

SmartBear Software, Inc.
450 Artisan Way
Somerville MA 02145

**EC America Rider to Product Specific License Terms and Conditions
(for U.S. Government End Users)**

1. **Scope.** This Rider and the attached SmartBear Software, Inc. (“Manufacturer”) product specific license terms establish the terms and conditions enabling EC America (“Contractor”) to provide Manufacturer’s information technology products and services to Ordering Activities under EC America’s GSA MAS IT70 contract number GS-35F-0511T (the “Schedule Contract”). Installation and use of the information technology shall be in accordance with this Rider and Manufacturer Specific Terms attached hereto, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid delivery order placed pursuant to the Schedule Contract.
2. **Applicability.** Whereas GSA and EC America agreed at the time of Schedule Contract award upon a base set of terms and conditions applicable to all manufacturers and items represented on the Schedule Contract; and Whereas, the parties further agreed that all product specific license, warranty and software maintenance terms and conditions would be submitted at the time each new manufacturer was to be added to the Schedule Contract; Now, Therefore, the parties hereby agree that the product specific license, warranty and software maintenance terms set forth in Attachment A hereto (the “Manufacturer Specific Terms” or the “Attachment A Terms”) are incorporated into the Schedule Contract, but only to the extent that they are consistent with Federal law (*e.g.*, the Anti-Deficiency Act (31 U.S.C. § 1341), the Contracts Disputes Act of 1978 (41 U.S.C. §§ 7101 *et seq.*), the Prompt Payment Act (31 U.S.C. §§ 3901 *et. seq.*), the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. § 15), DOJ’s jurisdictional statute 28 U.S.C. § 516 (Conduct of Litigation Reserved to the Department of Justice (DOJ)), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent any Attachment A Terms are inconsistent with Federal law (See, FAR 12.212(a)), such inconsistent terms shall be superseded, unenforceable and of no legal force or effect in all resultant orders under the Schedule Contract, including but not limited to the following provisions:
 - a) **Contracting Parties.** The GSA Customer (“Licensee”) is the “Ordering Activity”, defined as the entity authorized to order under GSA MAS contracts as set forth in GSA Order OGP 4800.2I, as may be revised from time to time.
 - b) **Changes to Work and Delays.** Subject to GSAR Clause 552.243-72, Modifications (Federal Supply Schedule) (July 2000) (Deviation I – SEPT 2010), and 52.212-4(f) Excusable Delays (JUN 2010) regarding which the GSAR and the FAR provisions take precedence.
 - c) **Contract Formation.** Subject to FAR 1.601(a) and FAR 43.102, the GSA Customer Purchase Order must be signed by a duly warranted Contracting Officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.
 - d) **Termination.** Clauses in the Manufacturer Specific Terms referencing termination or cancellation are superseded and not applicable to any GSA Customer order. Termination shall be governed by the FAR, the underlying GSA Schedule Contract and the terms in any applicable GSA Customer

Purchase Orders. If the Contractor believes the GSA Customer to be in breach, it must file a claim with the Contracting Officer and continue to diligently pursue performance. In commercial item contracting under FAR 12.302(b), the FAR provisions dealing with disputes and continued performance cannot be changed by the Contracting Officer.

- e) **Choice of Law.** Subject to the Contracts Disputes Act, the validity, interpretation and enforcement of this Rider shall be governed by and construed in accordance with the laws of the United States. In the event the Uniform Computer Information Transactions Act (UCITA) or any similar federal laws or regulations are enacted, to the extent allowed by federal law, they will not apply to this Rider or the underlying Schedule Contract.
- f) **Equitable remedies.** Equitable remedies are generally not awarded against the Government absent a statute providing therefore. In the absence of a direct citation to such a statute, all clauses in the Manufacturer Specific Terms referencing equitable remedies are superseded and not applicable to any GSA Customer order.
- g) **Unilateral Termination.** Unilateral termination by the Contractor does not apply to a GSA Customer Purchase Order and all clauses in the Manufacturer Specific Terms referencing unilateral termination rights of the Manufacturer are hereby superseded.
- h) **Unreasonable Delay.** Subject to FAR 52.212-4(f) Excusable delays, the Contractor shall be liable for default unless the nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.
- i) **Assignment.** All clauses regarding the Contractor's assignment are subject to FAR 52.232-23, Assignment of Claims (JAN 1986) and FAR 42.12 Novation and Change-of-Name Agreements (Sep. 2013). All clauses governing the Contractor's assignment in the Manufacturer Specific Terms are hereby superseded.
- j) **Waiver of Jury Trial.** Waivers of Jury Trials are subject to FAR 52.233-1 Disputes (JULY 2002). The Government will not agree to waive any right that it may have under federal law. All clauses governing a waiver of jury trial in the Manufacturer Specific Terms are hereby superseded.
- k) **Government Indemnities.** This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered. The Interim FAR Rule dated June 21, 2013 and the Office of Legal Counsel opinion dated March 12, 2012 prohibit such indemnifications. All Manufacturer Specific Terms referencing customer indemnities are hereby superseded.

- l) **Contractor Indemnities.** All Manufacturer Specific Terms that violate DOJ's jurisdictional statute (28 U.S.C. § 516) by requiring that the Government give sole control over the litigation and/or settlement to the Contractor are hereby superseded. Nothing contained in the Manufacturer's Specific terms shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute.
- m) **Renewals.** All Manufacturer Specific Terms that provide for automatic renewals violate the Anti-Deficiency Act and are hereby superseded. This is an obligation in advance of an appropriation that violates anti-deficiency laws (31 U.S.C. § 1341 and 41 U.S.C. § 6301), since the GSA Customer commits to pay an unknown amount at an unknown future time. The violation occurs when the commitment is made, i.e., when the agreement featuring this clause is incorporated into a Government contract, and not when the clause is triggered.
- n) **Future Fees or Penalties.** All Manufacturer Specific Terms that require the Government to pay any future fees, charges or penalties are hereby superseded unless specifically authorized by existing statutes, such as the Prompt Payment Act (31 U.S.C. § 3901 et seq.) or Equal Access To Justice Act (5 U.S.C. § 504; 28 U.S.C. § 2412).
- o) **Taxes.** Taxes are subject to FAR 52.212-4(k), which provides that the contract price includes all applicable federal, state, local taxes and duties. Contractor shall state separately on its invoices, taxes excluded from the fees, and the GSA Customer agrees to either pay the amount of the taxes (based on the current value of the equipment or services) to Contractor or provide it evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3.
- p) **Third Party Terms.** When the end user is an instrumentality of the U.S., no license terms bind the GSA Customer unless included verbatim (not by reference) in the EULA, and the EULA is made an attachment to the underlying GSA Schedule Contract. All terms and conditions affecting the GSA Customer must be contained in a writing signed by a duly warranted Contracting Officer. Any third party manufacturer shall be brought into the negotiation, or the components acquired separately under federally-compatible agreements, if any. All Manufacturer Specific Terms that incorporate third party terms by reference are hereby superseded.
- q) **Dispute Resolution and Standing.** Any disputes relating to the Manufacturer Specific Terms or to this Rider shall be resolved in accordance with the FAR, the underlying GSA Schedule Contract, any applicable GSA Customer Purchase Orders, and the Contract Disputes Act. The Ordering Activity expressly acknowledges that EC America as contractor, on behalf of the Manufacturer, shall have standing to bring such claim under the Contract Disputes Act.
- r) **Advertisements and Endorsements.** Pursuant to GSAR 552.203-71, use of the name or logo of any U.S. Government entity is prohibited. All Manufacturer Specific Terms that allow the Contractor to use the name or logo of a Government entity are hereby superseded.
- s) **Public Access to Information.** EC America agrees that the attached Manufacturer Specific Terms and this Rider contain no confidential or proprietary information and acknowledges the Rider shall be available to the public.

t) **Confidentiality.** Any provisions in the attached Manufacturer Specific Terms that require the Ordering Activity to keep certain information confidential are subject to the Freedom of Information Act (5 U.S.C. § 552), and any order by a United States Federal Court. When the end user is an instrumentality of the U.S. Government, neither this Rider, the Manufacturer's Specific Terms nor the Schedule Price List shall be deemed "confidential information" notwithstanding marking to that effect. Notwithstanding anything in this Rider, the Manufacturer's Specific Terms or the Schedule Contract to the contrary, the GSA Customer may retain such Confidential Information as required by law, regulation or its bonafide document retention procedures for legal, regulatory or compliance purposes; provided however, that such retained Confidential Information will continue to be subject to the confidentiality obligations of this Rider, the Manufacturer's Specific Terms and the Schedule Contract.

u) **Alternate Dispute Resolution.** The GSA Customer cannot be forced to mediate or arbitrate. Arbitration requires prior guidance by the head of a federal agency promulgated via administrative rulemaking according to 5 U.S.C. § 575(c). GSA has not issued any because it considers the Board of Contract Appeals to be an adequate, binding ADR alternative. All Manufacturer Specific Terms that allow the Contractor to choose arbitration, mediation or other forms of alternate dispute resolution are hereby superseded.

v) **Ownership of Derivative Works.** Provisions purporting to vest exclusive ownership of all derivative works in the licensor of the standard software on which such works may be based are superseded. Ownership of derivative works should be as set forth in the copyright statute, 17 U.S.C. § 103 and the FAR clause at 52.227-14, but at a minimum, the GSA Customer shall receive unlimited rights to use such derivative works at no further cost.

