide rights, title and interest, including all patents, patent registrations, patent applications, copyrights, trademarks, trade names, service marks, service names, trade secrets, know-how or other similar right arising or enforceable under any jurisdiction or international treaty.

**1.5 “Solution”** means the object code version of that product provided by Wickr and described in Exhibit A attached hereto. If more than one Solution is identified in Exhibit A, then “Solution” shall mean “Solutions” for purposes of this Agreement.

**1.6 “Third Party Components”** means any component of the Solution provided by a third party.

**1.7 “Update”** means any update, upgrade, modification, or enhancement of the Solution made generally available by Wickr to Wickr’s general user base, excluding any Additional Features (as defined in Section 14.1).

**1.8 “User”** means an individual employee or contractor of Company that has been authorized by Company to use the Solution, regardless of whether such User actually uses the Solution.

**2. LICENSE.** Subject to the terms and conditions of this Agreement, any usage limitations included in Exhibit A, and Company’s payment of the Fees, Wickr hereby grants to Company for the duration of the Term (as defined in Section 13.1) a non-exclusive, non-transferable, non-assignable, non-sublicensable, limited license solely to use the Solution for Company’s internal messaging purposes and to use the Documentation to support such use of the Solution. With respect to any open source or third-party code that may be incorporated in the Solution, such open source and third-party code is governed by the applicable open source or third-party license agreement.

**3. OWNERSHIP.** This is a license agreement and not an agreement for the sale of the Solution. Company acknowledges that the Solution, Documentation, and Additional Features, including, without limitation, each of their respective structure, organization, source code, object code, content, visual interfaces, information, graphics, design, compilation, trademarks, service marks, and trade names, and all modifications and improvements to each of the foregoing constitute valuable trade secrets of Wickr and/or its suppliers and that Wickr owns and will continue to own all Intellectual Property Rights in and to the Solution, Documentation, and Additional Features and all Feedback related thereto. Company agrees to maintain all copyright and trademark notices on the Solution and Documentation and any other materials within or otherwise related to the Solution and to not alter, erase, deface, or overprint any such notice. All third party trademarks and registered trademarks within or otherwise related to the Solution are the sole property of their respective owners. Company’s rights to use the Solution and the Documentation are only as expressly specified in this Agreement, and Wickr retains all rights not expressly granted to Company in this Agreement. Nothing in this Agreement constitutes a waiver of Wickr’s rights under U.S. or international copyright law or any other federal or state law.

**4. RESTRICTIONS.** Other than as expressly allowed under this Agreement, Company agrees not to attempt to, or allow any third party or User to do the same: (a) modify, reproduce, copy, adapt, alter, improve, translate, or create derivative works from the Solution; (b) merge the Solution with any other software; (c) sublicense, lease, rent, loan, assign, or otherwise transfer the Solution to any third party; (d) use the



Solution for the benefit of a third party; (e) host the Solution in a manner intended to provide multi-tenant access to the Solution; (f) develop a product that is similar to the Solution; (g) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Solution; (h) publish any results of any benchmark tests run on the Solution or any component thereof; (i) remove, alter, or obscure any Wickr Marks (as defined below) on any portion of the Solution or Documentation; or (j) use the Solution or otherwise perform any obligation pursuant to this Agreement in a manner that does not comply with all applicable laws, regulations, rules, ordinances, and other legal requirements of all applicable jurisdictions (collectively, the “**Restricted Uses**”). The “**Restricted Uses**” also include the following prohibited uses by Users: (i) uploading or transmitting any content that is, unlawful, harmful, threatening, abusing, harassing, stalking, bullying, threatens violence, defamatory, vulgar, obscene, or infringes, misappropriates, or otherwise violates another’s intellectual property, proprietary, or privacy rights; (ii) use of the Solution in support of or as a part of any organization designated by the United States as a foreign terrorist organization by the United States Secretary of State; (iii) use of the Solution in any manner that breaches any applicable third party terms; (iv) sending or disseminating other people’s private and confidential information, such as credit card numbers or Social Security/National Identity numbers, without that person’s express authorization and permission; (v) spamming others or sending junk mail, chain letters, or pyramid schemes; (vi) impersonating others in a manner that does or is intended to mislead, confuse, or deceive others; and (vii) removing, circumventing, disabling, damaging or otherwise interfering with security features of the Solution, including any technical measures Wickr may use to prevent or restrict unauthorized access to the Solution, features that prevent or restrict use or copying of any content accessible through the Solution, or features that enforce limitations on use of the Solution.

