

# SECUROLYTICS, INC.

## END USER SUBSCRIPTION AGREEMENT

This End User Subscription Agreement (the “Agreement”) governs the purchase, access, and use of Products by the Customer listed on an Order with Securolytics (hereinafter “Customer” or “You” or “Your”).

In order to use or receive the benefits of any Product, You must purchase the applicable Product through an Order with Securolytics. If Securolytics introduces new Products in the future, such Products will be governed by this Agreement, depending on their Product category (i.e. SaaS, Software, Hardware, etc.)

IF YOU HAVE ARRIVED AT THIS PAGE DURING THE PROCESS OF INSTALLING, DOWNLOADING, ACCESSING, OR DEPLOYING A PRODUCT, YOU ACKNOWLEDGE AND AGREE THAT BY PROCEEDING WITH THE INSTALLATION, DOWNLOAD, ACCESS, DEPLOYMENT, OR USE OF THE PRODUCT, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS IN THIS AGREEMENT. IF YOU DO NOT UNCONDITIONALLY AGREE TO THE FOREGOING, DISCONTINUE THE INSTALLATION, DOWNLOAD, ACCESS, DEPLOYMENT, OR USE. IF YOU PROCEED WITH INSTALLATION, DOWNLOAD, ACCESS, DEPLOYMENT, OR USE, YOU ARE REPRESENTING AND WARRANTING THAT YOU ARE AUTHORIZED TO BIND THE CUSTOMER.

This Agreement may be periodically updated and the current version will be posted at [www.securolytics.io/legal](http://www.securolytics.io/legal). Your continued use of the Products after a revised Agreement has been posted constitutes your acceptance of its terms.

WHEREAS, Customer has ordered Securolytics services (“**Services**”);

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Securolytics and Customer agree that this Agreement will govern the rights and obligations of Customer and Securolytics with respect to the Services as follows:

### 1. LICENSE GRANT; PROPRIETARY RIGHTS; RESTRICTIONS

- 1.1. License Grants. Subject to the terms and conditions set forth in this Agreement, Securolytics grants Customer a non-exclusive, non-transferable, non-sublicenseable right to access and use the Service for the purpose, time period, and number of purchased Seats. “**Seat**,” as used herein, means a license for a specific individual user that accesses the Internet in connection with the Services. Each Seat purchased by Customer may be used only by a single, individual named user, and a Seat may never be shared between or used by more than one individual. A Seat may only be transferred from one individual to another if the original individual is no longer permitted to access, and does no longer access, the Internet in connection with the Services.
- 1.2. Proprietary Rights. Customer acknowledges that in providing the Services, Securolytics utilizes (i) the product names associated with the Service and other trademarks; (ii) certain audio and visual information, documents, software and other works of authorship; and (iii) other technology, software, hardware, products, processes, algorithms, user interfaces, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information (collectively “**Securolytics Technology**”), and that the Securolytics Technology is covered by intellectual property rights owned or licensed by Securolytics (“**Securolytics IP Rights**”). Customer acknowledges and accepts that, as between the parties, all right, title and interest in and to the Service, and all Securolytics IP Rights associated therewith and therein, shall at all times remain vested in Securolytics and its licensors, and other than the right to use expressly granted in this Agreement, Customer shall acquire no other rights, express or implied, in the Services. Other than as expressly set forth in this Agreement, no license or other rights in the Securolytics IP Rights are granted to the Customer and all such rights are hereby expressly reserved by Securolytics.
- 1.3. Restrictions. Customer shall use the Service solely for its internal business purposes and shall only permit access to the Service by its employees, agents and contractors (“**Customer Personnel**”) as contemplated by this Agreement. Customer shall not, and shall not permit or encourage Customer Personnel to: (i) modify, copy or make derivative works based on the Securolytics Technology; (ii) disassemble, reverse engineer, or decompile any of the Securolytics Technology; or (iii) create Internet “links” to or from the Service, or “frame” or “mirror” any of Securolytics’ content which forms part of the Service (other than on Customers’ own internal intranets). Customer agrees to comply with Securolytics’ most current Acceptable Use Policy, if any (as published by Securolytics from time to time). Without limiting the restrictions set forth in any Acceptable Use Policy, Customer shall not use the Services to: (i) send SPAM or any other form of duplicative and unsolicited messages, other than marketing and promotional messages to Customer’s clients and prospective clients as contemplated by the Service; (ii) transmit through or post on the Service unlawful, immoral, libelous, tortious, infringing, or defamatory material; (iii) transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (v) attempt to gain unauthorized access to the Service, computer systems or networks related to the Service; or (vi) harass or interfere with another user’s use and enjoyment of the Service.