3. Order of Precedence/Conflict. To the extent there is a conflict between the terms of this Rider and the terms of the underlying Schedule Contract or a conflict between the terms of this Rider and the terms of an applicable GSA Customer Purchase Order, the terms of the GSA Schedule Contract or any specific, negotiated terms on the GSA Customer Purchase Order shall control over the terms of this Rider. Any capitalized terms used herein but not defined, shall have the meaning assigned to them in the underlying Schedule Contract.

ATTACHMENT A - SMARTBEAR

SmartBear On-Premise License Terms of Use

You may not access the Software if You are a direct competitor of SmartBear, except with Our prior written consent.

1. Definitions.

“Documentation” means the published and generally available on-line user and administrator materials SmartBear delivers or makes available with the Software, including on-line help, as updated from time to time.

“Maintenance and Support” mean those services provided by SmartBear as set forth in Exhibit A.

“Maintenance Period” means (i) for all Perpetual licenses of the Software, that number of years set forth in the applicable Order for which You have purchased Maintenance and Support or (ii) for all Subscription licenses of the Software, the number of years of such Subscription set forth in the applicable Order.

“On-Premise” means that the Software must be installed on a server, desktop, virtual machine or container on site at Your facility; all Software licensed under the terms of this Agreement is for On-Premise deployments only.

"Order" means the purchase order entered into between You and SmartBear and identifies the Software (including the applicable SmartBear product(s), license type, license model (Perpetual or Subscription), quantity) ordered by You and any required access information. An Order that has been accepted by SmartBear shall be deemed incorporated herein by reference.

“Perpetual” means Our grant of a license of the Software without any limitation on the duration of the license.

“Reseller” means an authorized reseller or distributor who may sell the Software to You.

"Software" means the SmartBear software licensed pursuant to the applicable Order and Updates provided by SmartBear, solely in object code form.

“Subscription” means Our grant of a license of the Software for the period of time set forth in the Order (the “Subscription Term”).

“Update” means any subsequent release of the Software that SmartBear generally makes available to its customers who are enrolled in, and have fully paid for, Maintenance and

Support. Updates do not include any Software that is marketed and priced separately by SmartBear.

“User” means an individual who is authorized by You to use the Software in accordance with this Agreement and the applicable license type set forth herein, and who has been supplied usage credentials. A User may include, but is not limited to, your employee, consultant, contractor and any agent with which You transact business.

“You” means the Ordering Activity accepting this Agreement.

2. Who We Are.

If You acquired Software in the United States or Canada, “We”, “Us”, “Our” or “SmartBear” means SmartBear Software Inc., a Delaware corporation with its principal place of business at 450 Artisan Way, Somerville, MA 02145, and its licensors.

If You acquired Software outside of the United States or Canada, “We”, “Us”, “Our” or “SmartBear” means SmartBear (Ireland) Limited with its principal place of business at , Galway, Ireland, together with its licensors.

3. Reserved.

4. On-Premise License Grants.

Perpetual – Subject to the terms of this Agreement, the underlying GSA Schedule contract, the Schedule pricelist, and the Order, for all licenses of the Software that are granted on a Perpetual basis, as indicated on the applicable Order, SmartBear grants You a non-exclusive, non-transferable, non-sublicensable, perpetual, limited license to install and use the Software on compatible devices without any end date. You may install and use the Software solely as permitted by the license type purchased, which license type is (i) specified in the applicable Order and (ii) subject to the further terms below applicable to the relevant Software product.

Subscription - Subject to the terms of this Agreement, the underlying GSA Schedule contract, the Schedule pricelist, and the Order, for all licenses of the Software that are granted on a Subscription basis, as indicated on the applicable Order SmartBear grants You a non-exclusive, non-transferable, non-sublicensable, limited license to install and use the Software on compatible devices during the applicable Subscription Term. You may install and use the Software solely as permitted by the license type purchased, which license type is (i) specified in the applicable Order and (ii) subject to the further terms below applicable to the relevant Software product.

5. License Types.

The licenses granted in Section 4 are subject to all terms and conditions set forth in this Agreement, including the following applicable terms (as specified in the applicable Order):

Fixed (Named) License: all Software licensed under these terms are single instance, meaning it can be activated by only one User, with a unique username and password, on a single computer, computing device, or virtual machine and has a fixed license key. You must acquire and dedicate a license for each separate User that You wish to access the Software. A separate license is required for each User and may not be shared. The Software may not be reassigned other than for the permanent transfer of the Software license to another User if the eligible User is no longer employed by You. An eligible User may access the Software with a unique username and password on one device at a time.

Floating (Concurrent) License: all Software licensed under these terms can be activated for different users and machine combinations, but only one at a time and has a floating license key. The number of running instances of the Software or the number of individuals simultaneously having access to the Software may not exceed at any one time the number of floating seats licensed. One computer or computing device shall be designated as the “license server”, where the license is installed, and all other devices will require access to the license server to run the Software.

Node-Locked License: all Software licensed under these terms is for use on a specified computer or computing device. This license will be “bound” to the designated computer or computing device and will only function on this computer or computing device. This license permits the use of a single instance of the Software, which functions on a single computer or computing device.

Server Application License: all Software application licensed under these terms can be installed on one server machine and may be accessed by many Users. The license key is dedicated to the designated computer or computing device and will only function on this computer or computing device.

Usage-Based License: all Software licensed under these terms is (i) licensed on a unit-based basis during the Subscription Term as set forth in an Order and (ii) restricted to a computer or computing device, which is applicable to the Alertsight and VirtServer products.

Freeware or Free Version License: all Software licensed under these terms is licensed to an individual User who is specifically named in the Software registration and may only be used on one computer or computing device at a time. These licenses are not eligible for Maintenance and Support other than the materials and discussion groups that may be accessed generally via the SmartBear online community at <https://community.smartbear.com>.

6. Software Delivery.

Delivery of the Software to You shall be made by electronic means and deemed to have occurred when the Software has been made available to You for download or by providing You with a key for such usage. SmartBear is expressly authorized by You to ship the Software upon completion of the applicable Order.

7. License Restrictions.

Your use of the Software is limited to the number of units, duration and such other usage restrictions as are set forth on an Order and herein. SmartBear and its licensors and suppliers reserve any and all rights, implied or otherwise, which are not expressly granted to You hereunder, and retain all rights, title and interest in and to the Software. You shall not (i) modify, adapt, distribute, resell, rent, lease or loan the Software or create or prepare derivative works based upon the Software or any part thereof; (ii) use the Software in a service bureau, or application service provider environment, or in any commercial timeshare arrangement; (iii) decompile, disassemble or otherwise reverse engineer the Software; (iv) use the Software in contravention of any applicable laws or government regulations; (v) use the Software in order to build a competitive product or service; (vi) copy any features, functions or graphics of the Software; (vii) use the Software to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights..

If the restriction set forth in clause (iii) above is prohibited by applicable law, You shall provide SmartBear with a detailed prior written notice of any such intention to reverse engineer the Software and shall provide SmartBear with a right of first refusal to perform such work at rates equal to those proposed by a recognized third-party software services provider for such work. You shall take all reasonable precautions to prevent unauthorized or improper use or disclosure of the Software.

Export. You may not export the Software into any country prohibited by the United States Export Administration Act and the regulations thereunder. You acknowledge that the export of any Software is subject to export or import control and You agree that any Software or the direct or indirect product thereof will not be imported or exported (or re-exported from a country of installation) directly or indirectly, unless You obtain all necessary licenses from the U.S. Department of Commerce or other applicable agency or governmental body as required under applicable law. Without limiting the generality of the foregoing, You agree that the Software is prohibited for export or re-export to Cuba, North Korea, Iran, Libya, Syria and Sudan or to any person or entity on the U.S. Department of Commerce Denied Persons List or on the U.S. Department of Treasury's lists of Specially Designated Nationals, Specially Designated Narcotics Traffickers or Specially Designated Terrorists, as such is changed from time to time. Further, you may not provide to SmartBear or any other person (whether through the Service or any other means), or export or re-export, or allow the export or re-export of the Service, any data or information, or any software or anything related thereto or any direct product thereof (collectively "Controlled Subject Matter"), in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. Without limiting the foregoing, Customer acknowledges and agrees that the Controlled Subject Matter will not be used or transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, "Embargoed Countries"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "Designated Nationals"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. Use of the Service is representation and warranty

that the user is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. The Controlled Subject Matter may use or include encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations.