**5. BRANDING.** The Solution and related materials contain Wickr’s brands, marks, and logos, including various references that the Solution is “powered by Wickr”; however, upon the mutual agreement of the Parties, Wickr will include those brands and marks of Company specified in Exhibit B (the “**Company Marks**”) in the Solution and, as applicable, related materials. The incorporation, placement, method, and manner of how the Company Marks will be included in the Solution and related materials will be as agreed upon by the Parties. Company hereby grants to Wickr a non-exclusive, non-transferable, non-sublicensable limited right and license to use and display during the Term the Company Marks solely in connection with Wickr’s branding obligations pursuant to this Section 5. Upon termination or expiration of this Agreement, Wickr will cease using the Company Marks.

**6. TRAINING; MAINTENANCE.**

**6.1 Training.** Wickr will provide to Company that standard training described in Exhibit C attached hereto at no additional cost. Such training shall include training as to the

installation of the Solution within Company’s infrastructure. Additional training shall be at Wickr’s then-current rates and as agreed upon between Wickr and Company.

**6.2 Maintenance and Support.** During the Term, Wickr will use commercially reasonable efforts to correct documented and reproducible defects in the then-current version of the Solution that are reported to Wickr and that cause the Solution not to operate in all material respects in accordance with the applicable Documentation (“**Maintenance**”). If purchased by Company (as indicated in Exhibit A), as part of the Maintenance, Wickr will update the Solution with those Updates that Wickr, in its discretion, makes generally available to its general user base. All Updates shall be created in Wickr’s sole discretion and may require additional terms and conditions governing such Update. All Updates, if and once provided to Company, shall be deemed part of the Solution. Company acknowledges that Updates may modify the prior version of the Solution in any manner and that Wickr may elect to discontinue providing Updates for particular versions of the Solution. Wickr will also use commercially reasonable efforts to provide, during the Term, telephone, email and internet support to Users for the then-current version of the Solution (“**Support**”). Support is limited to questions concerning Solution installation, configuration, and usage.

**6.3 Maintenance Limitations.** Wickr is not required to provide Maintenance or Support for problems attributable to: (a) any use that is a Restricted Use; (b) any factor outside of Wickr’s control, including catastrophes, Company’s or, as applicable, the User’s negligence, operator error and environmental conditions; (c) any equipment, whether delivered by Wickr or not, or any Third Party Components or other software not supplied by Wickr; (d) any use of the Solution in combination with other products, equipment, software, or data not supplied or specified in writing by Wickr; (e) use of the Solution in a manner that violates this Agreement or does not conform to the Documentation; or (f) any use of any release of the Solution other than the most current release made available by Wickr (collectively, the “**Exclusions**”).

**7. FEES; PAYMENT; TAXES.**

**7.1 Fees.** The Fees due in consideration for the license granted hereunder and Wickr’s performance of any other obligations pursuant to this Agreement are set forth in Exhibit A. The Fees will be invoiced to Company pursuant to the invoicing schedule included in Exhibit A.

**7.2 Payment.** Company’s payment on each invoice will be due within thirty (30) days of the date of invoice. Company agrees to pay a late payment fee of 1.5% (or the highest rate permitted by applicable law) of any amounts that remain unpaid at the end of such 30-day period. Additionally, Company agrees to pay Wickr’s costs of collection, including reasonable attorneys’ fees, for all invoice balances that are not paid on or before the applicable payment date. Wickr may prospectively increase the Fees once per year commencing on the first anniversary of Effective Date by giving written notice of the



increase to Company at least sixty (60) days in advance of the effective date of the increase.

