

## Gerber Purchase Agreement

### GENERAL

These terms and conditions, including all attachments, addenda, schedules and exhibits, documents at referenced URLs and the applicable Order Form, all of which are incorporated herein by this reference (collectively, this “Agreement”), govern your access to and use of the Services set forth herein.

By accepting this Agreement, by (1) executing an Order Form that references this Agreement, or (2) accessing or using the Services, you confirm your acceptance of this Agreement and your agreement to be a party to this binding contract.

You agree to this Agreement on behalf of the company or other legal entity for which you are acting (for example, as an employee or contractor) or, if there is no company or legal entity, on behalf of yourself as an individual (in either case, “you”). You represent and warrant that you have the right, authority and capacity to act on behalf of and bind such entity (if any) and yourself. If you do not have such authority, or do not agree with the terms of this Agreement, you must not accept this Agreement and may not access or use the Services.

Capitalized terms used but not otherwise defined elsewhere in this Agreement will have the meaning set forth in Section 18 below, or on the applicable Order Form.

This Agreement is effective between you and Gerber as of the date that you accept this Agreement.

### 1. PROVISION OF SERVICES

- 1.1. *Provision of Services.* Subject to the terms of this Agreement, Gerber will (a) make the Cloud Services available to you through the Gerber Platform and the Installed Software through download or key pursuant to this Agreement and the applicable Order Form, and you will use the Services, Platform and Content in accordance with this Agreement and applicable laws and regulations, (b) provide to you the Support Services at no additional charge, and/or upgraded support if purchased; and (c) if you have a Subscription to it, use commercially reasonable efforts to make the Cloud Services available 24 hours a day, 7 days a week, except for: (i) planned downtime; and (ii) any unavailability caused by circumstances beyond Gerber’s reasonable control. Gerber reserves the right, in its sole discretion, to make any changes to the Services or, as applicable, related documentation that it deems necessary or useful to (x) maintain or enhance the quality or delivery of the Services to its customers or performance, or (y) to comply with applicable laws and regulations.
- 1.2. *Infrastructure.* You acknowledge that, in order to provide the Cloud Services, Gerber will use data, networking and communication infrastructure and services that are not under Gerber’s control (collectively, “Infrastructure”). Gerber’s ability to provide the applicable Cloud Services will depend on the provision and availability of such Infrastructure.
- 1.3. *Free Trial.* If you register on Gerber’s website for a free trial or otherwise request a free trial through a Gerber service representative, Gerber will make the applicable Services available to you on a trial basis free of charge until the earlier of (a) the end of the free trial period as set out in the applicable Order Form or such other order for your free trial, or (b) the start date of any Service Subscription ordered by you for such Services, or (c) termination by Gerber in its sole discretion. The free trial terms as provided to you by Gerber at the time you request a free trial shall apply to your free trial and any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. Gerber makes no commitments with respect to free trial versions regarding any features, functions, service levels or data and provides no warranties of any kind with respect to free trial versions.
- 1.4. *Data Privacy.* Gerber will maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Personal Data, as described in the data processing agreement (“DPA”), the Data Privacy Policy, and the Data Security Standards. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by you or your Permitted Users). To the extent that Gerber processes any Personal Data (as defined in the DPA) that may be contained in the Customer Data or Customer Confidential Information within the European Economic Area (“EEA”) or the United Kingdom, or from within the EEA/United Kingdom to outside the EEA/United Kingdom, the parties agree to the terms of the DPA.

## 2. GRANT OF LICENSE AND ACCESS TO AND USE OF SERVICES

- 2.1** *Your Right to Use the Services.* Gerber hereby grants to you, a non-exclusive, non-transferrable, non-sublicensable right, subject to the terms of this Agreement, to use the Services solely for your internal use and for your own benefit only. Your right to access and use the Installed Software shall either be perpetual or for a Subscription Term, as set forth in the applicable Order Form. Your right to access and use the Cloud Services shall be for the Subscription Term set forth in the Order Form.
- 2.2** *Account.* Account registration may be required to subscribe to the Services. You are responsible for any person who obtains, accesses or uses the Services through your account (including Permitted Users). You will be responsible for: (a) your account, and (b) the accounts of your Permitted Users, if Permitted Users are required to register for individual accounts to the Services, including, but not limited to, the use of, the security, and all activity associated with your and each Permitted User's accounts. You will ensure that all your account information and each Permitted User's account information, as applicable, is, and continues to be, true and complete.
- 2.3** *Account Credentials.* Depending on the Services, you may need to register or otherwise enter Access Credentials to activate, access or use (or to continue accessing or using) the applicable Services. All Access Credentials issued in connection with this Agreement, whether as individual or multi-user as further described in Sections 2.4 and 2.5 below, respectively, are solely for your internal business use in accordance with this Agreement. You are solely responsible for any use or misuse of your Access Credentials. You must ensure that all such Access Credentials are kept confidential, and you must immediately notify Gerber of any actual or suspected security breach or unauthorized use of your Access Credentials, the Gerber Platform or the applicable Services account. Without limiting the foregoing: (a) you acknowledge and agree that all Permitted Users with Access Credentials issued hereunder will have the authority to act in your name and on your behalf in connection with the Gerber Platform and applicable Services; and (b) you hereby authorize any transactions and other acts initiated using Access Credentials. You will use reasonable efforts to secure any computing environment containing copies of the applicable Services and any Content contained therein in accordance with best practices in the industry, and will promptly notify Gerber of and remedy any security breach affecting such Services and/or Content of which you become aware. Access and use of all Services is contingent on (among other things) your timely payment of all applicable amounts, including taxes and other fees, which respect to the Services and compliance with this Agreement.
- 2.4** *Individual User.* Subject to Section 2.3, if your access to the applicable Services is described as "individual" in the applicable Order Form, then you may assign the Access Credentials for those Services to one Permitted User only, such Access Credentials are to be used only by that Permitted User (being an individual and not a group or associated with a generic login) to whom they are assigned, and may not be shared with other individuals. .
- 2.5** *Multi-User.* Subject to Section 2.3, if your access to the applicable Services is described as "multi-user" in the applicable Order Form, then you will be assigned a network license and provided with Access Credentials which may be used by one or more Permitted Users concurrently, provided that the number of concurrent Permitted Users may not exceed the maximum number of Permitted Users specified in the applicable Order Form.
- 2.6** *Access to the Services.* Depending on the Services, subject to the terms of this Agreement:
- 2.6.1** Gerber shall provide Cloud Services or Installed Software. For Installed Software, you will have access to the Installed Software and you may use the Installed Software in object code format and make and store one internal copy of the Installed Software solely for your internal backup and archival procedures and policies. For Cloud Services, your access will be to the Cloud Services hosted on a server owned or controlled by Gerber, and may be accessed remotely by you via an Internet connection, using the Gerber Platform for such Cloud Services as specified in the applicable Order Form.
- 2.6.2** The applicable Services are also subject to our Acceptable Use Policy, which may be amended from time to time by Gerber; provided that the Acceptable Use Policy and such amendments shall be commercially reasonable based on technical, regulatory and other product-related considerations. You shall, and you shall ensure that your employees and Permitted Users who access and use the Gerber Platform and applicable Services, comply with the Acceptable Use Policy.

- 2.6.3** Access to the applicable Services is dependent on the good operating conditions of your hardware and systems and your compliance with Gerber’s installation, serviceability, equipment configuration requirements, site environmental conditions and updates (as specified in the applicable Order Form) and any other instructions or documentation issued by Gerber to you in writing. You will allow Gerber full and unrestricted access to your systems and communication facilities, provided that Gerber shall comply with all reasonable and applicable security and safety procedures, as set out in the Data Security Standards, as Gerber may require to appropriately provide the Services. Gerber reserves the right to terminate or refuse access to the Services when, in Gerber’s reasonable opinion, conditions at the system location represent a hazard to the safety or health of any Gerber employee or any Gerber agent or authorized service personnel.
- 2.6.4** Gerber may from time to time issue corrections, patches or fixes to the applicable Services at no charge (each, a “Fix”). Upon issuance from Gerber for Installed Software, you shall promptly install any and all Fixes. Failure by you to install a Fix may void your rights under the warranties and indemnities set forth in this Agreement.
- 2.6.5** Gerber may from time to time issue updates and upgrades to the applicable Services (other than a Fix), constituting a new version of the applicable Services issued generally to its customers (each, a “New Version”). If you have entered into a separate Services Support Contract to receive Additional Services Support, you will be entitled to receive any New Version issued during the Additional Support Term. If you do not purchase Additional Services Support, then you will not be entitled to receive the New Versions, except that if Gerber issues a New Version within 90 days of the start of your initial Subscription to the applicable Services then Gerber will make only that New Version available to you. You may self-install a New Version or order installation services from Gerber, as detailed in the applicable Order Form. Gerber may replace a New Version at any time with another New Version and may require you to upgrade to such New Version.
- 2.6.6** Gerber may at any time: (a) discontinue or modify the benefits, features and functionality of any Services, whether generally or in a geographic area or language; and (b) add or modify license keys, authorizations and other means of controlling access to or use of the Services. Gerber will endeavor to inform you of any such significant changes.
- 2.6.7** The applicable Services are provided with standard Support Services; however you may purchase Additional Services Support. Orders for Additional Services Support will be detailed in a Services Support Contract. Except as otherwise agreed by the parties, Gerber will provide Additional Services Support for the Initial Additional Support Term. Thereafter, the Initial Additional Support Term will automatically renew for the Additional Support Renewal Term unless either party cancels by providing written notice of non-renewal at least 60 days’ prior to the renewal date. Notwithstanding anything to the contrary herein, Gerber may, upon notice to you, cease providing Additional Services Support for any Service Version on or after the 24 month anniversary of the initial release of a Service Version.
- 2.6.8** In the event that you require the relocation of any applicable Installed Software to a different installation address, you shall notify Gerber not less than 30 days prior to such relocation and the parties shall agree the re-installation at the new location and execute an Order Form to document the relocation services. Relocation services may be subject to additional support fees and modifications of response times as document in the applicable Order Form.
- 2.6.9** Any technical support of Software in connection with the Services provided by Gerber pursuant to this Agreement or an applicable Order Form shall be limited to Gerber making a good faith effort to furnish you with corrections or “work around” solutions and procedures in a time frame consistent with Gerber’s other commitments.
- 2.7** *Use Restrictions.* You will not make any of the Services or Gerber Platform available to anyone other than you or your Permitted Users, or use any of the Services or Gerber Platform for the benefit of anyone other than you or your Affiliates, unless expressly stated otherwise in this Agreement. In connection with the Services and Gerber Platform, you must not, and you must not permit any third-party to: (a) reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas or algorithms of any of the Services or any Software or the Gerber Platform (provided that reverse engineering is prohibited only to the extent such prohibition is not contrary to applicable law); (b) collect information about users of the Services or the Gerber Platform; (c) interfere with the operation of the