8. Term.

The Term of this Agreement shall be determined based on the License Model and License Type as described herein and set forth in the Order.

Perpetual License - This term of this Agreement shall commence upon delivery of the Software; for Maintenance and Support the term of this Agreement shall continue for the one-year period following delivery and, thereafter, may be renewed at Your option for subsequent one-year periods if You issue an Order for such subsequent periods.

Subscription License – This term of this Agreement shall commence upon delivery of the Software and shall end on the last day of the Subscription Term as set forth in an Order.

Usage-Based License – The term of this Agreement is based upon the designated units of consumption as set forth in an Order.

9. Effect of Termination.

Upon any termination of this Agreement, an Order or a license granted hereunder, all applicable licenses are revoked and You shall immediately cease use of the applicable Software and certify in writing to SmartBear within ten (10) days after termination that such Software and all copies thereof have been destroyed, purged or returned to SmartBear. Termination of this Agreement, an Order or a license granted hereunder shall not limit either party from pursuing any remedies available to it or relieve You of your obligation to pay all fees that have accrued or become payable hereunder.

10. Your Responsibilities.

You shall (i) be responsible for each User's compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of your data and of the means by which You acquired Your data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Software, and notify Us promptly of any such unauthorized access or use, and (iv) use the Software in accordance with the Documentation and applicable laws and government regulations.

11. Backup of Software.

Notwithstanding anything to the contrary herein, You may make a copy(ies) of the Software for the sole purpose of backing-up and archiving the Software. Any copy of the Software is subject to all terms and conditions of this Agreement and must contain the same titles, trademarks, and copyrights as the original.

12. Virtualization Technology.

Unless otherwise restricted herein, the Software may be installed within a virtual (or otherwise emulated) hardware system as long as the use of the Software meets the terms of the license type and the virtual machines are run on hardware owned or leased by You. Virtualization technology may not be used to circumvent other licensing terms or restrictions.

13. Non-Human Devices.

Non-human devices that use the Software, whether or not without interaction, are counted as Users. Each such device that runs the Software must be properly licensed to use the Software pursuant to one of the license types described herein. Examples of non-human devices include, but are not limited to, virtual PCs, build servers, unattended PCs for batch jobs, or similar devices.

14. Usage Verification.

At SmartBear's written request and expense, and no more than once every twelve (12) months, You will permit SmartBear to review your deployment and use of the Software in order to verify your compliance with the terms and conditions of this Agreement. Any such review shall be scheduled at least ten (10) days in advance, conducted during normal business hours at your facilities, shall be subject to Government security requirements, and shall not unreasonably interfere with your business activities. Within ten (10) days of completion of any review that finds your use of the Software to be greater than that which was licensed, You will provide SmartBear an Order for the applicable number of additional licenses and pay all applicable fees in accordance herewith.

15. Maintenance and Support.

For Perpetual licenses, SmartBear will maintain and support licensed Software during the Maintenance Period for which You purchased Maintenance and Support. For the first year of a Perpetual license, You must purchase Maintenance and Support. After such first year, You may purchase Maintenance and Support in order to receive those services. The Maintenance Period for all Perpetual licenses shall be twelve months unless otherwise agreed upon in an Order.

For Subscription licenses You receive Maintenance and Support during the Subscription Term.

Any Maintenance and Support purchased through a Reseller shall be subject to this Agreement.

In the case of both Perpetual and Subscription licenses, the term of the Maintenance Period shall commence upon the initial delivery of the Software.

During a Maintenance Period, SmartBear will provide you with technical support services ("Support Services"), including Updates, to the extent such Support Services are provided for in the applicable Order, all in accordance with SmartBear's Product Support Manual attached hereto as Exhibit A. In addition, as part of the Support Services, SmartBear may make available

bug lists, planned feature lists, and other supplemental materials. SmartBear makes no representations or warranties of any kind for these materials.

16. Reserved.

17. Data Privacy.

Data Privacy: The terms and conditions of SmartBear's Privacy Policy is attached hereto as Exhibit B. By your acceptance of the terms of this Agreement or use of the Software, You authorize the collection, use and disclosure of information collected by SmartBear for the purposes provided for in this Agreement in accordance with the Privacy Policy as written in Exhibit B. International users understand and consent to the processing of personal information in the United States for the purposes described herein in accordance with the Privacy Policy. You are responsible for your personally identifiable information, You shall only supply data that You have the right to and are authorized to provide and we are not responsible for any such data.

In addition to any other information transmitted as specified in the Privacy Policy, SmartBear's Software may transmit license and/or product usage data at the time of installation, registration, use or update in order to activate your license and provide You with update notifications, protect You and SmartBear against unlicensed or illegal use of the Software, and improve customer service and the product itself. We are permitted to create aggregated anonymous data based on activities and use of all Users. Upon creation, We will be the owner of such aggregated anonymous data and may use and copy such data, in our discretion, for any lawful purpose. This process does not collect or communicate any proprietary application data. A User may disable the collection of certain license and/or product usage data through the Software's settings menu.

Feedback. You may provide feedback (which may be oral or written) to Us including on the functions, operation, and utility of the Software and are encouraged to provide prompt reports of any issues, bugs or service errors, feature suggestions and corrections to problems in the Software and/or Documentation (collectively "Feedback"). You agree that Feedback provided by You becomes the property of, and upon creation, shall be deemed to be assigned to, Us and that we may use or exploit the same without any accounting or payment to You. You will not include in Feedback any third party proprietary or confidential information.

18. Ownership.

Except as expressly provided in this Agreement, SmartBear and its licensors, where applicable, retain all right, title and interest, including all copyright and intellectual property rights, in and to, the Software, as an independent work and as an underlying work serving as a basis for any improvements, modifications, derivative works, and applications You may develop, and all copies thereof. All rights not specifically granted in this Agreement, including U.S. and international copyrights, are reserved by SmartBear and its suppliers.

SmartBear and other trademarks contained in the Software are trademarks or registered trademarks of SmartBear Software Inc. in the United States or other countries. You may not

remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Software.

Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors hereunder in or to Your data, including any intellectual property rights therein.

The Software may contain or otherwise make use of software, code or related materials from third parties, including, without limitation, “open source” or “freeware” software (“Third Party Components”). You acknowledge Third Party Components may have additional or other license terms. Nothing in this Terms of Service limits your rights under, or grants you rights that supersede, the license terms that accompany any Third Party Components. If required by any license for a particular Third Party Component, SmartBear makes the source code of such Third Party Component, and any of SmartBear’s modifications to such Third Party Component as required, available by written request to SmartBear at the following address: support@smartbear.com.

The provision of source code, if included with the Software, does not constitute transfer of any legal rights to such code, and resale or distribution of all or any portion of all source code and intellectual property is strictly prohibited hereunder. All Software and other files remain SmartBear’s exclusive property. If source code or modifiable files are provided, regardless of any modifications that You make, You may not redistribute any such source code or modifiable files unless SmartBear has expressly designated these as re-distributable in writing.

19. Limited Warranty; Remedies.

SmartBear warrants that (a) it has the necessary corporate power and authority and has taken required corporate action on its part necessary to permit it to execute and deliver You this Agreement; (b) it has taken commercially reasonable steps to provide the Software and the medium on which it was originally provided to You is free from any virus at the time of delivery; (c) for a period of thirty (30) days following the initial delivery of the Software to You (the “Warranty Period”), the Software will perform in substantial conformity with the Documentation; and (d) any Services will be provided with reasonable skill and care conforming to generally accepted software industry standards and in accordance with any specifications set forth in the Order in all material respects. Your exclusive remedy and SmartBear’s sole obligation for SmartBear’s breach of 19(c), is that SmartBear will, at its option, and at no cost to (a) provide remedial services necessary to enable the Software to conform to the warranty, or (b) replace any defective Software or media to enable the Software to conform to the warranty without loss of any material functionality, or in the event that SmartBear determines that neither of the foregoing are reasonably practicable, (c) terminate this Agreement and refund amounts paid in respect of the defective Software. SmartBear’s warranty obligations will only extend (i) to material errors that can be demonstrated to exist in an unmodified version of the Software except where the modifications were carried out by SmartBear or with its written approval and (ii) in respect of alleged breaches for which SmartBear has received written notice within the Warranty Period, if applicable. You will provide SmartBear with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects If the Services are not

performed as warranted in this Section 20(d) then, upon your written request, SmartBear shall promptly re-perform, or cause to be re-performed, such Services, at no additional charge to You, provided that this warranty shall only survive for ninety (90) days following the completion of the Services. We provide no warranty or remedy for a Trial Version, Freeware or Free Version of the Software.