**7.3 Taxes.** If Wickr is required to pay any sales, use or other taxes related to the use or delivery of the Solution or its performance hereunder, then such taxes shall be billed to and be paid by Company; provided, however, that Wickr shall be solely responsible for the payment of taxes based on Wickr's income. Company will make all payments of the Fees to Wickr free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of the Fees will be Company's sole responsibility, and Company will provide Wickr with official receipts issued by the appropriate taxing authority, or such other evidence as the Wickr may reasonably request, to establish that such taxes have been paid.

## **8. REPORTS; RECORDS; AUDITS.**

**8.1 Reports.** Company shall prepare and transmit to Wickr reports stating its number of Users for the preceding quarter as well as any other usage metrics that are specified in Exhibit A or that are necessary to accurately calculate the Fees. Such reports will include sufficient evidence to allow Wickr to calculate the Fees itself. Reports will be delivered by the tenth (10th) day after the end of each calendar quarter.

**8.2 Records.** During the Term and for a period of three years thereafter (or such longer period as required under applicable law) (the "**Records Retention Period**"), Company shall maintain and make available to Wickr on Wickr's request documentation and records sufficient to demonstrate its compliance with the requirements of this Agreement (including Company's compliance with all applicable laws).

**8.3 Audits.** During the Records Retention Period and upon at least twenty-four (24) hours' notice, Company shall provide Wickr or its agents with reasonable access to and any assistance that they may require with respect to Company's premises and Company's information technology, accounting, and other systems during normal business hours to examine and/or copy all records and supporting documentation requested by Wickr or otherwise relevant to determine whether Company is in compliance with the requirements of this Agreement (including Company's compliance with applicable law). Wickr shall require treatment of (and shall require its agents to treat) such documentation and records as Confidential Information under this Agreement, as set forth in Section 10 below. If it is determined that Company has underpaid any Fees, Company will promptly render proper payment to Wickr and, if such amount exceeds five percent (5%) of the correct amount, Company will also reimburse Wickr for the cost of such audit.

## **9. WARRANTY & DISCLAIMER.**

**9.1 General.** Each Party represents and warrants to the other Party that: (a) it is duly organized and validly existing under the laws of the state of its formation and has all requisite power and authority to enter into and perform all of its obligations under this Agreement; (b) the person signing this Agreement on such Party's behalf has been duly authorized and

empowered to enter into this Agreement; (c) this Agreement constitutes the legal and binding obligation of that Party, enforceable against it in accordance with its terms; and (d) entering into this Agreement does not and will not (i) violate any applicable law; (ii) result in a breach or constitute a default under any material agreement to which it is a party or by which it is bound; or (iii) require any authorizations, consents, approvals, licenses, exemptions or filings with any third party or governmental authority.

**9.2 Solution Warranty.** Wickr warrants that the Solution, when used as permitted under this Agreement and in accordance with the Documentation, will operate substantially as described in the Documentation. The foregoing warranty shall not apply to any failure of the Solution to operate as warranted or to any other problem if such failure or problem is due to an Exclusion. If the Solution fails to conform to this warranty, Company shall notify Wickr in writing. Upon such notice, and as Company's sole and exclusive remedy for a breach of this warranty, Wickr will use reasonable efforts to modify the Solution such that it complies with the Documentation.

**9.3 Disclaimer. TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW, THE EXPRESS WARRANTY IN SECTION 9.2 IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, REGARDING THE SOLUTION AND ALL OTHER SERVICES AND MATERIALS PROVIDED BY WICKR PURSUANT TO THIS AGREEMENT, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. IN ADDITION, WICKR MAKES NO WARRANTIES WHATSOEVER RELATED TO THE THIRD PARTY COMPONENTS. COMPANY UNDERSTANDS THAT THE SOLUTION IS ONLY OPERABLE ON THE SUPPORTED PLATFORMS SPECIFIED BY WICKR AND THE SOLUTION MAY NOT WORK ON OTHER CLIENTS, OPERATING SYSTEMS, OR PLATFORMS. COMPANY ACKNOWLEDGES THAT IT HAS RELIED ON NO WARRANTIES OTHER THAN THE EXPRESS WARRANTY IN THIS AGREEMENT.**