Services, any Software or the Gerber Platform; (d) frame, mirror, reproduce, modify, adapt, translate, create derivative works of, sell, rent, lease, loan, timeshare, sublicense, distribute or otherwise exploit any portion of the Services, any Software, the Gerber Platform or Content, except as expressly authorized herein; (e) use any robot, spider or other device to retrieve, index, “scrape” or “data mine” any Content, or otherwise access or download any Content other than through the functionality of the Services or Gerber Platform; or (f) publicly disseminate information or analysis regarding the performance of the Services or Gerber Platform. In addition, you will not, and you will not permit your Permitted Users to: (i) remove any copyright, trademark, confidentiality or other proprietary rights notice from any of the Services, any Software, the Gerber Platform, Content or related material; or (ii) remove, disable or otherwise limit effectiveness of any technical protection used by Gerber to manage, monitor, control or analyse the installation of, access to, or use of any of the Services, any Software, Gerber Platform or protect Gerber’s Intellectual Property Rights.

**2.8** *General Responsibilities.* Depending on the Service, you and your Permitted Users are solely responsible for obtaining and maintaining your/their Internet access to the applicable Services and Gerber Platform. You must comply, and you will ensure that your Permitted Users comply, with the provisions under this Agreement any and all applicable laws and regulations in connection with you and your Permitted Users’ access to and use of the Services and the Gerber Platform. You are responsible for acts and omissions of your Permitted Users relating to this Agreement as though they were your own. Except as otherwise provided herein, you are solely responsible for your hardware and Gerber shall have no responsibility for the supply, operation and/or maintenance of your hardware or operating systems. You will use reasonable security precautions in connection with your use of the applicable Services, including preventing unauthorized access to the Services and Gerber Platform and taking all commercially reasonable actions and precautions to prevent the introduction and proliferation of Malicious Code into the applicable Services or the Gerber Platform. You will notify Gerber immediately upon becoming aware of any malfunction of any Services or failure of any Services.

**2.9** *Use of third-party Material and Services.* You acknowledge and agree that Gerber may provide you with content, designs, models, data, applications or other software, services or similar material of a third-party (collectively, “Third-Party Services”) in connection with the Services. Any such Third-Party Services may be governed by different terms found in such Third-Party Services (“Third-Party Terms”). If there are no Third-Party Terms, your use must be: (a) limited to the same terms as the Services for which you received the Third-Party Services; and (b) solely in connection with your use of such Services. You take sole responsibility for determining, obtaining and complying with all Third-Party Terms. Gerber will have no responsibility for, and makes no representations and warranties regarding: (i) any Third-Party Services or your use of such Third-Party Services; and (ii) the Third-Party Terms or your compliance with such Third-Party Terms.

**2.10** *Suspension for Imminent Threat.* Gerber has the right to take appropriate action to address risks to the Services, the Gerber Platform or Customer Data. Without limiting the foregoing, in the event of a severe or imminent threat to the Services, the Gerber Platform, or Customer Data, Gerber may immediately suspend your access to or use of any portion or all of the applicable Services if: (a) Gerber reasonably believes that the applicable Services are being used in violation of this Agreement or applicable law and regulation; (b) in the determination of Gerber, your use of the applicable Services interferes with the normal operations of the applicable Services or Gerber Platform or other customers, or creates any threat to the security of applicable Services, the Gerber Platform, or the content and data of any other customer; (c) Gerber becomes aware of what it, in its sole discretion, deems a credible claim that the applicable Services infringe upon the Intellectual Property Rights of a third-party; or (d) required to do so by applicable law or regulation. In each case, Gerber will give you advance notice of pending suspension of the applicable Services under this Section of at least fifteen minutes, unless Gerber determines, in Gerber’s reasonable commercial judgment, that a suspension on no or shorter notice is necessary to protect Gerber, its customers, or others. Gerber will not be liable for any claims or damages of any kind arising out of a suspension of the applicable Services under this Section. Gerber may maintain a suspension of the applicable Services for as long as reasonably necessary to address severe, imminent risks to the applicable Services, the Gerber Platform or Customer Data. Gerber will not irretrievably erase Customer Data in the event of a suspension of the applicable Services. Gerber’s right to suspend the applicable Services is in addition to Gerber’s right to terminate this Agreement pursuant to Section 8 below.

**2.11** *Services Purchased Through Resellers.* You may purchase Services through Resellers that are governed by this Agreement. Orders for Services purchased through a Reseller, including multiyear Subscriptions, are not

subject to cancellation by you. Where you purchase Services through a Reseller, the Reseller will enter into an Order Form with Gerber for the purchase of Services that shows you as the “ship to” party and Reseller as the “bill to” party, and Reseller and you will enter into a separate agreement setting forth the fees to be paid by you to Reseller for such Services, as well as any other terms or conditions that apply between you and such Reseller. Gerber hereby agrees that, subject to receiving payment from the Reseller, it shall be responsible to you, pursuant to the terms and conditions of this Agreement, for providing the Services under any such Order Form. You hereby acknowledge that Gerber will not be responsible for the obligations of any Reseller to you under such separate agreement, for the acts or omissions of Reseller, or for any third-party products or services furnished to you by any Reseller. For the avoidance of doubt, Sections 7.1 and 7.2 below will be of no effect where you purchase Services through a Reseller, as payment and taxes will be addressed in the agreement between Reseller and you. Section 15, regarding Export Control, shall remain in effect for purchases of Services through a Reseller.

### **3. CUSTOMER DATA**

- 3.1.** *Your Customer Data.* In order for you to access or use certain Services, or for Gerber to provide you with certain Services, you may wish to upload or otherwise share Customer Data within the Services or the Gerber Platform. You are solely responsible for the accuracy, quality and integrity of the Customer Data that you or your Permitted Users input into the Services and/or Gerber Platform.
- 3.2.** *Installed Software.* You shall: (a) maintain all back-up data necessary to replace critical Customer Data or third-party data in the event of loss or damage to such data from any cause; and (b) allow Gerber full and unrestricted access to all systems and communication facilities, provided that Gerber shall comply with all reasonable and generally applicable security and safety procedures of which you have provided notice to Gerber. Without limiting the generality of the foregoing, upon the reasonable request of Gerber, you shall provide Gerber with access to all sites at which any Installed Software is, or is to be, installed. You acknowledge and agree that many or all of the Installed Software do or may require access by Gerber to your computers, network, telecommunications, and computing resources.
- 3.3.** *Cloud Services.* Gerber will host the Customer Data submitted by you to the Gerber Platform as necessary for your access and use of the Cloud Services.
- 3.4.** *License by you.* You hereby grant to Gerber a non-exclusive, non-transferable (except in accordance with Section 17.3 – Assignment), royalty-free license, without right to sub-license (except to its sub-processors, as required for the provision of the Services), to use the Customer Data, solely as necessary to perform the Services and as otherwise may be agreed in writing by you. You reserve all other rights not expressly granted in this Agreement. In addition to the license rights in this Section 4.4, Gerber may aggregate your usage data and metadata so that the results are non-personally identifiable with respect to you (“Aggregated Anonymous Data”). You acknowledge that Gerber may use the Aggregated Anonymous Data: (a) for its own internal, statistical analysis; and (b) to develop and improve the Services. Aggregated Anonymous Data shall be owed by Gerber.
- 3.5.** *Internet Risks – Cloud Services.* You acknowledge that there are risks inherent in maintaining the Customer Data in a remote server and software network (“cloud-based”) environment, including without limitation the risk of hacking or other unauthorized third-party access to the Customer Data, and Gerber is not responsible to you for any unauthorized access to Customer Data or the unauthorized use of the Services or Gerber Platform.