- 1.4. **Customer Data.** Customer grants to Securolytics a non-exclusive, non-sublicenseable license to use, reproduce, store, modify, distribute and display the content of all network traffic sent to or received from Customer through use of the Service (the "**Customer Data**"), solely to the extent necessary to provide the Service. In the normal provision of the Service, Securolytics will not access, read or copy Customer Data other than by electronic methods and for the purposes of providing the Services. However, Securolytics may utilize the malware, spam, botnets or other information related to the Service for the purpose of: (i) maintaining and improving the Services, (ii) complying with all legal or contractual requirements, (iii) making malicious or unwanted content anonymously available to its licensors for the purpose of further developing and enhancing the Services, and (iv) anonymously aggregating and statistically analyzing the content, and (v) other uses related to analysis of the Services. Securolytics shall have the unrestricted right to use or act upon any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer or any other party relating to the Service, to the extent it does not constitute Confidential Information of Customer.
- 1.5. **Customer Responsibilities.** Customer agrees to comply with all local, state, national and foreign laws and regulations applicable to its use of the Services. Customer is solely responsible for its activities in using the Services, including without limitation the activities of its employees, contractors and any third parties that Securolytics permits to access the Services on behalf of Customer. Customer will supply Securolytics with all technical data and all other information Securolytics may reasonably request from time to time to allow it to supply the Service to Customer.
- 1.6. **Excessive Bandwidth Consumption.** Securolytics incurs significant bandwidth cost in providing the Service to Customer. If Customer's bandwidth consumption materially increases from the beginning of its subscription over such subscription term (measured on a per-Seat basis), Customer agrees to work with Securolytics to agree on a bandwidth reduction plan, or to work with Securolytics to renegotiate pricing for the remaining balance of such subscription term. If Securolytics and Customer are not able to reach a mutually agreeable solution, Securolytics may terminate the remaining subscription term of the Customer without any liability to Customer, except that Securolytics shall refund to Customer a pro-rated amount of the service fees in connection with Customer's subscription for the unused portion (due to Securolytics' termination) of the Customer's subscription term.

## 2. CONFIDENTIALITY

- 2.1. **Confidential Information.** As used herein, "**Confidential Information**" means all information of a party ("**Disclosing Party**") which the Disclosing Party designates in writing as being confidential when it discloses such information to the other party ("**Receiving Party**"), including without limitation the terms and conditions of this Agreement, the Securolytics Technology, the Service, business and marketing plans, technology and technical information, product designs, and business processes (whether in tangible or intangible form, in written or in machine readable form, or disclosed orally or visually). Confidential Information shall not include any information that: (i) is or becomes generally known to the public without the Receiving Party's breach of any obligation owed to the Disclosing Party; (ii) was independently developed by the Receiving Party without the Receiving Party's breach of any obligation owed to the Disclosing Party; or (iii) is received from a third party who obtained such Confidential Information without any third party's breach of any obligation owed to the Disclosing Party.
- 2.2. **Non-Use and Non-Disclosure.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall either party exercise less than reasonable care in protecting such Confidential Information. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of this Agreement, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

## 3. TERM

- 3.1. **Term.** This Agreement will be effective as of the Effective Date and shall continue until the expiration or termination of all Seats granted in accordance with this Agreement. Securolytics may terminate the Agreement with written notice (i) if Customer breaches any terms and conditions of this Agreement and does not cure such breach within 30 days of receiving notice from Securolytics of such breach; or (ii) if Customer becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 3.2. **Survival.** The following provisions shall survive the termination or expiration of this Agreement for any reason and shall remain in effect after any such termination or expiration: 1.2, 2, 4.2, 4.3 and 6.

## 4. LIMITED WARRANTY; LIMITATION OF LIABILITY

- 4.1. **Limited Warranty.** Securolytics grants Customer the service level warranties set forth in Exhibit A attached hereto ("**Service Level Warranties**"), subject to the terms and conditions set forth therein. The remedies set out for each of the Service Level Warranties shall be Customer's sole and exclusive remedies, and Securolytics' sole and exclusive liability, in contract, tort or otherwise, for any breach of the Service Level Warranties. Notwithstanding anything set forth herein or in the Service Level Warranties, the maximum cumulative liability of Securolytics in any calendar month shall be no more than 100% of the monthly charge paid by Customer for the affected Services.
- 4.2. **Disclaimer of Warranties.** EXCEPT AS OTHERWISE PROVIDED HEREIN, ANY SERVICES PROVIDED BY SECUROLYTICS EITHER DIRECTLY OR INDIRECTLY ARE PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND TO CUSTOMER OR ANY THIRD PARTY INCLUDING, BUT NOT LIMITED TO, ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, EFFORT TO ACHIEVE PURPOSE, QUALITY, ACCURACY, NON-INFRINGEMENT, AND QUIET ENJOYMENT.

- 4.3. **Limitation of Liability.** EXCEPT FOR BREACHES OF CONFIDENTIAL INFORMATION, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OF THE SERVICE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE SERVICE CHARGES PAID BY CUSTOMER OVER THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY. EXCEPT FOR BREACHES OF CONFIDENTIAL INFORMATION, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- 4.4. **Indemnification.** Securolytics agrees to indemnify, defend, and hold harmless Customer and each of its respective officers, directors, partners, employees, agents, successors, or assigns, or any of them from all claims, suits, legal actions, assessments, deficiencies, and charges brought against the Customer, and for any costs, fees, liabilities, damages, losses, expenses, and associated attorney fees arising from Securolytics gross negligence or willful misconduct.