**10. CONFIDENTIALITY.** It is expected that the Parties may disclose to each other certain information that is identified as confidential information, whether in writing or orally, or that a reasonable person given the circumstances of disclosure would consider to be confidential ("**Confidential Information**"). For the avoidance of doubt, Wickr's Confidential Information includes the Solution and Documentation. The terms of this Agreement constitute both Parties' Confidential Information. Each Party recognizes the value and importance of the protection of the other Party's Confidential Information. All Confidential Information of one Party (the "**Disclosing Party**") disclosed to the other Party ("**Recipient**") shall remain the sole property of the Disclosing Party (or its licensors), and the Disclosing Party will own all right, title, and interest, including all Intellectual Property Rights, therein. Except as expressly allowed in this Agreement, both Parties agree not to: (a) use the other Party's Confidential Information for any purpose other than as contemplated by this Agreement; (b) duplicate in any manner the other Party's Confidential Information; or (c) disclose the other



Party's Confidential Information to any third party or to any of their employees not having a need to know same to implement this Agreement, and then only if such third party or employee is subject to written confidentiality restrictions at least as protective as those herein and provided further that Recipient remain liable for any unauthorized disclosure or use of the Disclosing Party's Confidential Information by such third party or employee. Each Recipient agrees to use the same degree of care in protecting the Disclosing Party's Confidential Information as it uses to protect its own information of a like kind, but in no event less than a reasonable degree of care. Recipient shall use the Disclosing Party's Confidential Information solely for the implementation of this Agreement and for no other purpose, whether for Recipient's own benefit or the benefit of any third party. The foregoing restrictions shall not apply to information that Recipient can prove: (i) is or was a part of the public domain; (ii) was in Recipient's lawful possession prior to the disclosure and had not been subject to limitations on disclosure or use; (iii) is entirely independently developed by Recipient without any knowledge or reference to the Disclosing Party's Confidential Information; (iv) is lawfully disclosed hereafter to Recipient, without restriction, by a third party who did not acquire the information from the Disclosing Party; or (v) is required to be disclosed by applicable law or pursuant to a court order; provided, however, that the Recipient promptly notify the Disclosing Party of such required disclosure, assist the Disclosing Party, at the Disclosing Party's expense and request, in its efforts to contest or limit such required disclosure, and only disclose the minimum portion of the Disclosing Party's Confidential Information necessary to comply with such required disclosure. In addition, both Parties acknowledge and agree that the other Party is permitted to disclose the terms of this Agreement and details pertaining to the transactions contemplated hereby to that Party's actual and potential investors, acquirers, and other parties merging with or conducting another similar corporate transaction with such Party for such entity's due diligence purposes; provided, however, that such entities are subject to a non-disclosure agreement with confidentiality restrictions at least as restrictive as those herein. Recipient agrees to return or destroy (and certify in writing to such destruction), within three (3) business days of the termination or expiration of this Agreement or at the Disclosing Party's request and at the Disclosing Party's direction, all documents and other materials embodying Confidential Information, and the Recipient will retain no copies (written, electronic, or otherwise) thereof.

## 11. INDEMNITY.

**11.1 By Wickr.** Wickr will, at its own expense, defend Company from any action brought against Company by a third party to the extent that the action is based upon a claim that the Solution infringes any intellectual property right of a third party enforceable in the United States, and Wickr will pay those costs and damages finally awarded against Company in any such actions that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. If the Solution becomes, or in Wickr's opinion is likely

to become, the subject of an infringement claim, Wickr may, at its option and expense, either (a) procure the appropriate right(s) to the Solution; or (b) replace or modify the Solution so that it becomes non-infringing and remains functionally equivalent. If, in Wickr's sole opinion, options (a) and (b) are not commercially reasonable, Wickr will notify Company and either Party may, by providing written notice to the other Party, terminate this Agreement. Wickr will have no obligation under this Agreement with respect to any infringement claim based upon or arising from any Exclusion. **THIS SECTION 11.1 STATES WICKR'S ENTIRE LIABILITY AND COMPANY'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY INFRINGEMENT CLAIM OR ACTION.**

**11.2 By Company.** Company will, at its own expense, defend Wickr from any action brought against Company to the extent relating to or arising from: (a) a breach of this Agreement by Company; (b) any Exclusion; or (c) use of the Solution for any unlawful purpose or for any purpose not expressly authorized by this Agreement, and in each instance, Company will pay those costs and damages finally awarded against Wickr in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action.