EXCEPT AS SET FORTH IN THE FOREGOING LIMITED WARRANTY, SMARTBEAR AND ITS SUPPLIERS AND LICENSORS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE OR QUIET ENJOYMENT. SMARTBEAR DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. IN ADDITION, ALL THIRD PARTY COMPONENTS ARE PROVIDED "AS IS," "WHERE IS," "AS AVAILABLE," "WITH ALL FAULTS" AND, TO THE FULLEST EXTENT PERMITTED BY LAW, WITHOUT WARRANTY OF ANY KIND. SMARTBEAR AND ITS LICENSORS DISCLAIM ALL WARRANTIES WITH RESPECT TO THE THIRD PARTY COMPONENTS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE, AND ANY WARRANTIES REGARDING THE SECURITY, QUIET ENJOYMENT, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICES. NO RIGHTS OR REMEDIES REFERRED TO IN ARTICLE 2A OF THE UCC WILL BE CONFERRED ON YOU UNLESS EXPRESSLY GRANTED HEREIN. THE SOFTWARE IS NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR WEAPONS SYSTEMS. SMARTBEAR SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

No oral or written information or advice given by SmartBear, its Resellers, dealers, distributors, agents, representatives or employees shall create any warranty or in any way increase any warranty provided herein.

If applicable law requires any warranties other than the foregoing, all such warranties are limited in duration to thirty (30) days from the date of delivery. Some jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to You. The warranties provided herein give You specific legal rights and You may also have other legal rights that vary from jurisdiction to jurisdiction. The limitations or exclusions of warranties, remedies or liability contained in this Attachment shall apply to You only to the extent such limitations or exclusions are permitted under the laws of the jurisdiction where You are located.

20. Reserved.

21. Reserved.

22. Reserved.

23. Government Matters

This Section applies to all acquisitions of the Software by or for the United States Federal government, including by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other activity with the Federal government. The Software was developed at private expense and is Commercial Computer Software, as defined in Section 12.212 of the Federal Acquisition Regulation (48 CFR 12.212 (October 1995)) and Sections 227.7202-1 and 227.7202-3 of the Defense Federal Acquisition Regulation Supplement (48 CFR 227.7202-1, 227.7202-3 (June 1995)). Accordingly, any use, duplication or disclosure by the Federal Government or any of its authorized users is subject to restrictions as set forth in this standard license agreement for the Software. If for any reason, Sections 12.212, 227.7202-1 or 227.7202-3 are deemed not applicable, then the Federal Government's rights to use, duplicate or disclose the Software are limited to "Restricted Rights" as defined in 48 CFR Section 52.227-14, or DFARS 252.227-7014(a)(14) (June 1995), as applicable. If this Agreement fails to meet the Federal Government's needs or is inconsistent in any respect with Federal law, the Federal Government agrees to return the Software, unused, to SmartBear. Manufacturer is SmartBear Software Inc., 450 Artisan Way, Somerville, MA 02145.

Federal Government End Use Provisions. We provide the Services, including related software and technology, for ultimate Federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

SmartBear Hosted Services Terms of Use

You may not access the Services if You are a direct competitor of SmartBear, except with Our prior written consent.

1. Definitions.

“Data” means (i) content You post or otherwise submit to the Services and (ii) SmartBear's license and/or product usage data transmitted to SmartBear, at the time of registration, use or update, in order to activate your access rights and provide You with update notifications, protect You and SmartBear against unlicensed or illegal use of the Services, and improve customer service and the Services.

“Documentation” means the published and generally available on-line user and administrator materials SmartBear delivers or makes available with the Services, including on-line help, as updated from time to time.

“Hosted Services” means the services provided by SmartBear through which it makes the Software available to you as a service (SaaS) and hosted by SmartBear or its authorized third party provider(s).

“Maintenance and Support” mean those technical support and related services provided by SmartBear as set forth at Exhibit A.

"Order" means the purchase order entered into between You and SmartBear, which identifies the Services (including the applicable SmartBear product(s), license type, license model (duration or usage-based), quantity/term) ordered by You and any required access information. Any Order that has been accepted by SmartBear shall be deemed incorporated herein by reference.

“Reseller” means an authorized reseller or distributor who may sell the Services to You.

"Software" means the SmartBear software provided as part of the Services pursuant to the applicable Order, and all Updates, in each case, access to which is provided by SmartBear.

“Services” means the Hosted Services, together with Maintenance and Support, as provided to you during the Subscription Term based on the applicable Order.

“Subscription” means Our grant of the right to access and use the Software through the Services for the period of time or usage-based limit set forth in the Order (the “Subscription Term”).

“Update” means any subsequent release of the Software that SmartBear generally makes available to its SaaS customers as part of the Services; Updates do not include any Software that is marketed and priced separately by SmartBear as part of the Services.

“User” means an individual who is authorized by You to use the Services in accordance with this Agreement and the applicable license type set forth herein, and who has been supplied usage credentials. A User may include, but is not limited to, your employee, consultant, contractor and any agent with which You transact business.

“You” means the Ordering Activity accepting this Agreement.

2. Who We Are.

If You acquire access to, and use, the Services from in the United States or Canada, “We”, “Us”, “Our” or “SmartBear” means SmartBear Software Inc., a Delaware corporation with its principal place of business at 450 Artisan Way, Somerville, MA 02145, and its licensors.

If You acquire access to, and use, the Services from outside of the United States or Canada, “We”, “Us”, “Our” or “SmartBear” means SmartBear (Ireland) Limited with its principal place

of business at 3rd Floor Dockgate, Unit 19, Merchants Rd., Galway, Ireland, together with its licensors.

3. Reserved.

4. Services Grants.

Subject to the terms of this Agreement, the underlying GSA Schedule contract, Schedule pricelist, and the Order, and during the Subscription Term, SmartBear grants You a non-exclusive, non-transferable, non-sublicensable, limited license to access and use the Services, Documentation, and, if any, associated media and materials, and, if applicable, third party software programs supplied by SmartBear solely (i) to access and use the Services as listed in the applicable Order and (ii) for Your internal business purposes. You may access and use the Services as permitted by the license type purchased, which license type is (i) specified in the applicable Order and (ii) subject to the further terms below applicable to the relevant product.

5. License Types.

The license granted in Section 4 are subject to all terms and conditions set forth in this Agreement, including the following applicable terms (as specified in the applicable Order):

Single (Named) Licensee: all Services licensed under these terms are single licensee, meaning it can be activated by only one User, with a unique username and password. Access to the Services may not be reassigned other than for the permanent transfer of the access license to the Services to another User if the eligible User is no longer employed by You. An eligible User may access the Services with a unique username and password on one device at a time.

Floating (Concurrent) License: all Software licensed under these terms can be activated for different users and machine combinations, but only one at a time and has a floating license key. The number of running instances of the Software or the number of individuals simultaneously having access to the Software may not exceed at any one time the number of floating seats licensed. One computer or computing device shall be designated as the “license server”, where the license is installed, and all other devices will require access to the license server to run the Software.

Usage-Based License: access to the Services licensed under these terms is (i) licensed on a time-based or unit-based basis during the Subscription Term as set forth in an Order and (ii) restricted to a computer or computing device, which is applicable to the Alertsight and VirtServer products.

Freeware or Free Version License: all Services licensed under these terms are licensed to an individual User who is specifically named in the Services registration and may only be used on one computer or computing device at a time. These licenses are not eligible for Maintenance and Support other than the materials and discussion groups that may be accessed generally via the SmartBear online community at <https://community.smartbear.com>.

6. License Restrictions.

Your use of the Services is limited to the number of units, duration and such other usage restrictions as are set forth on an Order and herein. SmartBear and its licensors and suppliers reserve any and all rights, implied or otherwise, which are not expressly granted to You hereunder, and retain all rights, title and interest in and to the Services. You shall not (i) modify, adapt, distribute, resell, rent, lease or loan the Services or create or prepare derivative works based upon the Services or any part thereof; (ii) use the Services in a service bureau, or application service provider environment, or in any commercial timeshare arrangement; (iii) attempt to decompile, disassemble or otherwise reverse engineer the Services or any part thereof; (iv) use the Services in contravention of any applicable laws or government regulations; (v) access the Services in order to build a competitive product or service; (vi) copy any features, functions or graphics of the Services; (vii) create duplicate accounts or make the Services available to anyone other than Users, or (viii) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights. To the extent the Services are used to monitor web sites or devices You do not own, then You shall not publish or otherwise disclose data acquired about such web sites or devices unless express consent is given to You by the web site or device owner; further you shall not (1) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (2) attempt to gain unauthorized access to the Services or their related systems or networks.