- 4. AUDIT.** During the term of this Agreement and for a period of 2 years after termination or expiration, Gerber may, upon reasonable notice to you, audit your books and records to determine your compliance with this Agreement. In the event any such audit reveals that you have underpaid Gerber by an amount greater than 5% of the amounts due to Gerber in the period being audited, or that you have knowingly breached any material obligation hereunder, then, in addition to such other remedies as Gerber may have, you shall: (a) promptly (in any event not later than 14 days after date of notice from Gerber) pay to Gerber all underpaid amounts; and (b) pay or reimburse Gerber the cost of the audit.

- 5. INTELLECTUAL PROPERTY.** Subject to the limited rights expressly granted hereunder, as between Gerber and you, all Intellectual Property Rights in the trademarks, services marks, trade names or services names of Gerber (“Gerber Marks”), the Services, the Gerber Platform, any Software (including interfaces), Content and any databases,

technologies, data (excluding Customer Data) and all copies, modifications and derivative works thereof (collectively, the "Gerber Materials") will remain the sole property of Gerber and its Affiliates or licensors and Gerber, its Affiliates and its licensors reserve their right, title and interests in and to the Gerber Marks, the Gerber Platform, Services, Software, Content and Gerber Materials. No rights are granted to you hereunder other than as expressly set forth herein. Subject to the foregoing, as between you and Gerber, all Intellectual Property Rights in the Customer Data will remain your sole property.

6. **MARKS.** Except as specifically authorized herein or with applicable prior written consent, you will not use the Gerber Marks or make any statement (whether oral or in writing), in any external advertising, marketing or promotional materials, regarding Gerber or the Services. Absent your prior written consent, Gerber will not use your trademarks, services marks, trade names or services names or make any statement (whether oral or in writing), in any external advertising, marketing or promotional materials, regarding your use of the Services. Any goodwill generated through your use of any Gerber Marks will inure solely to the owner of such Gerber Marks.

7. **FEES AND PAYMENT**

7.1. *Fees.* You will pay all Fees specified in the applicable Order Form. Except as otherwise specified herein or in an Order Form: (a) payment obligations are non-cancellable and Fees are non-refundable; and (b) quantities purchased cannot be decreased during the relevant Subscription Term.

7.2. *Invoicing and Payment.* Unless otherwise set forth in the applicable Order Form, Fees for Services shall be invoiced annually in advance and you shall pay any Fees within 30 days of the date of the applicable invoice, without set-off, counterclaim or deduction. Any recurring Fees will accrue from the first day of the month following the date that the relevant portion of the Services is made available by Gerber, until the end of the month in which any expiration or termination of such Services (or relevant portion thereof) takes effect. In the event you fail to pay any Fees when due and such Fees remain unpaid for a period of 10 days following notice from Gerber, Gerber reserves the right to suspend provision of the Services to you until such time as full payment has been received. Gerber may apply a late fee of 1.5% per month or the highest lawful interest rate (whichever is the lower) to all amounts not paid to Gerber when due.

7.3. *Taxes.* All Fees are exclusive of taxes and duties (including withholding taxes, value added tax or other taxes, but excluding income taxes imposed on Gerber). You will also pay any applicable tax and duties in connection with your use of the Services. You will provide to Gerber written evidence of any withholding tax paid by you. If you are obligated to withhold or deduct any portion of the Fees, then you will pay Gerber such amounts as will ensure that the net receipt, after tax and duties, by Gerber in respect of the Fees is the same as it would have been if such payment was not subject to the tax and duties.

7.4. *Additional Fees.* Fees for additional or other professional services will be charged and invoiced based on Gerber's standard service, time and materials rates. Current service, time and materials rates are available upon request.

7.5. *Changes to Fees.* Fees shall be increased each year during the Subscription Term by a percentage equal to the percentage increase, if any, in the inflation rate determined solely by Gerber, which determination will be based upon the currency in which Customer is invoiced (in each case, the "Index") for the most recent twelve (12) month period ending prior to the date of the increase, as compared to the preceding twelve (12) month period. In case of percentage decrease or flat percentage in the Index in any given year, the Fees to be paid by the Customer in the subsequent year will be the same as for the preceding year. Customers in the educational sector shall pay Fees for support only, and such Fees are subject to change upon commencement of each Subscription Term.

8. **TERM AND TERMINATION**

8.1. *Term of Agreement.* This Agreement commences on the date you first accept it and continues until all Services hereunder have expired or have terminated.

8.2. *Term of Subscription.* For Subscriptions, the Subscription Term of each Subscription shall be as specified in the applicable Order Form. Except as otherwise specified in the Order Form, Subscriptions will automatically renew for additional periods equal to the expiring Subscription Term or one year (whichever is the shorter), unless either party gives the other written notice (email acceptable) at least 60 days before the end of the then-current Subscription Term.

8.3. *Termination.* Either party may terminate this Agreement, immediately upon written notice, if the other party: (a) materially breaches this Agreement and the breach (i) remains uncured 30 days after the date the

breaching party receives written notice from the other party describing the breach and requiring it to be cured or (i) is incapable of being cured; or (b) if the other party becomes subject of petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**8.4.** *Discontinuance of Services.* Gerber may at any time discontinue: (a) any of the Services (or version thereof), including discontinuing any of the Services (or version thereof) as a Subscription offering; or (b) the provision of Additional Services Support for any applicable Services (or version thereof), and terminate any applicable Order Form and Services Support Contract, as applicable, if it has generally ceased to provide such Services or Additional Services Support to customers. In such event, Gerber shall use commercially reasonable efforts to: (i) provide to you at least 60 days prior written notice; and (ii) make available to you substitute services for the duration of the existing Subscription Term.

**8.5.** *Effects of Termination.*

8.5.1. Upon the expiration or termination of this Agreement or the Cloud Services, you will immediately cease accessing and using such Cloud Services, Gerber may immediately deactivate or delete your Access Credentials and all associated materials, without any obligation to provide any further access to the foregoing and, in the case of Installed Software for which you do not have a perpetual license, you will uninstall such Installed Software from your hardware, or, upon our direction, return or delete (with certification to Gerber of such deletion) the Installed Software including all copies in your possession or control. If you have a perpetual license to Installed Software and we terminate this Agreement in accordance with Section 8.3(a) (termination for breach), you will uninstall such Installed Software from your hardware, or, upon our direction return or delete (with certification to Gerber of such deletion) the Installed Software including all copies in your possession or control.

8.5.2. If you terminate this Agreement in accordance with Section 8.3(a) (termination for breach), as determined by a court of competent jurisdiction in a final judgement that Gerber materially breached this Agreement, Gerber will provide a pro-rata refund to you of any prepaid Fees for the remainder of the prepaid term as of the date of termination. If you terminate or cancel any of the Services other than as permitted by this Agreement, or if Gerber terminates this Agreement as a result of your breach, you will pay all Fees that would have been payable through the date that the applicable Services could have been cancelled by you in accordance with this Agreement. In no event will the termination of this Agreement relieve you of your obligation to pay any Fees payable to Gerber for the period prior to the effective date of termination.

8.5.3. With respect to Cloud Services: In connection with the expiration or termination of this Agreement, unless otherwise specified in the applicable Order Form, upon notice to Gerber, such notice to be provided within 90 days following expiration or termination of this Agreement, you may elect to either: (a) request that Gerber make Customer Data (if any) available for export, at no additional charge, and provide images of the file format(s) associated with the applicable supported image type(s) as determined by Gerber and all other Customer Data in CSV file format; or (b) agree with Gerber to provide to you additional or other professional services, at Gerber's applicable hourly rates, to export the Customer Data into other file formats. In no event will Gerber have any obligation to store or deliver the Customer Data to you other than as specified above nor shall Gerber be required to maintain the Customer Data in its systems for more than 180 days after the expiration or termination of this Agreement ("Storage Period"). Following the Storage Period, or earlier if requested by you in writing, Gerber will delete any and all live Customer Data in its systems or otherwise in its possession or control unless applicable law requires retention. Customer Data contained in backup media may be retained until such backup media is automatically destroyed.

8.5.4. With respect to Installed Software, you are responsible for retaining and securing complete copies of original Customer Data at all times.

8.5.5. Upon expiration or termination of this Agreement, Confidential Information of the Disclosing Party will be returned or destroyed as required by this Agreement.

**8.6.** *Survival.* Sections 3 (Customer Data), 4 (Audit), 5 (Intellectual Property), 7 (Fees and Payment), 8.5 (Effects of Termination), 8.6 (Survival), 9 (Confidential Information), 11 (Disclaimer), 12 (Indemnity), 13 (Limitation of Liability), 14 (Feedback), 15 (Export Control), 17 (Miscellaneous), and 18 (Definitions) will survive any expiration or termination of this Agreement.