**11.3 Indemnification Process.** Each Party's indemnification obligations are conditioned on: (a) the Party seeking indemnification (the "**Indemnitee**") notifying the other Party (the "**Indemnitor**") promptly in writing of the action for which it seeks indemnification (provided that a delay or failure in providing such notice shall only excuse the Indemnitor's indemnification obligation to the extent such delay or failure materially prejudiced its defense of the claim); (b) the Indemnitee giving the Indemnitor sole control of the defense thereof and any related settlement negotiations (provided that the Indemnitor shall not admit any fault, liability, or culpability on the Indemnitee's behalf without the Indemnitee's prior written authorization); and (c) the Indemnitee reasonably cooperating with and, at the Indemnitor's expense and request, assisting in such defense.

**12. LIMITATION OF LIABILITY.** TO THE MAXIMUM EXTENT ALLOWABLE UNDER APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE, SPECIAL OR INCIDENTAL DAMAGES, INCLUDING ANY LOST INFORMATION, LOST DATA AND LOST PROFITS, ARISING FROM OR RELATING TO THIS AGREEMENT. NEITHER PARTY'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH OR OTHERWISE RELATING TO THIS AGREEMENT AND THE SOLUTION, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL EXCEED THE AMOUNT OF THE FEES ACTUALLY PAID UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY PRIOR TO THE EVENT GIVING RISE TO LIABILITY. NOTWITHSTANDING THE PRECEDING, THIS SECTION 12 SHALL NOT APPLY TO A PARTY'S INDEMNIFICATION OBLIGATIONS PURSUANT TO SECTION 11 OR EITHER PARTY'S BREACH OF SECTION 4 OR 10. COMPANY ACKNOWLEDGES THAT THE FEES REFLECT THE



ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT WICKR WOULD NOT ENTER INTO THIS AGREEMENT ON THESE TERMS WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

### 13. TERM AND TERMINATION.

**13.1 Term.** Unless earlier terminated as provided herein, this Agreement shall commence as of the Effective Date and remain in effect for the initial term specified in Exhibit A attached hereto (the “**Initial Term**”). After the Initial Term, this Agreement will automatically renew for additional periods of one (1) year each (each, a “**Renewal Term**”), unless one Party provides written notice to the other Party at least thirty (30) days prior to the expiration of the Initial Term or the applicable Renewal Term, as the case may be. The Initial Term and the Renewal Term(s) are collectively referred to herein as the “**Term**”.

**13.2 Termination.** In addition to any other rights of termination included in this Agreement: (a) Wickr may terminate this Agreement, effective immediately upon written notice to Company, if (i) Company breaches any provision in Section 3, 4, 10, 14.3, or 14.4; or (ii) Company materially breaches any other provision of this Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from Wickr; and (b) Company may terminate this Agreement, effective immediately upon written notice to Wickr, if Wickr materially breaches any provision of this Agreement and does not cure the breach within thirty (30) days after receiving written notice thereof from Company. In addition, except as limited by applicable law, either Party may terminate this Agreement by written notice to the other Party at any time during the Term upon any voluntary or involuntary bankruptcy or insolvency of the other Party, or if any action or proceeding is instituted against the other Party relating to any of the foregoing and such action or other proceeding is not dismissed within sixty (60) days after institution thereof.

**13.3 Effects of Termination.** Upon termination or expiration of this Agreement: (a) all rights granted in this Agreement will immediately cease to exist; (b) Company must immediately: (i) discontinue all use of the Solution; (ii) uninstall and return the Solution to Wickr; (iii) purge from its electronic or other storage facilities and records all of Wickr’s Confidential Information; (iv) return to Wickr all Wickr’s Confidential Information; and (v) certify in writing to Wickr that it has fully complied with these requirements; and (c) Wickr must return to Company or destroy all copies of Company’s Confidential Information in its possession or control.