If the restriction set forth in clause (iii) above is prohibited by applicable law, You shall provide SmartBear with a detailed prior written notice of any such intention to reverse engineer the Services and shall provide SmartBear with a right of first refusal to perform such work at rates equal to those proposed by a recognized third-party software services provider for such work. You shall take all reasonable precautions to prevent unauthorized or improper use or disclosure of the Services.

Export. You may not provide to SmartBear or any other person (whether through the Service or any other means), or export or re-export, or allow the export or re-export of the Service, any data or information, or any Software or anything related thereto or any direct product thereof (collectively “Controlled Subject Matter”), in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. Without limiting the foregoing, You acknowledge and agree that the Controlled Subject Matter will not be used or transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, “Embargoed Countries”), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury’s List of Specially Designated Nationals or the U.S. Department of Commerce’s Table of Denial Orders (collectively, “Designated Nationals”). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. Use of the Service is representation and warranty that the user is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. The Controlled Subject Matter may use or include encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations.

7. Term.

The Term of this Agreement shall be determined based on the License Model and License Type as described herein and set forth in the Order.

The Subscription Term begins on the date that SmartBear grants You access to the Services and continues for twelve (12) months thereafter, unless either (i) the Subscription is usage-based (see below) or (ii) a multi-year, or other, agreement is otherwise agreed upon in an Order (“Initial Term”). In the event that the Subscription is usage-based, the term of this Agreement is based upon the designated units of consumption as set forth in an Order.

8. Effect of Termination.

Upon any termination of this Agreement, an Order or a license granted hereunder, all applicable licenses are revoked and You shall immediately cease use of the Services. Termination of this Agreement, an Order or a license granted hereunder shall not limit either party from pursuing any remedies available to it or relieve You of your obligation to pay all fees that have accrued or become payable hereunder.

9. Your Responsibilities; Login Credentials.

You shall (i) be responsible for each User’s compliance with this Agreement, (ii) be responsible for the accuracy, quality and legality of your Data and of the means by which You acquired Your Data, (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, (iv) use the Services in accordance with the Documentation and applicable laws and government regulations, (v) be responsible for obtaining and maintaining all telephone, computer hardware, Internet access services and other equipment or services needed to access and use the Services and all costs and fees associated therewith.

Data Responsibility. You are solely responsible for (a) Your Data, (b) the accuracy, quality, and legality of Your Data, (c) the means by which You acquired Your Data, including ensuring that Your Data does not infringe upon or violate the rights of any person or entity, (d) third party claims relating to Your Data, and (e) responding to any person claiming Your Data violates such persons rights, including notices pursuant to the Digital Millennium Copyright Act.

Login Credentials. SmartBear will provide You with credentials to assign usernames and passwords to each User (“Login Credentials”) in order to access and use the Services. In connection with the foregoing, You agree to (i) maintain as confidential all Login Credentials and not distribute or disclose any such Login Credentials and (ii) use the administrator account to assign the authorized number of Login Credentials to each User. Further, You shall be responsible for the Login Credentials, which shall be maintained confidentially and not be distributed or disclosed. You shall immediately terminate Login Credentials upon knowledge or belief that any User is or may be subject to a breach of this Agreement and, at your own expense, provide all equipment, operating systems, web browser and internet access, etc. needed to access and use the Services in accordance with the Documentation.

10. Non-Human Devices.

Non-human devices that access or use the Services, whether or not without interaction, are counted as Users. Each such device that accesses or uses the Services must be properly licensed to use the Services pursuant to one of the license types described herein. Examples of non-human devices include, but are not limited to, virtual PCs, build servers, unattended PCs for batch jobs, or similar devices.

11. Usage Verification.

At SmartBear's written request and expense, and no more than once every twelve (12) months, You will permit SmartBear to review your deployment and use of the Services in order to verify your compliance with the terms and conditions of this Agreement. Any such review shall be scheduled at least ten (10) days in advance, conducted during normal business hours at your facilities, shall be subject to Government security requirements, and shall not unreasonably interfere with your business activities. Within ten (10) days of completion of any review that finds your use of the Services to be greater than that which was licensed, You will provide SmartBear an Order for the applicable number of additional licenses and Smartbear shall invoice You for all applicable fees in accordance herewith.

12. Maintenance and Support.

Your Subscription to the Services includes Maintenance and Support during the Subscription Term. Any Maintenance and Support purchased through a Reseller shall be subject to this Agreement. During the Subscription Term, SmartBear will provide you with Maintenance and Support, including Updates, all in accordance with SmartBear's Product Support Manual attached hereto as Exhibit A. In addition, as part of Maintenance and Support, SmartBear may make available bug lists, planned feature lists, and other supplemental materials. SmartBear makes no representations or warranties of any kind for these materials.

13. Reserved.

14. Data Privacy.

Data Privacy: The terms and conditions of SmartBear's Privacy Policy is attached hereto as Exhibit B. By your acceptance of the terms of this Agreement or access or use of the Services, You authorize the collection, use and disclosure of information collected by SmartBear for the purposes provided for in this Agreement in accordance with the Privacy Policy as written in Exhibit B. International users understand and consent to the processing of personal information in the United States for the purposes described herein in accordance with the Privacy Policy. You are responsible for your personally identifiable information, You shall only supply data that You have the right to and are authorized to provide and we are not responsible for any such data.

In addition to any other information transmitted as specified in the Privacy Policy, the Services may transmit license and/or product usage data at the time of registration, use or update in order to activate your access rights and provide You with update notifications, protect You and

SmartBear against unlicensed or illegal use of the Services, and improve customer service and the Services. By accessing the Services, You authorize SmartBear to create aggregated anonymous data based on activities and use of all Users. Upon creation, We will be deemed to be the owner of such aggregated anonymous data and may use and copy such data, in our discretion, for any lawful purpose. The Services do not collect or communicate any proprietary application data. SmartBear may elect to provide the User with the ability to disable the collection of certain license and/or product usage data through the settings menu in the Services.

Feedback. You may provide feedback (which may be oral or written) to Us including on the functions, operation, and utility of the Services and are encouraged to provide prompt reports of any issues, bugs or service errors, feature suggestions and corrections to problems in the Services and/or Documentation (collectively "Feedback"). You agree that Feedback provided by You becomes the property of, and upon creation, shall be deemed to be assigned to Us and that We may use or exploit the same without any accounting or payment to You. You will not include in Feedback any third party proprietary or confidential information.

15. Ownership.

Except as expressly provided in this Agreement, SmartBear and its licensors, where applicable, retain all right, title and interest, including all copyright and intellectual property rights, in and to, the Services, as an independent work and as an underlying work serving as a basis for any improvements, modifications, derivative works, and applications You may develop, and all copies thereof. All rights not specifically granted in this Agreement, including U.S. and international copyrights, are reserved by SmartBear and its suppliers.

SmartBear and other trademarks contained in the Services are trademarks or registered trademarks of SmartBear Software Inc. in the United States or other countries. You may not remove or alter any trademark, trade names, product names, logo, copyright or other proprietary notices, legends, symbols or labels in the Services.

Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors hereunder in or to Your data, including any intellectual property rights therein.

The Software may contain or otherwise make use of software, code or related materials from third parties, including, without limitation, "open source" or "freeware" software ("Third Party Components"). Third Party Components may be licensed under additional or other license terms that accompany such Third Party Components. Nothing in this Terms of Service limits your rights under, or grants you rights that supersede, the license terms that accompany any Third Party Components. If required by any license for a particular Third Party Component, SmartBear makes the source code of such Third Party Component, and any of SmartBear's modifications to such Third Party Component as required, available by written request to SmartBear at the following address: support@smartbear.com.

16. Limited Warranty; Remedies.

SmartBear warrants that (a) it has the necessary corporate power and authority and has taken required corporate action on its part necessary to permit it to execute and deliver You this Agreement; (b) it has taken commercially reasonable steps to provide the Services free from any virus at the time of initial access; (c) for a period of thirty (30) days following the initial grant of access to You to the Services (the "Warranty Period"), the Services will perform in substantial conformity with the Documentation; and (d) the Services will be provided with reasonable skill and care conforming to generally accepted software industry standards and in accordance with any specifications set forth in the Order in all material respects. Your exclusive remedy and SmartBear's sole obligation for SmartBear's breach of 16(c), is that SmartBear will, at its option, and at no cost, to (a) provide remedial services necessary to enable the Services to conform to the warranty, or (b) replace any defective Services to enable the Services to conform to the warranty without loss of any material functionality, or in the event that SmartBear determines that neither of the foregoing are reasonably practicable, (c) terminate this Agreement and refund amounts paid in respect of the defective Services for the balance of the then-current Subscription Term. SmartBear's warranty obligations will only extend (i) to material errors that can be demonstrated to exist in an unmodified version of the Services except where the modifications were carried out by SmartBear or with its written approval and (ii) in respect of alleged breaches for which SmartBear has received written notice within the Warranty Period, if applicable. You will provide SmartBear with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. If the Services are not performed as warranted in this Section 16(d) then, upon your written request, SmartBear shall promptly re-perform, or cause to be re-performed, such Services, at no additional charge to You, provided that this warranty shall only survive for ninety (90) days following the completion of the Services. We provide no warranty or remedy for a Trial Version, Freeware or Free Version of the Software.