## 9. CONFIDENTIAL INFORMATION

- 9.1.** *Definition of Confidential Information.* “Confidential Information” means information in any form (including written or oral form) of a business, financial, or technical nature that is or should reasonably be known to be confidential, and that is disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”). Your Confidential Information includes Customer Data and Confidential Information of Gerber includes the Services, Content, and this Agreement. Confidential Information of each party includes business and marketing plans, technology and technology information, product plans and designs, and business processes disclosed by each party. However, Confidential Information does not include any information that: (a) is or becomes (through no act or omission of the Receiving Party) generally available to the public; (b) becomes known to the Receiving Party or any of its Affiliates on a non-confidential basis through a third-party who is not subject to an obligation of confidentiality with respect to that information; (c) was lawfully in the possession of the Receiving Party or any of its Affiliates prior to such disclosure; (d) is independently developed by the Receiving Party or any of its Affiliates; or (e) the Disclosing Party agrees in writing is not confidential or may be disclosed, solely to the extent of that consent.
- 9.2.** *Non-Disclosure.* The Receiving Party will hold the Disclosing Party’s Confidential Information in confidence and will not disclose any part of it to any third-party except to its Affiliates, consultants and third-party contractors (including financial advisors, accountants and attorneys) (collectively, “Representatives”) who are acting on behalf of the Receiving Party and are bound by non-disclosure commitments substantially similar to those contained in this Agreement, or are otherwise protected by legal privilege. If a Receiving Party is legally compelled to disclose the Disclosing Party’s Confidential Information, the Receiving Party shall: (a) provide prompt notice (if legally permissible) to the Disclosing Party so that the Disclosing Party can seek a protective order or other appropriate remedy; and (b) limit any such disclosure to the extent of the legal requirement. Any such disclosed information will remain Confidential Information despite such disclosure, notwithstanding Section 9.1 (a)–(b) above.
- 9.3.** *Deletion or Return of Confidential Information.* Upon the Disclosing Party’s request at any time, the Receiving Party will promptly return, delete or destroy the Disclosing Party’s Confidential Information, except for copies of such Confidential Information as required to be retained by law or regulation or to support the enforcement or defense of a party’s rights under this Agreement.

## 10. REPRESENTATIONS AND WARRANTIES

- 10.1.** *Representations.* Each party represents that it has validly entered into this Agreement and has the legal power to do so.
- 10.2.** *Gerber Warranties.* Gerber warrants that it will provide the Services in a professional and workmanlike manner, in accordance with applicable industry standards. In the event of any breach of the foregoing, you shall be entitled to request a re-performance of the applicable Services. The foregoing shall be your sole and exclusive remedy for breach of this warranty. Any warranty provided pursuant to this Agreement or applicable Order Form is expressly conditioned upon and may be voided by Gerber in the event you (a) fail to maintain proper environment for operation of the Services in accordance with Gerber’s recommendations; (b) fail to install any Fix or New Version issued by Gerber to you; (c) perform any modification to the Services not authorized by Gerber in writing; (d) install the Installed Software in a manner not substantially in compliance with Gerber’s written specifications; (e) connect to the Services any other device not approved, in advance, by Gerber; (f) use the Services in breach of this Agreement; or (f) use with the Services any computer software which Gerber reasonably determines interferes with the efficient operation of the Services.

- 11.** **DISCLAIMER.** Except as expressly provided herein, all warranties, conditions and other terms implied by statute or common law, including warranties or other terms as to suitability, merchantability, satisfactory quality, fitness for a particular purpose and non-infringement, are excluded to the maximum extent permitted by applicable law. The Services (including any Content available therein) are provided “as is” and as available exclusive of any warranties of any kind. Gerber does not represent or warrant that the Services or Content will be free of any inaccuracies, interruptions, delays, omissions or errors, or completely secure (“Faults”), or that any Faults will be corrected. Gerber will have no liability to you for any losses relating to or arising from: (a) any Faults; (b) any Infrastructure or third-party



equipment, software, facilities, services, information or materials not furnished by Gerber; (c) the acts, omissions and workmanship of your employees, contractors, agents or suppliers; (d) the improper or negligent use or operation of the Services; or (e) Installed Software or equipment altered or repaired by personnel other than those in the employ of Gerber or authorized in writing by Gerber to repair the Installed Software or equipment. Gerber will not be liable for damages of any kind or nature resulting from Installed Software or equipment which have been modified where such modifications have been performed by a party other than Gerber or made by Gerber at your direction.

## **12. INDEMNITY**

- 12.1. *Indemnification by Gerber.*** Gerber will defend, indemnify and hold you harmless against all liabilities, damages, judgments, awards, losses, costs, expenses and fees (including reasonable attorneys' fees) ("Losses") arising out of any third-party claim alleging that your use of the Services as permitted under this Agreement infringes or violates such third-party's Intellectual Property Rights. This Section 12.1 will not apply to any claim that arises from: (a) any use of the Services not permitted under this Agreement; (b) the combination or modification of the Services with other products, equipment, software, services or data not supplied by Gerber where the infringement would not have occurred but for such combination or modification; or (c) any Customer Data.
- 12.2. *Gerber Mitigation Rights.*** If Gerber receives information about an infringement or misappropriation claim related to the Services Gerber may, either: (a) procure for you the right to continue using the Services, as applicable; (b) replace or modify the Services, as applicable, in a functionally equivalent manner so that they no longer infringe. If neither sections (a) nor (b) could be achieved then Gerber may terminate the applicable Order Form or your rights to use the affected Service, and refund to you a pro-rata amount of any Fees prepaid to Gerber and applicable to the unutilized portion of the Subscription Term for the terminated Service.
- 12.3. *Indemnification by you.*** You will defend, indemnify and hold Gerber and its Affiliates harmless against all Losses arising out of any third-party claim: (a) alleging that any Customer Data or you use of Customer Data with the Services infringes or violates such third-party's Intellectual Property Rights; or (b) arising from your use of the Services in an unlawful manner or in violation of this Agreement.
- 12.4. *Procedure.*** The indemnification obligations under this Section 12 are conditioned on the indemnified party: (a) providing the indemnifying party with prompt notice of the details of the claim (except that any delay in providing such notice will not relieve the indemnifying party of its obligations to the extent the indemnifying party is not materially prejudiced by such delay) and, if the indemnifying party requests it, control of the claim; (b) cooperating, at the indemnifying party's expense, in the defense of the claim; and (c) not making any admission or taking steps to settle the claim without the indemnifying party's prior written approval. The indemnified party may participate, at its expense, in the defense of the claim through legal counsel of its choice.

## **13. LIMITATION OF LIABILITY**

- 13.1. *Limitation of Liability.*** Subject to Section 13.3 below, in no event shall the aggregate liability of each party together with all of its Affiliates arising out of or related to this Agreement exceed the total amount paid by you hereunder for the Services giving rise to the liability in the 12 months immediately preceding the first incident out of which the liability arose. The foregoing limitation will apply whether an action is in contract or tort and regardless of the theory of liability.
- 13.2. *Exclusion of Certain Claims.*** Subject to Section 13.3 below, in no event will either party be liable to the other party or to any third-party for any consequential, indirect, special, incidental, punitive or exemplary damages, whether foreseeable or unforeseeable, even if such party has been advised of the possibility of such damages, arising out of: (a) the performance or non-performance of this Agreement or any related agreement, or any software, products or services provided hereunder; or (b) any claim, cause of action, breach of contract or any express or implied warranty, under this Agreement, any related agreement or otherwise, misrepresentation, negligence, strict liability, or other tort. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA, DATA BREACH OR OTHER ECONOMIC ADVANTAGE, WHETHER OR NOT THE LOSS IS THE RESULT OF MALFUNCTION OF THE SERVICES, AND WHETHER OR NOT GERBER HAS BEEN ADVISED OF THAT POSSIBILITY. GERBER WILL HAVE NO LIABILITY TO CUSTOMER RELATING TO INFRASTRUCTURE OR ARISING FROM OR RELATED TO ANY OTHER THIRD-PARTY EQUIPMENT, SOFTWARE, FACILITIES, SERVICES, INFORMATION OR MATERIALS NOT FURNISHED BY GERBER (INCLUDING ADD-ONS). GERBER WILL NOT BE LIABLE FOR

THE ACTS, OMISSIONS AND WORKMANSHIP OF THE EMPLOYEES, CONTRACTORS, AGENTS OR SUPPLIERS OF CUSTOMER. GERBER WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND OR NATURE RESULTING FROM SOFTWARE OR EQUIPMENT WHICH HAVE BEEN MODIFIED WHERE SUCH MODIFICATIONS HAVE BEEN PERFORMED BY A PARTY OTHER THAN GERBER OR MADE BY GERBER AT THE DIRECTION OF CUSTOMER, FROM IMPROPER OR NEGLIGENT USE OR OPERATION OF SERVICES FROM SOFTWARE ALTERED OR REPAIRED BY PERSONNEL OTHER THAN THOSE IN THE EMPLOY OF GERBER OR AUTHORIZED IN WRITING BY GERBER TO REPAIR THE SOFTWARE

**13.3.** *Exceptions.* Sections 13.1 and 13.2 do not apply to either party's: (a) willful misconduct or gross negligence; (b) infringement or misappropriation of any of the other's Intellectual Property Rights; (c) indemnification obligations; (d) breach of confidentiality; (e) your obligation to pay Fees when due and payable under this Agreement; or (f) liability or loss which may not be limited by applicable law.

**13.4.** *Free Trial.* With respect to any free trial, Gerber's aggregate liability will in no event exceed one hundred US dollars, regardless of any theory of liability, and notwithstanding any provision of this Agreement to the contrary.