**13.4 Survival.** All provisions of this Agreement that by their nature are intended to survive the termination or expiration of this Agreement shall so survive, including Sections 1, 3, 4, 7, 8.2, 8.3, 9.3, 10, 11, 12, 13.3, 13.4, and 14.

### 14. MISCELLANEOUS.

**14.1 Additional Features.** From time to time, Wickr may develop upgrades, modifications, enhancements, or additional features to the Solution (“**Additional Features**”). These

Additional Features are not included under this Agreement unless they are released as an Update, and then only if Company has purchased Updates as part of the Maintenance (as described in Section 6.2 above). If Company desires to use Additional Features, the Parties must mutually agree to such Additional Features and any corresponding change to the Fees. Additional Features may require additional terms and conditions.

**14.2 Relationship of Parties.** The Parties intend that the relationship between them created under this Agreement is that Company is an independent contractor of Wickr only, and nothing contained herein is intended to create any other relationship between the Parties. Company is not to be considered an employee, agent, joint venturer or partner of Wickr for any purpose whatsoever. Neither Party is granted any right or authority to assume or create any obligation or responsibility for, or on behalf of, the other Party or to otherwise bind the other Party in any way.

**14.3 Compliance with Laws.** Each Party will comply with all applicable laws, statutes, ordinances and regulations, including the laws and regulations governing export and import of the Solutions, data privacy, and regulation of software use. Company shall not provide, transport, export, re-export, or otherwise make available, whether directly or indirectly and regardless of form, including through visual access, any Solution or any technology or technical data used to provide any Solution or derived therefrom without Wickr’s prior written consent, and in no event: (a) into Cuba, Iran, North Korea, Sudan, Syria, the Crimea region of Ukraine, or any other country subject to United States trade sanctions or embargo, or to individuals or entities controlled by such countries or to nationals or residents of such countries (other than nationals who are lawfully admitted permanent residents of countries not subject to such sanctions); (b) to anyone on any denied, prohibited, or unverified list maintained by the United States, including the United States Treasury Department’s list of Specially Designated Nationals and Blocked Persons, the Foreign Sanctions Evaders List, the Sectoral Sanctions Evaders List, or the United States Commerce Department’s Denied Person’s or Entities lists; or (c) to anyone that Company knows or has reason to believe will use any of the Solutions and their related technology and technical data in connection with prohibited proliferation-related activities, including biological and chemical weapons, missile, and nuclear applications. Company represents and warrants that: (i) it is not located in, under the control of, a national or resident of, and shall not use any Solution in any such country listed in subsection (a) above; and (ii) it is not prohibited from participating in United States export or re-export transactions by any federal agency of the United States government. Company represents and warrants that it will not provide access to any User that: (iii) is located in, under the control of, a national or resident of, or intends to use any Solution in any such country listed in subsection (a) above; and (iv) is not prohibited from participating in United States export transactions by any federal agency of the United States government.



**14.4 Assignments.** Company may not assign or delegate, by operation of law or otherwise, any of its rights under this Agreement (including its licenses with respect to the Solution) to any third party without Wickr's prior written consent. Any such attempted assignment or delegation shall be void.

**14.5 Notices.** All notices, consents and approvals under this Agreement must be delivered either (a) via email to Company's registered email address or, if to Wickr, to [legal@wickr.com](mailto:legal@wickr.com); or (b) in writing by courier, by electronic facsimile (fax), or by certified or registered mail, (postage prepaid and return receipt requested) to the other Party at the address set forth beneath such Party's signature, and will be effective upon receipt or three (3) business days after being deposited in the mail as required above, whichever occurs sooner. Either Party may change its address by giving written notice of the new address to the other Party.

**14.6 Governing Law and Venue.** This Agreement and all disputes arising hereunder or relating hereto shall for all purposes be governed and interpreted solely and exclusively by the laws of the State of Delaware without reference to conflict of laws principles. Except for an action for injunctive relief brought pursuant to 15.7 below, any action or proceeding arising from or relating to this Agreement shall be brought solely and exclusively in the state or federal courts located in Wilmington, Delaware, and each Party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding and irrevocably waives any objections thereto.