EXCEPT AS SET FORTH IN THE FOREGOING LIMITED WARRANTY, SMARTBEAR AND ITS SUPPLIERS AND LICENSORS DISCLAIM ALL OTHER WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS, IMPLIED, OR OTHERWISE, INCLUDING THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE OR QUIET ENJOYMENT. SMARTBEAR DOES NOT WARRANT THAT THE SERVICES ARE ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. IN ADDITION, ALL THIRD PARTY COMPONENTS ARE PROVIDED "AS IS," "WHERE IS," "AS AVAILABLE," "WITH ALL FAULTS" AND, TO THE FULLEST EXTENT PERMITTED BY LAW, WITHOUT WARRANTY OF ANY KIND. SMARTBEAR AND ITS LICENSORS DISCLAIM ALL WARRANTIES WITH RESPECT TO THE THIRD PARTY COMPONENTS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE, AND ANY WARRANTIES REGARDING THE SECURITY, QUIET ENJOYMENT, RELIABILITY, TIMELINESS, AND PERFORMANCE OF THE SERVICES. NO RIGHTS OR REMEDIES REFERRED TO IN ARTICLE 2A OF THE UCC WILL BE CONFERRED ON YOU UNLESS EXPRESSLY GRANTED HEREIN. THE SERVICES ARE NOT DESIGNED, INTENDED OR LICENSED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE CONTROLS, INCLUDING WITHOUT LIMITATION, THE DESIGN, CONSTRUCTION, MAINTENANCE OR OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, AND LIFE SUPPORT OR

WEAPONS SYSTEMS. SMARTBEAR SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR SUCH PURPOSES.

No oral or written information or advice given by SmartBear, its Resellers, dealers, distributors, agents, representatives or employees shall create any warranty or in any way increase any warranty provided herein.

If applicable law requires any warranties other than the foregoing, all such warranties are limited in duration to thirty (30) days from the date of grant of initial access to the Services to You. Some jurisdictions do not allow the exclusion of implied warranties, so the above exclusion may not apply to You. The warranties provided herein give You specific legal rights and You may also have other legal rights that vary from jurisdiction to jurisdiction. The limitations or exclusions of warranties, remedies or liability contained in this EULA shall apply to You only to the extent such limitations or exclusions are permitted under the laws of the jurisdiction where You are located.

17. Reserved.

18. Reserved.

19. Reserved.

20. Government Matters

This Section applies to all acquisitions of the Services by or for the United States Federal government, including by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement or other activity with the Federal government. The Software was developed at private expense and is Commercial Computer Software, as defined in Section 12.212 of the Federal Acquisition Regulation (48 CFR 12.212 (October 1995)) and Sections 227.7202-1 and 227.7202-3 of the Defense Federal Acquisition Regulation Supplement (48 CFR 227.7202-1, 227.7202-3 (June 1995)). Accordingly, any use, duplication or disclosure by the Federal Government or any of its authorized users is subject to restrictions as set forth in this standard license agreement for the Services. If for any reason, Sections 12.212, 227.7202-1 or 227.7202-3 are deemed not applicable, then the Federal Government's rights to use, duplicate or disclose the Services are limited to "Restricted Rights" as defined in 48 CFR Section 52.227-14, or DFARS 252.227-7014(a)(14) (June 1995), as applicable. If this Agreement fails to meet the Federal Government's needs or is inconsistent in any respect with Federal law, the Federal Government agrees to terminate its access to the Services,. Manufacturer is SmartBear Software Inc., 450 Artisan Way, Somerville, MA 02145.

Federal Government End Use Provisions. We provide the Services, including related software and technology, for ultimate Federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical

Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

EXHIBIT A

SMARTBEAR PRODUCT SUPPORT MANUAL

Introduction

This document explains the procedures that are basic to an understanding of SmartBear Software's Product Support Services.

Purpose

The purpose of the Product Support Manual is to provide information about SmartBear Software Product Support services so Customers can access SmartBear's Product Support to obtain effective and timely solutions.

Audience

The audience for this document is:

- SmartBear Customers
- SmartBear Employee

SmartBear Product Support Procedures

- SmartBear provides assistance in several ways.
- Our customers or trial prospects can access online information via our SmartBear website, www.smartbear.com. Our web-site contains online documentation, troubleshooting, and many other tools that will help you get the most out of our products.
- We also have several community forums for SmartBear products in which you can find responses to various questions asked from other customers. This is also where you can post your own question. Both our customers and SmartBear monitor these forums and provide answers.
- Finally, if you cannot find an answer to your question via our web-site, you can also submit a ticket to our Customer Care team via our web-site by selecting the contact support button at the bottom of the support page.
- For some of the products, we also provide chat and telephone support. Please see more detail regarding this below.

- Support Services will be available to individuals who have been named, in writing, by customers or prospects eligible to receive support. Support eligibility requires an active maintenance contract, current product subscription, or a valid trial license.

Contacting Support

When our support teams receive your ticket, an individual will review the information you provide with the objective to provide an answer on our initial response. Our goal is to respond in the time frames mentioned below. This will be based on the urgency of the situation and product. Sometimes we do not have all of the information to provide an answer or we may need to perform more research before providing an answer. In these scenarios our initial response will be to let you know we have reviewed the information and what our next steps will be.

We will also provide updates on a regular basis. The time frames of these updates are documented below.

Our team also tracks our dialogue with you as well as captures and tracks any information you have provided us such as log files, screen captures, etc. This information is tracked in our ticketing system. Consequently you'll be able to find out the status of your ticket simply via our updates or by contacting us.

If the support engineer who initially took your issue requires assistance from someone, he/she will either consult with a colleague or escalate your issue to a more skilled engineer, e.g. senior technical support engineer, developer, etc. The timeframe of these escalation goals are driven by the severity of the issue and are listed below.

If you feel you are not receiving the appropriate response for an issue, please check to make sure we understand the urgency of the situation properly. You can also contact your Account Manager or Customer Success Manager who will ensure the appropriate manager is aware of your situation.

Product Support Services

SmartBear Support Services are accessible via the telephone, chat, our web-form, our web-site and forums. Access, availability, response time, escalation time and follow-up time is product dependent.

Product Support – Access and Availability Table.

This following table describes the access venue and availability times for each product area.

Products	Telephone	E-Mail/Web-Form	Web-Site (self-help tools and forums)
Enterprise <ul style="list-style-type: none"> ❖ AQtme Pro ❖ Collaborator ❖ LoadComplete ❖ QAComplete ❖ Ready!API ❖ SoapUI NG ❖ LoadUI NG ❖ Secure Pro ❖ ServiceV ❖ TestServer ❖ SwaggerHub ❖ TestComplete ❖ TestLeft 	Not Available	M-F, 12:00am – 8:00pm EST excluding US National Holidays http://support.smartbear.com/ product-list/	Always Available: 7 x 24 x 365 http://support.smartbear.com/
SmartBear SaaS Products <ul style="list-style-type: none"> ❖ AlertSite ❖ QAComplete ❖ SwaggerHub 	Alertsite UXM only M-F, 8:00am – 8:00pm EST excluding US National Holidays All SaaS Products After Hours is available for emergency issues only for all SaaS products. <u>US:</u> 1-877-30ALERT (877-302-5378) <u>International:</u> 01-954- 312-0188	M-F, 12:00am – 8:00pm EST excluding US National Holidays http://support.smartbear.com/ product-list/	Always Available: 7 x 24 x 365 http://support.smartbear.com/

Product Support Definitions

Initial Response, Follow-Up and Escalation

The SmartBear Software Product Support organization has established service-level objectives regarding the timing of the Initial Response provided to our Customers when a new support case is received as well as for Follow Up communication regarding the status of open cases.

Initial Response

Initial Response is defined as the first communication from Product Support acknowledging receipt and review of a support request.

New tickets will be created either automatically by a web-form or manually by a Technical Support team member.

When a ticket is created automatically, the submitter will receive an automatic response which will include the ticket number which we use for tracking purposes. This is part of the initial response.

The initial response is completed when a Product Support team member acknowledges receipt of the ticket. This can be a follow-up from an automatic submission or initial entry of the ticket when submitted via phone or chat.