**14. FEEDBACK.** Gerber may collect and use information related to your use of the Services and the Gerber Platform to test, develop, improve and enhance its products and services, as long as such information is not identifiable to you or any individual Permitted User. If you provide Gerber with any feedback on the Services and/or the Gerber Platform, you hereby grant to Gerber and its Affiliates a non-exclusive, transferable, irrevocable, worldwide, royalty-free right (with rights to sublicense) to use the feedback to develop its services and products, including the Services, to create and own derivative works based on the feedback, and otherwise exploit the feedback and any products or services using the feedback.

**15. EXPORT CONTROL.**

**15.1.** *Acknowledgements.* You understand and acknowledge that the Services are subject to U.S. export control laws and regulations, including, without limitation, the Export Administration Regulations, 15 C.F.R. 730-774. You further acknowledge and understand that U.S. law prohibits the sale, transfer, export, and re-export of the Services to, or participation in any export transaction involving the Services with, individuals or companies identified on any list of proscribed parties maintained by the U.S. Government, or any other applicable jurisdiction, including Canada, the United Kingdom, and the European Union and its Member States.

**15.2.** *Prohibited Uses and Activities.* You will not obtain, retain, use, transfer, or otherwise provide access to the Services to any Affiliate or third-party in a manner that may breach any applicable export control or economic sanctions laws and regulations of any jurisdiction, including the United States, Canada, the United Kingdom, and the European Union and its Members States. You shall not sell, export, re-export, or otherwise transfer or provide, directly or indirectly, the Services to a Proscribed Party or Sanctioned Recipient, even if such party or recipient would otherwise be a Permitted User.

**15.3.** *Warranties.* You warrant that neither you nor any Permitted User or Affiliate to which you provide access to the Services is or is affiliated with a Proscribed Party or Sanctioned Recipient, and that, in any transaction related to Gerber, you will not involve Proscribed Parties or Sanctioned Recipients, including through the use of bank accounts that are held by sanctioned parties.

**15.4.** *Right to Prohibit Transactions.* You acknowledge and agree that Gerber may prohibit the sale and/or issuance of the Services to individuals and entities if it determines, in its discretion, that such transactions would jeopardize Gerber's compliance with U.S. laws and regulations.

**16. SUBCONTRACTORS.** Gerber may use the services of subcontractors for performance of Services under this Agreement, provided that Gerber remains responsible for: (a) compliance of any such subcontractor with the terms of this Agreement; and (b) the overall performance of the Services as required under this Agreement. Gerber shall not enter into any contract, oral or written, with any person, firm or corporation relating to the performance of any additional or other professional services or the supplying of materials or equipment to your premises without your prior written consent.

**17. MISCELLANEOUS**

**17.1.** *Notices.* All notices under this Agreement must be in writing and sent by e-mail (except for notices of breach of this Agreement, which may not be sent by e-mail) or by registered mail, courier or fax, or delivered in

- person, in each case to the party representative and address set out in the latest Order Form (or such other more recent address notified by one party to the other party); provided that Gerber may give technical and operational notices via your online account or the Gerber Platform.
- 17.2.** *Relationship of the parties.* The parties are independent contractors. Neither party is an employee, agent, co-venturer or legal representative of the other party for any purpose. Each party shall be solely responsible for the supervision, direction, control and payment of its personnel, including, without limitation, for taxes, deductions and withholdings, compensation and benefits.
- 17.3.** *Assignment.* You may not assign or otherwise transfer this Agreement or any rights or obligations hereunder without the prior written consent of Gerber. Any other attempted assignment or transfer by you will be void. Nothing herein shall limit Gerber's right to assign or transfer this Agreement or any rights or obligations hereunder. This Agreement will bind any permitted successors and assigns.
- 17.4.** *Entire Agreement.* This Agreement contains the entire understanding and agreement between the parties, and supersedes any prior agreements between the parties, in each case with respect to the subject matter hereof. Any use of the term "including" or variations thereof in this Agreement will be construed as if followed by the phrase "without limitation."
- 17.5.** *Precedence.* If there is a conflict among any elements of this Agreement, the descending order for precedence will be (unless expressly stated otherwise for any particular terms): an applicable Order Form, any addenda, schedules and exhibits, and the terms and conditions under "General" and Sections 1 through 18 herein.
- 17.6.** *Waiver.* No term or provision of this Agreement will be deemed waived, and no breach excused, unless such waiver or consent is in a writing that expressly refers to this Agreement and the provision to be waived or the breach to be excused, and that is signed by the party claimed to have waived or consented. No waiver or consent, whether expressed or implied, will constitute a waiver of, consent to or excuse for any other different or subsequent breach.
- 17.7.** *Third-Party Benefit.* The terms of this Agreement are intended solely for the benefit of each party, and their respective successors and permitted assigns, and there are no intended third-party beneficiaries.
- 17.8.** *Severability.* If any term or provision of this Agreement is held to be invalid or unenforceable, such term or provision will be ineffective only to the extent of such invalidity or unenforceability, and the remainder of this Agreement will continue in full force and effect.
- 17.9.** *Force Majeure.* Neither party will be liable for any Losses or failure to perform its obligations under this Agreement, other than with respect to Sections 7 or 12 above, due to circumstances beyond its reasonable control. If such circumstances cause material deficiencies in any Service and continue for more than thirty (30) days, either party may terminate the related Order Form upon written notice to the other party.
- 17.10.** *Modifications.* We can modify this Agreement at any time, after providing notice to you. By continuing to use the Services after receiving notice that we have modified this Agreement, you agree to such modifications. If you disagree with the modifications, do not continue to use the Services.
- 17.11.** *Counterparts.* The parties may execute this Agreement in counterparts, including facsimile, PDF and other electronic copies, which taken together will constitute one instrument.
- 17.12.** *Governing Law.* This Agreement is governed and construed in accordance with the laws of the State of Connecticut without regard to any choice of law principle that would result in the application of another law. Each party agrees that the United States District Court for the District of Connecticut or the Superior Court for the Judicial District of Hartford/New Britain at Hartford, Connecticut shall be the sole and exclusive jurisdiction and venue for the adjudication of any and all disputes between the parties arising hereunder or in connection herewith.
- 17.13.** *Security Software.* Customer shall have no rights in or to any third-party security software (the "Security Software") incorporated within the Software, except such usage rights as are inevitable in conjunction with its licensed use of the Software. Customer shall have no rights in or to the Security Software as standalone software. All rights in and to the Security Software, including all intellectual property rights reflected therein or embodied thereby, are reserved in their entirety to the third-party licensor of such software (or to such licensor's licensors). Customer may not attempt to access, unlock, reverse engineer, decompile, translate, identify, disassemble, tamper with, isolate, or otherwise attempt to disable or remove, or determine the source code for, the Security Software or any part thereof. The Security Software is provided "AS IS" without warranty of any kind. Customer expressly disclaims all warranties of any kind, express or implied, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, freedom from infringement,

or warranties implied through usage of trade or custom of dealing. Customer shall have no rights with respect to and no claims against the third-party licensor of Security Software and such third-party licensor shall have no liability of any kind, direct or indirect, to Customer arising out of the operation, failure to operate or any other attribute of the Security Software. Gerber shall be the sole point of contact and shall have sole liability to Customer with respect to the Software and any Security Software. The third-party licensor of the Security Software shall be a third-party beneficiary of the terms protecting the confidentiality and intellectual property rights of the Security Software, and of all other restrictions on use and further dissemination of the Software. Customer shall not use, transport, or distribute, directly or indirectly, any Security Software security elements in violation of any applicable export or import laws, including without limitation those issued by the United States Department of Commerce. The Software includes security elements which support the detection of unauthorized use or copying of the Software and which may report such unauthorized use or copying to Gerber, including possibly the username or email address. By accepting this Agreement, the Customer expressly acknowledges that it understands and accepts the statement and disclosure made in the foregoing Section 17.13.

- 18. DEFINITIONS.** Capitalized terms used herein have the meaning ascribed below, or where such terms are first used, as applicable.
- 18.1. "Acceptable Use Policy"** means Gerber's acceptable use policy attached hereto as Exhibit A and updated by Gerber from time to time,
  - 18.2. "Access Credentials"** means one or more login identification and password or other means of identification and authentication, or combination thereof, required for a Permitted User to log in or otherwise access the Services.
  - 18.3. "Additional Services Support"** means additional software maintenance and support services, other than standard Support Services, in connection with the applicable Services as may be purchased by you and provided by Gerber.
  - 18.4. "Additional Support Renewal Term"** means an additional 12 month period following the end of the Initial Additional Support Term.
  - 18.5. "Additional Support Term"** means the Initial Additional Support Term and, if renewed, the Additional Support Renewal Term.
  - 18.6. "Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity, where "control," for the purposes of this definition, means ownership or control of more than 50% of the voting interests of the subject entity, or the contractual right to establish policy for, and manage the operations of, the subject.
  - 18.7. "Aggregated Anonymous Data"** has the meaning set forth in Section 3.4.
  - 18.8. "Agreement"** has the meaning set forth under "General."
  - 18.9. "Cloud Services"** means a Gerber software application or platform hosted by Gerber and made available as software-as-a-service on the Gerber Platform.
  - 18.10. "Confidential Information"** has the meaning set forth in Section 9.1.
  - 18.11. "Content"** means content and information contained in and made available through the Services, free trial, or pursuant to an Order Form.
  - 18.12. "Customer Data"** means data and information submitted by or for you to the one or more Services or the Gerber Platform or collected and processed by or for you using use of one or more Services, including messages or files.
  - 18.13. "Data Privacy Policy"** means Gerber's data privacy policy available at <https://www.lectra.com/en/privacy-policy>.
  - 18.14. "Data Processing Agreement"** means the data processing agreement attached hereto as Exhibit B and updated by Gerber from time to time.
  - 18.15. "Data Security Standards"** means Gerber's written data security standards attached hereto as Exhibit C and updated by Gerber from time to time.
  - 18.16. "Disclosing Party"** has the meaning set forth in Section 9.1.
  - 18.17. "DPA"** has the meaning set forth in Section 1.4.
  - 18.18. "EEA"** has the meaning set forth in Section 1.4.
  - 18.19. "Faults"** has the meaning set forth in Section 11.