## 5. EXPORT CONTROL

- 5.1. **Export Control.** Securolytics provides services and uses software and technology that may be subject to the United States export control administered by the U.S. Department of Commerce, the United States Department of Treasury office of Foreign Assets Control, and other U.S. agencies and the export control regulations of Switzerland and the European Union. Customer acknowledges and agrees that the Services shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the U.S., Switzerland and/or the European Union 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. By using the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Customer agrees to comply with all U.S., Swiss and European Union export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required. The Service may use encryption technology that is subject to licensing requirements under the U.S. Export Admin. Regulations 15 D.F.R. parts 730-774 and Council Regulation (EC) No. 1334/2000. Securolytics makes no representations that the Service is appropriate or available for use in other location. If Customer uses the Service from outside the U.S., Switzerland and/or the European Union, Customer is solely responsible for compliance with all applicable laws, including without limitation export and import regulations of other countries.

## 6. GENERAL

- 6.1. **Notice.** All notices under this Agreement shall be in writing and shall be delivered to the addresses notified by the parties to each other by a means evidenced by a delivery receipt, by facsimile or by email. Notice shall be deemed to have been given upon: (i) personal delivery; (ii) the second business day after delivery receipt; (iii) 48 hours after sending by confirmed facsimile; or (iv) 48 hours after sending by email. Notices to Securolytics shall be addressed to its then current corporate headquarters to the attention of its CEO, with a copy to its General Counsel. Notwithstanding anything herein to the contrary, in the case of free trials, notification of termination may be provided through the Service or verbally (in addition to the other ways set forth in this Section); additionally, Securolytics may terminate a free account (e.g. evaluation) at any time in its sole discretion.
- 6.2. **Severability.** If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, the provision shall be changed by the court or by the arbitrator and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect, unless the modification or severance of any provision has a material adverse effect on a party, in which case such party may terminate this Agreement by notice to the other party.
- 6.3. **Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior express written consent of the other party. Notwithstanding the foregoing either party may assign this Agreement without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets which does not involve a direct competitor of the other party. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this Agreement shall be void and of no effect. This Agreement shall be governed exclusively by, and construed exclusively in accordance with, the laws of the United States and the State of Georgia, without regard to its conflict of law provisions.
- 6.4. **Force Majeure.** Securolytics shall have no liability for any breach of this Agreement, including without limitation breach of any Service Level Warranties, that is due in whole or in part to the inability to provide service to Customer as a result of (i) an event of Force Majeure; (ii) acts or omissions by Customer or its staff, officers, agents, or contractors that are in contravention of this Agreement (e.g. deliberate self-infliction, including deliberate downloading of viruses); or (iii) acts or omissions of any third parties. For purposes of this Agreement, "**Force Majeure**" shall mean any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism, acts of God, acts or omissions of internet traffic carriers (or other problems inherent in the use of the internet or electronic communications), acts or omissions of regulatory or governmental agencies, or other such causes beyond either party's reasonable control.
- 6.5. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties as to its subject matter, and supersedes all previous and contemporaneous agreements, proposals or representations, written or oral, concerning the subject matter of this Agreement. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment, or waiver is to be asserted.

## EXHIBIT A

### SERVICE LEVEL WARRANTY

#### 1. General.

6.6. In order for a particular Service Level Warranty to apply, Customer must subscribe to the service that provides such Service Level Warranty (e.g., email warranties only apply to customers that subscribe to email services). For any of the availability Service Level Warranties to apply, Customer's network must be properly configured on a 24 X 7 X 365 basis in a manner that allows Customer to take advantage of Securolytics' redundant global infrastructure that is made available as part of the Services.

#### 2. Network Availability.

6.7. Securolytics warrants that the Securolytics Network will be available to accept the Customer's outbound web requests 100% of the total hours during every month Customer uses the Services ("**Securolytics Availability Warranty**"). Failure to meet the Securolytics Availability Warranty results in:

Web Requests Processed & Delivered During a Month by Securolytics Network	Additional Month of Securolytics Services Provided at No Charge
< 100% but >= 99%	0%
<99% but >= 98%	10%
< 98% but >= 97%	25%
< 97% but >= 95%	50%
< 95%	100%

#### 7. Email Availability.

7.1. Securolytics warrants that the Securolytics Email Service will be available to accept the Customer's inbound and outbound email requests 100% of the total hours during every month (the "**Securolytics Email Availability Warranty**"). Failure to meet the Securolytics Email Availability Warranty results in:

Percent of Time Securolytics Email Service is Available to Process & Deliver Emails during a Month	Additional Month of Securolytics Services Provided at No Charge
< 100% but >= 99%	0%
<99% but >= 98%	10%
< 98% but >= 97%	25%
< 97% but >= 95%	50%
< 95%	100%