During the initial response, the support engineer may request additional information or may communicate that additional research is required. The support engineer may also escalate to a more skilled engineer if required.

The Initial Response may be provided in various forms including:

- Via a support ticket response from Product Support, which would include the assigned case number, status, and next steps
- If applicable via a customer's first telephone or chat contact with the Product Support organization during which the issue was discussed with a Support Representative.

Follow-Up Communications

SmartBear Software Product Support defines Follow-up as communication between the assigned Support Representative and the Customer. This may include a status update, additional information exchange and/or next steps. Communication may be in many forms such as the telephone, chat (if applicable), e-mail or directly updating the case information if it is available to the customer on-line.

Escalation

SmartBear Software Product Support defines Escalation as the protocol under which Product Support will escalate a case to higher skilled individuals in which their assistance is required to move a case forward. For example, when an issue needs additional help from development, the support representative will escalate to the development manager.

Priority Definitions

SmartBear will commit to initial response, follow-up and escalation times based on the severity of an issue. These severities are defined by product state or behavior so we can be as transparent as possible and set the proper expectations with you, our customer. The table below lists these severity definitions.

Priority Definitions Table

Product	Urgent/Sev 1	High	Standard
<u>SaaS</u> ❖ AlertSite ❖ QAComplete ❖ SwaggerHub	A significant number of customers are impacted by the service, product, or major feature being unavailable. No reasonable workaround is available.	Service Behaviors defined under urgent, but is impacting a moderate number of customers. • Is reproducible • A work around is available that is reasonable in the short-term, but not in the long-term.	Minimal operational impact • Cosmetic Issue • Efficiency Issue • Convenience Issue • Operational workaround available • Usage Clarification that does not impact work performance
<u>Enterprise</u> ❖ AQttime Pro ❖ Collaborator ❖ LoadComplete ❖ QAComplete ❖ Ready!API ❖ SoapUI NG ❖ LoadUI NG ❖ Secure Pro ❖ ServiceV ❖ TestServer ❖ TestComplete ❖ TestLeft			

Initial Response, Escalation and Follow-Up Goals

The following matrix describes our response time, escalation time and follow-up time for each product and priority area. When reporting a case (see product support procedures above) it is imperative that you, the customer, provide us with enough information so we can determine the proper severity. Incorrect severity assignment can lead to improper response on our part which could impact your ability to get the most out of our products.

If you feel an issue is of an urgent nature, please use the most expeditious reporting mechanism available to ensure proper response.

Please note, response times and escalation times only apply to phone, chat and web-form.

Response Time Table – Includes First Response, Follow-up and Escalation based on business hours (one day is defined as one business day).

	Urgent / Sev 1	High	Standard
SaaS Products <ul style="list-style-type: none"> ❖ AlertSite ❖ QAComplete ❖ SwaggerHub 	<ul style="list-style-type: none"> • First Response: 30 minutes • Follow-up: 1 hour or agreed upon time between customer and representative • Escalation: 2 hours 	<ul style="list-style-type: none"> • First Response: 4 hours • Follow-up: 8 hours or agreed upon time between customer and representative • Escalation: 2 days 	<ul style="list-style-type: none"> • First Response: 1 day • Follow-up: 2 days or agreed upon time between customer and representative • Escalation: 5 days
Enterprise Products <ul style="list-style-type: none"> ❖ AQtme Pro ❖ Collaborator ❖ LoadComplete ❖ QAComplete ❖ Ready!API ❖ SoapUI NG ❖ LoadUI NG ❖ Secure Pro ❖ ServiceV ❖ TestServer ❖ TestComplete ❖ TestLeft 	<ul style="list-style-type: none"> • First Response: 2 hours • Follow-up: 4 hours or agreed upon time between customer and representative • Escalation: 1 day 	<ul style="list-style-type: none"> • First Response: 1 day • Follow-up: 1 day or agreed upon time between customer and representative • Escalation: 2 days 	<ul style="list-style-type: none"> • First Response: 2 days • Follow-up: 2 days or agreed upon time between customer and representative • Escalation: 5 days

Update Policy

Product defects and enhancement requests are reviewed regularly by the SmartBear Software Product Management and Development organizations to assess whether the request represents an enhancement or defect and if it is assigned the appropriate priority. Product Management will determine, based upon the assigned priority, whether a patch will be made available for the current generally available release or whether an issue will be addressed in a future release through an update.

All defects and enhancements must be reported using the instructions provided in the Product Support Procedures at the beginning of this document.

Enhancements

An enhancement is any additional feature or function that would make the product easier to use, improves workflow or end-user experience, embeds new technology, or provides easier integration with other application or databases. An enhancement is not of an urgent nature, but is an improvement on the current product. Enhancements are therefore handled as a standard priority matter.

Defects

A software defect is a flaw in the product that is not working as designed or documented and impedes the workflow of a client.

Defect/Enhancement Priorities

Product Management determines the priority of defects. The defect priority drives when a fix will be available. Refer to the Severity Definitions for an explanation of each priority.

Urgent / Sev 1 Priority – SmartBear Software will work to provide a patch or work around that can be applied to the current generally available product release.

High Priority – SmartBear Software will consider a patch or work around for the current generally available product release or will work to provide the fix in a future maintenance release.

Standard Priority – SmartBear Software will consider a fix for a future major release based on market indicators.

EXHIBIT B SMARTBEAR PRIVACY POLICY

This Privacy Policy details certain policies implemented throughout SmartBear governing SmartBear's use of personally identifiable information about users of our Site and users of our services and/or software that is available for download on this Site.

SmartBear complies with the U.S.-EU Safe Harbor Framework and the U.S.-Swiss Safe Harbor Framework as set forth by the U.S. Department of Commerce regarding the collection, use, and retention of personally identifiable information from European Union member countries and Switzerland. To learn more about the Safe Harbor program, please visit <http://www.export.gov/safeharbor/>.

For purposes of this Privacy Policy, "personally identifiable information" shall mean any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity. The following applies solely to the extent that SmartBear collects personally identifiable information directly from individuals.

PRIVACY POLICY UPDATES

Due to the Internet's rapidly evolving nature, SmartBear may need to update this Privacy Policy from time to time. If we make changes to this policy, both parties shall, in writing, update this Exhibit B. Your continued use of this Site and/or continued provision of personally identifiable

information to us will be subject to the terms of the then-current Privacy Policy set forth in this Exhibit B.

INFORMATION COLLECTION AND USE

You can generally visit our Site without revealing any personally identifiable information about yourself. However, in certain sections of this Site, we may invite you to participate in surveys, questionnaires or contests, contact us with questions or comments or request information, participate in chat or message boards, or complete a profile or registration form. Furthermore, we require you to complete a registration form to access certain restricted areas of the Site, to use certain services and when you download any software. Due to the nature of some of these activities, we may collect personally identifiable information such as your name, e-mail address, address, phone number, password, screen name, credit card information and other contact information that you voluntarily transmit with your on-line and in-person communications to us and personally identifiable information that you elect to include in your chat and message board postings.

If you use a forum on this Web Site, you should be aware that any personally identifiable information you submit there can be read, collected, or used by other users of these forums, and could be used to send you unsolicited messages. We are not responsible for the personally identifiable information you choose to submit in these forums.

We receive permission to post testimonials that include personally identifiable information prior to posting.

To facilitate product support, product development and improvement, product marketing campaigns as well as other services to you, the SoapUI 5.1.2 Software and newer versions may transmit to SmartBear application usage data regarding usage metrics such as which features are used and in which order and time of use with respect to the SoapUI 5.1.2 Software. The SoapUI 5.1.2 Software does not transmit, collect nor communicate any proprietary application data. SmartBear will not provide any information gathered in connection with the use of the SoapUI 5.1.2 Software to any third party except (i) as may be required by law or legal process, or (ii) to enforce compliance with its terms of use. A User may disable the transmission of this information at any time through the software's settings menu.

ORDERS

If you purchase a product or service from us, we request certain personally identifiable information from you on our order form. You must provide contact information (such as name, email, and shipping address) and financial information (such as credit card number, expiration date).

We use this information for billing purposes and to fill your orders. If we have trouble processing an order, we will use this information to contact you.

We use your personally identifiable information to register you to use our services or download software or other content, contact you to deliver certain goods, services or information that you have requested, provide you with notices regarding goods or services you have purchased, provide you with notices regarding goods or services that you may want to purchase in the future, verify your authority to enter our Site, receive updates and improve the content and general administration of the Site, our software and our services.

In addition, we may collect information about the performance, security, software configuration and availability of our software on your servers and network in an automated fashion as part of the SmartBear software licensing. If you have opted-in to receiving software updates automatically from SmartBear, the software may report to us, and we may collect, your IP address, operating system type and version, web server type and version, php version, database type and version, version of the services, modifications to any of the Software or services, website user statistics such as the number of nodes, number of users and number of comments. The foregoing information will be linked to your personally identifiable information and user accounts and we may use the foregoing information to better provide technical support to you and our customers and to improve our software and services.