**14.7 Remedies.** Except as otherwise expressly provided herein, the Parties' rights and remedies under this Agreement are cumulative. Company acknowledges that the Solutions contain valuable trade secrets and proprietary information of Wickr and its suppliers and that any breach by Company of this Agreement may cause irreparable harm to Wickr, for which remedies at law may be inadequate. Accordingly, Company agrees that, in addition to all other remedies at law or under this Agreement, Wickr may enforce any provision of this Agreement by seeking equitable relief (including an injunction) without the need to post bond or other security or to prove the inadequacy of monetary damages.

**14.8 No Third Party Beneficiaries.** Except as expressly stated herein, each Party intends that this Agreement will not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Parties hereto and their successors and permitted assigns.

**14.9 Government Users.** If any Solution is being acquired on behalf of or is to be used by any governmental entity, including the United States Government (a "**Government User**"), then the following provision applies: The Solution is being provided as a "commercial item" as that term is defined in 48 C.F.R. §2.101, consisting of "commercial computer software" and "commercial computer software documentation,"

as such terms are used in 48 C.F.R. §12.212 and 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 and 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Solution is a commercial item provided to the Government User with only those rights customarily provided to all other users as set forth in this Agreement. Title to the Solution shall at all times remain with Wickr regardless of the use of any federal, state, or other governmental funds in its development.

**14.10 Currencies.** All amounts due and payable hereunder shall be calculated and paid in United States dollars.

**14.11 Waivers.** All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**14.12 Severability.** If any provision of this Agreement is unenforceable, such provision will be modified and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect. If such modification is not possible under applicable law, the unenforceable provision shall be stricken and the remainder of the agreement shall continue in full force and effect.

**14.13 Construction.** The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or extent of such section or in any way affect this Agreement. Unless otherwise expressly stated, when used in this Agreement the word "including" means "including but not limited to." Unless otherwise expressly stated, references to any section numbers in this Agreement shall mean the corresponding sections of this Agreement.

**14.14 Force Majeure.** Neither Party will be liable for any failure to fulfill its obligations hereunder due to causes beyond its reasonable control, including acts or omissions of government or military authority, acts of God, shortages of materials, transportation delays, acts of terrorism, power shortages or outages, earthquakes, fires, floods, labor disturbances, riots, or wars.

**14.15 Entire Agreement.** This Agreement together with all Exhibits attached hereto and other documents referenced herein constitutes the complete and final agreement between the Parties regarding the subject matter hereof and supersedes all prior or contemporaneous understandings, agreements, or other communications between the Parties, oral or written. This Agreement may be amended only in a written document signed by both Parties.

**14.16 Counterparts.** This Agreement may be executed in counterparts, by facsimile, or both, each of which will be considered an original, but all of which together will constitute the same instrument.

*[Signature Page to Follow]*



IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the Effective Date.

**WICKR INC.**

**COMPANY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Jennifer DeTrani

Name: \_\_\_\_\_

Title: General Counsel

Title: \_\_\_\_\_

Address for Notice:

Address for Delivery and Notice:

1459 18<sup>th</sup> St. #313

\_\_\_\_\_

San Francisco, CA 94107

\_\_\_\_\_

Attn: Jennifer DeTrani

Attn: \_\_\_\_\_



**EXHIBIT A  
DEAL SPECIFICS**

**Initial Term:**

**Service(s):**

**Fees:**

**Payment Schedule:**

**Usage Limits:**

**Other Terms:**





**EXHIBIT B  
COMPANY MARKS**

*[To be inserted]*



**EXHIBIT C**  
**STANDARD TRAINING**

- Wickr will provide its standard training manual for the Solution's Admin Console.
- Wickr will provide its standard training manual for use by the User.
- Company may call Wickr with reasonable support requests and Wickr will use commercially reasonable efforts in responding to and supporting such requests; however, Wickr reserves the right to either decline support or charge its then-current rate to support any request that Wickr considers to be non-standard.
- Wickr will provide new feature summaries and training manuals applicable to new features of the Solutions as they become available.
- Wickr will provide installation instructions, infrastructure requirements, and system administration training.