- 18.20.** “**Fees**” means the fees Gerber charges for making available the Services and other related charges, as specified or referred to in the Order Form or otherwise agreed to by the parties.
- 18.21.** “**Fix**” has the meaning set forth in Section 2.6.4.
- 18.22.** “**Gerber**” means Gerber Technology LLC with a place of business at 24 Industrial Park Road West, Tolland, CT 06084 USA.
- 18.23.** “**Gerber Marks**” has the meaning set forth in Section 5.
- 18.24.** “**Gerber Materials**” has the meaning set forth in Section 5.
- 18.25.** “**Gerber Platform**” means any platform, system or technology that Gerber owns or controls and makes available to you under this Agreement for the purpose of accessing the Services as specified in the applicable Order Form, together with any materials and functionality available therein, and any successor platform(s) thereto.
- 18.26.** “**Infrastructure**” has the meaning set forth in Section 1.2.
- 18.27.** “**Initial Additional Support Term**” means the initial 12 month period for the Additional Services Support purchased by you.
- 18.28.** “**Installed Software**” means the Gerber software set forth in the Order form and made available for installation and use on your premises. The term “Installed Software” includes all Fixes and New Versions issued to you under this Agreement.
- 18.29.** “**Intellectual Property Rights**” means all trade secrets, patents and patent applications, trademarks (whether registered or unregistered and including any goodwill acquired in such trademarks), service marks, trade names, copyrights, moral rights, database rights, design rights, rights in know-how, rights in Confidential Information, rights in inventions (whether patentable or not) and all other intellectual property and proprietary rights (whether registered or unregistered, any application for the foregoing, and all rights to enforce the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world.
- 18.30.** “**Losses**” has the meaning set forth in Section 12.1.
- 18.31.** “**Malicious Code**” means: (a) any code, program, or sub-program, the knowing or intended purpose or effect of which is to damage or maliciously interfere with the operation of a computer system containing the code, program or sub-program, or to halt, disable, or interfere with the operation of the software, code, program, or sub-program, itself; or (b) any device, method, or token that permits any person to circumvent without authorization the normal security of Services, any Software or Gerber Platform containing the code.
- 18.32.** “**New Version**” has the meaning set forth in Section 2.6.5.
- 18.33.** “**Order Form**” means the ordering document or online order specifying the Services to be provided hereunder that is entered into between you and Gerber, including any addenda and supplements thereto.
- 18.34.** “**Permitted User**” means you, if you are an individual, or your employees, consultants and agents providing services to you if you are a company, up to the number of users who are authorized to use the Services under an Order Form.
- 18.35.** “**Proscribed Party**” means any individual or entity listed as a proscribed party under U.S. laws and regulations or any other applicable jurisdiction, including, without limitation, Canada, the United Kingdom, the European Union, and any of its Member States.
- 18.36.** “**Receiving Party**” has the meaning set forth in Section 9.1.
- 18.37.** “**Representatives**” has the meaning set forth in Section 9.2.
- 18.38.** “**Reseller**” means a third-party authorized by Gerber to promote and resell the Services.
- 18.39.** “**Sanctioned Recipient**” means any individual or entity domiciled, organized, or located in a country that has been sanctioned by the U.S. Government or any other applicable jurisdiction, including, without limitation, Cuba, the Crimea Region of Ukraine, Iran, North Korea, and Syria, or to any other restricted/embargoed country as may be designated from time to time by the U.S. Government or other applicable jurisdiction.
- 18.40.** “**Security Software**” has the meaning set forth in Section 17.13.
- 18.41.** “**Services**” means the Installed Software and Cloud Services, as applicable.
- 18.42.** “**Services Support Contract**” means the contract governing your purchase, and Gerber’s provision to you, of the Additional Services Support.
- 18.43.** “**Service Version**” means any version of the applicable Services provided by Gerber to you under this Agreement.
- 18.44.** “**Software**” means any software underlying the Services.
- 18.45.** “**Storage Period**” has the meaning set forth in Section 8.5.3.

- 18.46. **“Subscription”** means your right, for a fixed period of time, to possess, use and/or access, the applicable Services, and if applicable, to receive associated Support Services.
- 18.47. **“Subscription Term”** means the period of time for which a Subscription is valid, as further described in Section 8.2 of this Agreement.
- 18.48. **“Support Services”** means the standard maintenance and support services for the applicable Services, if any, that are included in a Subscription as determined by Gerber from time to time.
- 18.49. **“Third-Party Services”** has the meaning set forth in Section 2.9.
- 18.50. **“Third-Party Terms”** has the meaning set forth in Section 2.9.

Rev. September 2023

## EXHIBIT SA

### Gerber Acceptable Use Policy

Effective March 1, 2021

Please read this acceptable use policy ("Acceptable Use Policy" or "AUP") carefully before using any websites operated by Gerber Technology LLC ("us," "we" or "our"). This AUP governs all use of the Services, as such term is defined in our Purchase Agreement. This AUP defines the standards that we expect our customers and end users to adhere to while using the Services. Services provided by us are intended for business use and purposes and may only be used for lawful purposes. You agree to comply with all applicable laws, rules and regulations in connection with your use of the Services. Any material or conduct that in our judgment violates this Acceptable Use Policy in any manner may result in suspension or termination of the Services or removal of your account with or without notice. Prohibited use. You may not use the Services to publish content or engage in activity that is illegal under applicable law, that is harmful to others, or that would subject us to liability, including, without limitation, in connection with any of the following, each of which is prohibited under this AUP:

- Probing, scanning or testing the vulnerability of any system or network
- Phishing or engaging in identity theft
- Providing your password to any other person, use any other person's username and password, or otherwise managing the Services through shared credentials
- Breaching or otherwise bypassing any security or authentication measures
- Accessing, tampering with or using non-public areas or parts of the Services, or shared areas of the Services
- Distributing computer viruses, worms, Trojan horses or other malicious code or overloading any part of the Services
- Taking apart, decompiling or reverse engineering any part of the Services in an effort to access source code or algorithms
- Distributing pornography or adult related content or offering any escort services
- Promoting or facilitating violence or terrorist activities or threatening, harassing or abusing any individuals
- Infringing or misappropriating the intellectual property or other proprietary rights of others
- Violating anyone's privacy or publicity rights
- Removing any copyright or other proprietary notices from the Services (including any template)
- Doing anything that is false, inaccurate or deceiving or impersonating another person, company or entity

Enforcement. Your Services may be suspended or terminated with or without notice upon any violation of this Acceptable Use Policy. Any violations may result in the immediate suspension or termination of your account.

Reporting violations. If you become aware of any violation of this Acceptable Use Policy, please contact us. We will investigate reports and take immediate, appropriate action where warranted (in our sole discretion). We reserve the right to change this Acceptable Use Policy at any time.

EXHIBIT B  
DATA SECURITY STANDARDS

Effective October 8, 2021

For the purpose of these Data Security Standards: “Agreement” means the terms and conditions of the document to which these Data Security Standards is attached, including all attachments, addenda, schedules and exhibits, documents at referenced URLs and Order Forms, all of which are incorporated therein, that govern your use of and access to the Services set forth therein. “Personal Information” includes, collectively, “personally identifiable information,” “non-public personal information,” “personal data,” “personal information,” and any other similar terms defined by applicable data protection or privacy laws. The terms of these Data Security Standards are hereby incorporated into the Agreement by this reference. Capitalized terms used but not otherwise defined elsewhere in these Data Security Standards will have the meanings given in the Agreement.

1. Relation Gerber Data Processing Addendum. Nothing in these Data Security Standards is intended to limit the effect of the requirements that relate to personal data of EEA and/or United Kingdom origin that are set out in the DPA. To the extent there is a conflict between the terms of these Data Security Standards and the DPA, these Data Security Standards controls, but only with respect to personal data of EEA and/or United Kingdom origin.

2. Data Collection, Ownership and Use. (a) Any Customer Data received, collected or otherwise processed by Gerber pursuant to these Data Security Standards will be owned exclusively by you and all rights thereto are and will remain your sole and exclusive property. Customer Data includes any information about end users of your digital properties and services (“End Users”), including Personal Information, whether provided by End Users themselves, you, or your Affiliates. Customer Data also includes, where applicable, information about your employees and other personnel. Gerber’s use of Customer Data in the performance of the Services hereunder will not create any right, title, or interest of Gerber therein or thereto. (b) Gerber and its employees and permitted contractors shall use Customer Data only to provide the Services, as otherwise permitted by the Agreement and in accordance with the Data Privacy Policy, and shall make no other use whatsoever of such Customer Data. Except as provided in the Data Privacy Policy or these Data Security Standards, Gerber shall not disclose, sell, assign, lease or otherwise provide Customer Data or any derivatives thereof to any third party, including agents and contractors of Gerber unless such contractor is performing Services on behalf of Gerber for your benefit as permitted under the Agreement. Gerber shall not aggregate, commingle or combine any Customer Data for or about End Users with data from other sites or third parties for any purpose, including but not limited to building profiles of End Users (regardless of whether such profiles were created outside of the Services), marketing to End Users, or tracking End Users beyond the Services, unless such Customer Data is anonymized. Notwithstanding the foregoing, if applicable to the Services, Gerber is authorized to track End Users and collect data about the usage associated with the Services solely on an anonymized basis and solely to meet you analytical or reporting needs.