If you subscribe to one of SmartBear's software as a service offerings you agree that SmartBear may aggregate data and information relating to your usage of the service, which we may use to better provide technical support to you and our customers and to improve our software and services.

If you choose to contact us by e-mail, we will not disclose your contact information contained in the e-mail, but we may use your contact information to send you a response to your message. Notwithstanding the foregoing, we may publicly disclose the content and/or subject matter of your message, therefore, you should not send us any ideas, suggestions or content that you consider proprietary or confidential. All e-mail content (except your contact information) will be treated on a non-proprietary and non-confidential basis and may be used by us for any purpose.

COMMUNICATIONS FROM THE SITE SPECIAL OFFERS AND UPDATES

We will occasionally send you information on products, services, special deals, and promotions. Out of respect for your privacy, we present the option not to receive these types of communications. Please see the "Choice and Opt-out" section of this Privacy Policy.

NEWSLETTERS

If you wish to subscribe to our newsletter(s), we will use your name and email address to send the newsletter to you. Out of respect for your privacy, we provide you a way to unsubscribe from these types of communications. Please see the "Choice and Opt-out" section of this Privacy Policy.

SERVICE-RELATED ANNOUNCEMENTS

We will send you strictly service-related announcements on rare occasions when it is necessary to do so. For instance, if our service is temporarily suspended for maintenance, we might send you an email notification.

Generally, you may not opt-out of these communications, which are not promotional in nature. If you do not wish to receive them, you have the option to deactivate your account.

CUSTOMER SERVICE

Based upon the personally identifiable information you provide us, we may send you a welcoming email to verify your username and password. We will also communicate with you in response to your inquiries, to provide the services you request, and to manage your account. We will communicate with you by email or telephone, in accordance with your wishes.

CHOICE AND OPT-OUT

We provide you the opportunity to ‘opt-out’ of having your personally identifiable information used for certain purposes, when we ask for this information.

If you no longer wish to receive our communications, you may opt-out of receiving them at any time by following the instructions included in each communication, by going go to our **Unsubscribe** page, or by mail at 100 Cummings Center, Suite 234N, Beverly, MA 01915, USA.

You will be notified when your personal information is collected by any third party that is not our agent/service provider, so you can make an informed choice as to whether or not to share your information with that party.

EMPLOYMENT OPPORTUNITIES

We provide you with a means for submitting your resume or other personal information through the Site for consideration for employment opportunities at SmartBear. Personal information received through resume submissions will be kept confidential. We may contact you for additional information to supplement your resume, and we may use your personal information within SmartBear, or keep it on file for future use, as we make our hiring decisions.

CHILDREN'S PRIVACY

SmartBear recognizes the privacy interests of children and we encourage parents and guardians to take active roles in their child’s online activities and interests. This Site is not intended for children under the age of 13. SmartBear does not target its software, services or this Site to children under 13. SmartBear does not knowingly collect personally identifiable information from children under the age of 13.

COOKIES AND GIFS

We use small text files called cookies to improve overall Site experience. A cookie is a piece of data stored on the user's hard drive containing information about the user. Cookies generally do not permit us to personally identify you (except as provided below). We may also use clear GIFs (a.k.a. "Web beacons") in HTML-based emails sent to our users to track which emails are opened by recipients.

Additionally, when using the Site, we and any of our third party service providers may use cookies and other tracking mechanisms to track your user activity on the Site and identify the organization or entity from which you are using the Site. If you register with the Site, we, and our third party service providers, will be able to associate all of your user activity with your personally identifiable registration information. We will use such user activity information to improve the Site, to provide context for our sales and support staff when interacting with you and customers, to initiate automated email marketing campaigns triggered by your activity on the Site and for other internal business analysis.

AGGREGATE INFORMATION

The Site may track information that will be maintained, used and disclosed in aggregate form only and which will not contain your personally identifiable information, for example, without limitation, the total number of visitors to our Site, the number of visitors to each page of our Site, browser type, External Web Sites (defined below) linked to and IP addresses. We may analyze this data for trends and statistics in the aggregate, and we may use such aggregate information to administer the Site, track users' movement, and gather broad demographic information for aggregate use.

DISCLOSURE AND ONWARD TRANSFER

We will not sell your personally identifiable information to any company or organization, except we may transfer your personally identifiable information to a successor entity upon a merger, consolidation or other corporate reorganization in which SmartBear participates or to a purchaser or acquirer of all or substantially all of SmartBear's assets to which this Site relates. We may provide your personally identifiable information and the data generated by cookies and the aggregate information to parent, subsidiary or affiliate entities within SmartBear's corporate family, partner entities that are not within SmartBear's corporate family and vendors and service agencies that we may engage to assist us in providing our services to you. For example, we may provide your personally identifiable information to a credit card processing company to process your payment.

SmartBear will comply with the notice and choice principles as described above for all data which is disclosed or transferred to third party entities. SmartBear will obtain assurances from such entities that they will safeguard personally identifiable information consistent with this Privacy Policy. Such third party entities may be obligated to protect your personally identifiable information by requiring such party to enter into written confidentiality agreements with SmartBear or to have certified or agreed in writing to its adherence with the EU Safe Harbor Principles. We will disclose your personally identifiable information (a) if we are required to do so by law, regulation or other government authority or otherwise in cooperation with an ongoing

investigation of a governmental authority, (b) to enforce SmartBear Terms of Use agreement or to protect our rights or (c) to protect the safety of users of our Site and our services.

The Site may provide links to other Web sites or resources over which SmartBear does not have control ("External Web Sites"). Such links do not constitute an endorsement by SmartBear of those External Web Sites. You acknowledge that SmartBear is providing these links to you only as a convenience, and further agree that SmartBear is not responsible for the content of such External Web Sites. Your use of External Web Sites is subject to the terms of use and privacy policies located on the linked to External Web Sites.

SECURITY

We employ procedural and technological measures that are reasonably designed to help protect your personally identifiable information including sensitive data such as your credit card information from loss, unauthorized access, disclosure, alteration or destruction. SmartBear may use encryption, secure socket layer, firewall, password protection and other physical security measures to help prevent unauthorized access to your personally identifiable information including sensitive data. SmartBear may also place internal restrictions on who in the company may access data to help prevent unauthorized access to your personally identifiable information.

UPDATING AND DELETING PERSONALLY IDENTIFIABLE INFORMATION

SmartBear provides you with the ability to review and update the contact information that you provide to us and account information retained by SmartBear related to your previous purchase, download or payment activities. If you wish to review and/or update any of the foregoing information, you may access your account and review and update your personally identifiable information or you may contact us at the e-mail, phone or mailing address listed below.

SmartBear will also delete the personally identifiable information that you have provided to us: (a) upon your request or (b) upon termination of your SmartBear account; provided, however, SmartBear will retain a copy in its files of all personally identifiable information, if required for legal reasons.

If you wish to review, correct or request the deletion of any information you have provided to us, contact us by email at privacy@smartbear.com or by regular mail at 450 Artisan Way, Somerville, MA 02145, Attention: Legal. We also gives you the option for changing and modifying information previously provided by visiting www.smartbear.com, where you can log into your account to update your contact information.

ENFORCEMENT

Individuals who wish to file a complaint or who take issue with this Privacy Policy should direct such communication to SmartBear via e-mail at the address provided above. SmartBear will explain the process to be followed when filing a complaint. Filing a complaint in English will expedite the process. SmartBear will investigate and attempt to resolve complaints and disputes

regarding use and disclosure of personally identifiable information in accordance with the principles contained in this Privacy Policy.

SmartBear is also subject to the jurisdiction of the US Federal Trade Commission. You may contact it at: Federal Trade Commission, Attn: Consumer Response Center, 600 Pennsylvania Avenue NW, Washington, DC 20580.

QUESTIONS

If you have any questions about this Privacy Policy, the practices of this Web Site, or your dealings with this Web Site or SmartBear, you can contact us by email at **privacy@smartbear.com**. We will respond to your request within 30 days.

USERS OUTSIDE OF THE UNITED STATES OF AMERICA

Many of our computer systems are currently based in the United States, so your personal data will be processed by us in the U.S. where data protection and privacy regulations may not offer the same level of protection as in other parts of the world, such as the European Union. If you create a user account with our Web Site as a visitor from outside the United States, by using the Site, you agree to this Privacy Policy and you consent to the transfer of all such information to the United States, which may not offer an equivalent level of protection of that required in the European Union or certain other countries, and to the processing of that information as described in this Privacy Policy.

THIS PRIVACY POLICY IS EFFECTIVE AS OF: MARCH 11, 2015