3. Data Security. (a) Gerber shall maintain in effect at all times a comprehensive data security program including underlying policies, procedures and controls, that contains reasonable and appropriate administrative, technical and physical security measures designed to detect, prevent and mitigate the risk of identity theft and the destruction, loss, unauthorized access, disclosure, use and/or alteration of data (whether or not encrypted), including Customer Data, in Gerber's possession or under Gerber's control, and which shall be no less rigorous than the greater of the following: (i) those measures that are required to be maintained by Gerber to comply with any and all applicable laws (including, without limitation, any applicable US federal and state statutes, laws and regulations, and any other non-US statutes, laws and regulations that address privacy, identity theft, data protection or other related topics (collectively, “Applicable Law”)); (ii) commercially reasonable measures; or (iii) measures substantively similar to measures Gerber uses to protect its own similar data (“Security Standards”). (b) Gerber represents that the Security Standards provide for, without limitation: (i) firewalls and encryption; (ii) the current version of a commercially available virus detection software program that employs regular updates to test the hardware and software applications used by it to deliver the services hereunder for the presence of any computer code designed to disrupt, disable, harm or otherwise impede the operation of such hardware or software; (iii) physical security procedures; (iv) background checks on employees and consultants; (v) restriction of use of



Customer Data on a “need-to-know” basis and only at authorized locations; and (vi) appropriate password controls and requirements and regular monitoring of password procedures. In connection with Gerber’s provision of Services to you under the Agreement, Gerber shall not utilize any employees and consultants where the background checks noted in subsection (b)(iv) above demonstrate any material negative findings. (c) Gerber shall perform the Services hereunder and its other obligations under the Term of Use in such a manner that Gerber shall be materially in compliance with Applicable Law and will maintain and update the Security Standards to remain compliant with the standards set forth in these Data Security Standards. Gerber represents that it will revise and update the Security Standards on an ongoing basis to properly accommodate the scope and nature of the Services and volume, sensitivity and legal nature of the Customer Data it receives pursuant to the Agreement. If an amendment to the Security Standards is required by law, rule, regulation, order, judgment or decree, Gerber shall materially comply with such amended Security Standards as soon as possible but in no event later than the time period for compliance indicated in such law, rule, regulation, order, judgment or decree. (d) Gerber agrees that it will promptly notify you of any changes to the Security Standards.

4. Personal Information. (a) Gerber will have access to, acquire and or otherwise processes Personal Information in connection with providing the Services under the Agreement. Without limiting the effect of the Data Security section above, Gerber shall put in place, and shall require its subcontractors to put in place appropriate technical, physical, administrative and organizational measures that are reasonably designed to prevent the unauthorized or unlawful processing of Personal Information and the accidental destruction or loss of, or damage to, Personal Information that is processed pursuant to the Agreement. Such measures shall include, but are not limited to the following: (i) the pseudonymization and encryption of Personal Information; (ii) the ability to ensure the ongoing confidentiality of the Services; (iii) the ability to restore the availability of and access to Personal Information in a timely manner in the event of a physical or technical incident; (iv) the implementation of a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing of Personal Information; (v) compliance with all applicable data privacy and data protection laws, regulations and guidance that apply to the Personal Information processed under the Agreement or which otherwise apply to Gerber; and (vi) maintaining complete and accurate records of, and adequate supporting documents in relation to, its provision of the Services that are necessary to demonstrate compliance with applicable data privacy and data protection laws. (b) Gerber agrees that, at your cost it will reasonably assist you in ensuring compliance with your obligations under applicable data privacy and data protection laws, including in relation to (i) conducting privacy impact assessments, (ii) participating in any consultation with the relevant supervisory authority or other relevant regulator where requested, and (iii) promptly notifying, co-operating and assisting you, fully and in a timely manner, to enable you to assess and respond to any requests of individuals wishing to exercise their rights under applicable data protection laws.

5. Security Breaches. (a) If Gerber discovers or is notified of a cyber-attack or any other event that results in (i) destruction, loss and/or unauthorized access, disclosure, use and/or alteration of Customer Data; (ii) any attempt to gain unauthorized access to Customer Data or to destroy, remove, disclose, use and/or alter Customer Data on Gerber’s systems; or (iii) a material impact or potential material impact to Gerber’s provision of services hereunder (each such event, a “Security Event”), Gerber shall, in its reasonable discretion (i) without undue delay, but in no event later than 72 hours after learning of such Security Event, notify Company of the Security Event; (ii) without undue delay, investigate the Security Event and provide periodic updates to you with respect to Gerber’s investigation of the Security Event; and (iii) cooperate with you to the extent that you decide to conduct an investigation of the Security Event. In addition, with respect to any Security Event, Gerber shall, at its sole cost and inclusive of any attorney’s fees, promptly provide a written report to you that sets forth Gerber’s risk assessment, root cause analysis and corrective action plan related to said Security Event; implement the corrective action plan and use its best efforts to mitigate the effects of the Security Event as soon as practicable; and provide you with periodic updates with respect to Gerber’s mitigation and corrective action efforts, as well as information regarding the extent to which any losses or damages stemming from such Security Event are covered under Gerber’s cyber-security or other insurance policies.

6. Payment Card Industry (“PCI”) Compliance. All processing of payment (credit/debit) cards must comply at all times with current Payment Card Industry Data Security Standards (“PCI-DSS”) version 3.2.1, as may be updated from time to time.

7. Audits. Upon your request, Gerber shall provide you with a copy of any internal or independent audit reports and reviews of its data processing environment and internal controls that have been prepared.

8. Legal Requirements. If Gerber is requested or required to disclose Customer Data under a subpoena, court order, statute, law, rule, regulation, regulatory request or other similar requirement (a "Legal Requirement"), Gerber will, to the extent not precluded by law, provide prompt notice of such Legal Requirement to you so that you may seek an appropriate protective order or other appropriate remedy or waive compliance with the provisions of these Data Security Standards. If you are not successful in obtaining a protective order or other appropriate remedy and Gerber is, in the reasonable opinion of its counsel, legally compelled to disclose such Customer Data, or if you waive compliance with the provisions of these Data Security Standards in writing, Gerber may disclose such Customer Data in accordance with, but solely to the extent necessary, in the reasonable opinion of its counsel, to comply with the Legal Requirement.

9. Disposition of Customer Data. Upon your written request and to the extent required by law and permitted under Gerber's record retention policies and in accordance with the terms of the Agreement, Gerber will destroy all copies of Customer Data, or applicable portion(s) thereof, already in Gerber's possession or within its reasonable control. Upon your written request, an authorized representative of Gerber will certify in writing to you that all such Customer Data has been so destroyed.

## EXHIBIT C DATA PROCESSING AGREEMENT

Effective July 2023

### 1. INTRODUCTION

The EU General Data Protection Regulation 2016/679 (“GDPR”) requires a written agreement between a Data Controller and a Data Processor (as defined by the GDPR) in order to allow the Processing of Personal Data by the Processor on behalf of the Controller. For this reason, the Parties have agreed to enter into this Data Processing Agreement (“DPA”).

This DPA will apply when Lectra processes Customer’s Personal Data for which Lectra will act as Data processor and Customer as Data Controller.

Lectra, as a Data Processor, will Process the Personal Data through the Contract for Services only on behalf of the Customer, following his Instructions.

The duration of the Processing starts once the Contract for Services begins, and lasts until its termination or expiry, unless otherwise agreed upon by the Parties in writing or required by law.

This DPA shall apply to all Processing of Personal Data by the Data processor on behalf of the Data Controller under the contract for services this DPA is attached to (the “**Contract for Services**”), entered into between the parties and any agreement amending, supplementing, extending or replacing the Contract for Services and any orders for products and/or services placed thereunder.

Both Parties are responsible for their own scope of processing of Personal Data. Therefore, both Parties will implement technical and organizational measures to ensure a level of security and confidentiality appropriate to the risk and to prevent loss or any form of unlawful processing (such as unauthorized disclosure, deterioration, alteration of Personal Data) in connection with the processing of Personal Data under the Contract for Services. In general, if Customer would like to communicate with Lectra’s Data Protection Officer (DPO), Customer may do so at the following address [dpo@lectra.com](mailto:dpo@lectra.com) or the following mailing address: Data Protection Officer (DPO), Lectra S.A. - 16-18 rue Chalgrin - 75016 Paris - FRANCE.

For more details, please refer to Lectra’s Privacy Policy at <https://www.lectra.com/en/privacy-policy>.

In the event of conflicting terms between this DPA and the Contract for Services, this DPA shall prevail regarding Personal Data processing. This DPA will automatically terminate upon the termination or expiration of the Contract for Services except as otherwise stated therein.

### 2. DEFINITIONS

For the purposes of this DPA, the following terms and those defined within the body of this DPA apply.

- i. “**Affiliate**” means any entity controlling, being controlled by, or under common control with another entity through majority ownership.
- ii. “**Applicable Data Protection Law(s)**” means the relevant data protection, data security, data retention and data privacy laws, rules and regulations to which the Personal Data and Confidential Information are subject. With respect to EU Personal Data, “Applicable Data Protections Law(s)” shall include the GDPR and the French Act No 78-17 on Information Technology, Data Files and Civil Liberties dated 6 January 1978, as amended by Act No 2018-493 dated 20 June 2018 on Personal Data Protection.
- iii. “**Data Controller**” means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.
- iv. “**Customer**” means the natural or legal person being a party to the Contract for Services as a customer of Lectra.
- v. “**Customer EU Personal Data**” means Customer Personal Data about individuals who are located in the European Union.
- vi. “**Customer Personal Data**” means Personal Data received or collected by Customer or Lectra pertaining to Customer’s current, former, or potential customers and Personal Data pertaining to Customer’s current, former or potential employees, contractors, vendors or other agents.
- vii. “**Customer’s SPOC**” means the Customer’s single point of contact for urgent security issues designated by Customer in this DPA.
- viii. “**EU**” or “**European Union**” means the European Union.
- ix. “**GDPR**” shall mean the General Data Protection Regulation—the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons regarding the processing of Personal Data and on the free movement of such data, repealing Directive 95/46/EC.
- x. “**Instructions**” shall mean the directions, either in writing, in textual form (e.g. by e-mail) or by using a software or online tool, issued by Customer to Lectra and directing Lectra to Process Personal Data.
- xi. “**Lectra**” means Lectra SA and its Affiliates.

- xii. **“Personal Data”** shall mean any data that is deemed “personal data” or “personal information” under the Applicable Data Protection Law(s) and that Customer submits using the Services for Lectra to process on Customer’s behalf.
- xiii. **“Process”**, “Processes”, “Processing”, “Processed” means any operation or set of operations which is performed on data or sets of data, whether or not by automated means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination, or otherwise making available, alignment or combination, restriction, erasure, or destruction.
- xiv. **“Data Processor”** means a natural or legal person, public authority, agency or other body which Processes Personal Data.
- xv. **“Security Incident(s)”** shall have the meaning assigned by Applicable Data Protection Law(s) to the terms “security incident,” “security breach” or “personal data breach” but shall include any situation where Lectra knows, discovers, or is notified that Customer Confidential Information has been or is likely to have been accessed, disclosed, acquired or used by unauthorized persons, in an unauthorized manner or in violation of the Agreement, this DPA, or Applicable Data Protection Law(s).
- xvi. **“Third Party(ies)”** means Lectra’s authorized contractors, agents, vendors and service providers (i.e., sub-Processors) that Process Customer’s Personal Data.

### **3. LECTRA’S INFORMATION SECURITY ORGANIZATION**

#### **a. EMPLOYMENT CONTRACT CLAUSES**

Lectra shall ensure that any person who is authorized to Process Customer Personal Data (including its staff, agents, and subcontractors) shall be under an appropriate obligation of confidentiality (whether a contractual or statutory duty). Lectra’s employment contracts contain confidentiality clauses.

#### **b. INFORMATION SECURITY PROGRAM**

Lectra ensures that its employees are provided with privacy and security training in a dedicated global information security awareness program. Lectra’ subcontractors might take part of it or deploy their own information security awareness program.

#### **c. SECURITY**

Lectra will protect Personal Data in accordance with requirements under the Applicable Data Protection Law(s), including by implementing appropriate technical and organizational measures designed to protect Personal Data against the risks presented by the processing operations they carry out, considering in particular the nature of the Processing and the type of data Processed.

##### **i. TECHNICAL MEASURES**

- Authentication: Lectra’s administrators of the cloud-based Solutions use multi-factor authentication to connect to the administration interface.
- Encryption of data: every data flow is sent through HTTPS. Databases are encrypted at rest following AES-256 encryption standard.

##### **ii. ORGANIZATIONAL MEASURES**

Please refer to 3.A. and B sections above.

### **4. SUBPROCESSING**

Customer authorizes Lectra to use third-party subprocessors to Process Personal Data in connection with the provision of services by Lectra to Customer (“Subprocessor”). Lectra imposes data protection obligations upon any Subprocessor that are no less protective than those contained in this DPA. Customer may view the list of current Subprocessors below. Lectra shall inform Customer of any new Subprocessor that it intends to use.

### **5. DATA SUBJECT RIGHTS**

When a Party receives a request from a data subject for a right of access concerning the processing operations carried out by the other Party, the Party receiving such a request must send such requests to the other Party immediately so that it can respond within the time limits set by the GDPR.

However, as Lectra is acting as a Data Processor, and the Customer is as Data Controller, Data Subject Access Requests (DSAR) must be directed to the Customer only. If Lectra receives such request, it commits to forward it on the best effort/delays to the Customer. Lectra will help the Customer to answer to such request by providing any element related to the request, except if this request is considered in concertation with the Customer as abusive or infringes any law.

### **6. PERSONAL DATA BREACH**

As Data Controller, the Customer undertakes to notify the supervisory authority immediately and no later than 72 hours after becoming aware of any personal data breach that has occurred to data under its responsibility (in accordance with Article 33 of the GDPR).

The Customer will inform data subjects if the personal data breach is likely to result in a high risk to their rights and freedoms (in accordance with Article 34 of the GDPR).



- The country where the subcontractor is established has been deemed adequate by the European Commission.
- Any other data transfer mechanism permitted under Applicable Data Protection Law(s) is covering the transfer.
- There is a Data Processing Addendum stating obligations between Lectra and the subcontractor that are no less protective than the one between Lectra and the Customer.
- There are Standard Contractual Clauses between Lectra and the subcontractor.

**11. DESCRIPTION OF THE PROCESSING OF PERSONAL DATA**

<b>NATURE OF THE PROCESSING</b>	The nature of Personal Data Processing is the collection, registration, storage, and the hosting of the Personal Data.		
<b>PROCESSING TO BE CARRIED OUT</b>	<ul style="list-style-type: none"> <li>▪ Hosting</li> <li>▪ Collection</li> <li>▪ Registration</li> <li>▪ Storage</li> <li>• Structuring</li> <li>• Modification</li> <li>• Extraction</li> <li>• Consultation</li> <li>• Communication by transmission</li> <li>• Dissemination</li> <li>• Interconnection</li> <li>• Matching</li> <li>• Limitation</li> <li>• Erasure</li> <li>• Destruction</li> <li>• Communication</li> <li>• Others: .....</li> </ul>		
<b>PURPOSE OF PROCESSING</b>	<ul style="list-style-type: none"> <li>▪ Authentication management</li> <li>▪ Management of technical support provided to Customers</li> <li>▪ Delivery of training to users of Lectra’s solutions and management of records training</li> <li>▪ Assessment of Customer’s satisfaction related to Customer’s support request and the Solution</li> <li>▪ Monitoring of operation of the Solution by individuals for management of Customer’s needs and performance</li> <li>▪ General Upgrade &amp; compatibility testing and Quality assurance</li> <li>▪ Implementation and verification of customizations (reports and integrations)</li> <li>▪ Detection, prevention, or otherwise addressing of technical issues, fraud, security issues and infringements.</li> </ul>		
<b>TYPES OF PERSONAL DATA</b>	<ul style="list-style-type: none"> <li>▪ Identification data</li> <li>▪ Connection data</li> <li>▪ Professional life data</li> <li>▪ Location data</li> <li>• Images and sounds</li> <li>• Personal life data</li> <li>• Professional economic and financial data</li> <li>• Personal economic and financial data</li> <li>• Sensitive data: .....</li> <li>• Others: .....</li> </ul>		
<b>CATEGORIES OF DATA SUBJECTS</b>	<ul style="list-style-type: none"> <li>• Customer’s employees (users and administrators)</li> <li>• Customer’s third-parties (under Customer’s responsibility)</li> </ul>		
<b>RETENTION OF PERSONAL DATA</b>	<ul style="list-style-type: none"> <li>▪ Until the termination of the contract</li> <li>▪ Plus an extra period of 60 days for end of contract’s management</li> </ul>		
<b>AUTHORISED SUB-PROCESSORS</b>	Lectra may disclose some Personal Data to the following categories of recipients, located in:		
	<b>Provider/partner</b>	<b>Purpose</b>	<b>Location</b>
	Lectra SA	Support services	France United States

		United Kingdom
<b>Virtusa</b>	Support services	India
<b>Flexbricks</b>	Support services	Bulgaria
<b>Amazon Web Services</b>	Hosting and authentication, e-mailing	United States of America
<b>Gerber University</b>	E-learning platform allowing some of Customer's users to follow trainings related to Lectra Cloud Services	United States of America
<b>Splunk</b>	Monitoring tool in which logs are collected and retained, to ensure security and running of the Cloud Services.	Germany
<b>Salesforce</b>	Support services through MyLectra portal	Germany France
<b>Zendesk</b>	Support services ticketing management	United States of America
<b>JIRA</b>	Support services ticketing management	United States of America
<b>Qualtrics</b>	Satisfaction survey	Nederland