

## MASTER SERVICES AGREEMENT

Effective February 1, 2024

Welcome to Automox. By using any of the Offerings you agree to this Master Services Agreement (“**Agreement**”) and represent that you have authority to enter this Agreement. If you do not agree to this Agreement, you must not use any of the Offerings. “**You**” means the entity that you represent (or your Affiliates and Authorized Users). “**Automox**” means Automox Inc. This Agreement governs your use of all the Offerings in your Order and is effective as of the date you first use any of the Offerings. This Agreement expires at the end of the last Subscription Term for the Order under which you accepted this Agreement.

Automox automates the fundamentals of cyber hygiene through a cloud-native, cross-platform patching solution. This [four-minute video](#) provides an overview of the Automox platform.

Security is core to what we do. Our security control framework is based on NIST 800-53 security control standards, and our infrastructure and operations are regularly audited by independent third parties. We are SOC 2 Type 2 certified and undergo an annual SOC 2 Type 2 audit conducted by an independent auditor. We adhere to applicable privacy regulations, perform penetration testing regularly, and maintain business continuity and disaster recovery plans and procedures. Our security program is trusted on more than 1.1 million devices, including those of some of the world’s largest technology companies and some of the most recognized names in the business.

### 1. DEFINITIONS

- 1.1 “**Affiliate**” means, for a party at a given time, an entity that is controlled by, under common control with, or controls that party, where “control” means an ownership, voting or similar interest representing more than 50% of the total interests then outstanding of that entity.
- 1.2 “**Authorized Users**” means your and your Affiliates’ employees, contractors and service providers.
- 1.3 “**Cloud Services**” means the cloud-based service Offerings that Automox provides to you.
- 1.4 “**Customer Data**” means any of your data that Automox receives through the Software or Cloud Services.
- 1.5 “**Documentation**” means the information about using the Software or Cloud Services that Automox makes available at [help.automox.com](https://help.automox.com).
- 1.6 “**Intellectual Property Rights**” means all worldwide intellectual property rights, including copyrights, trademarks, service marks, trade secrets, patents, patent applications and moral rights, whether registered or unregistered.
- 1.7 “**Offerings**” means all products and services that Automox provides to you under this Agreement.
- 1.8 “**Order**” means an ordering document, signed Quote or online submission that you issue to Automox, or an Automox authorized reseller, in response to a Quote.
- 1.9 “**Quote**” means Automox’s written or online description of the Offerings and applicable terms.
- 1.10 “**Service Level Agreement**” means the service level agreement available at [automox.com/legal/service-level-agreement](https://automox.com/legal/service-level-agreement).
- 1.11 “**Software**” means the commercial software (including updates and upgrades provided through support) in object code format that Automox provides to you directly or through a third-party application distribution service.
- 1.12 “**Subscription Term**” means the term during which you may use the Offerings.
- 1.13 “**Technical Services**” means the standard installation service Offerings provided by Automox available at [automox.com/platform/services-support-plans](https://automox.com/platform/services-support-plans).
- 1.14 “**Worklet**” means code written for the Cloud Services to automate IT tasks.

### 2. CUSTOMER USE OF THE OFFERINGS

2.1 **Authorized Users.** You may allow your Authorized Users to use the Cloud Services and Software under this Agreement. You are responsible for your Authorized Users’ compliance with this Agreement.

2.2 **Software and Cloud Services.** Automox grants you a nonexclusive, non-sublicensable, non-transferable (except as set forth in section 12.1 (General: Assignment)), worldwide license to use the Software, Cloud Services and Documentation during the Subscription Term solely for your internal business purposes. You must only use the Software and Cloud Services for up to the number of devices or Authorized Users listed on your Quote and in accordance with the Documentation. You may copy the Software and Documentation as necessary to install and run the Software, and for backup and archiving. Automox will provide the Cloud Services in accordance with the applicable Documentation and Service Level Agreement. Automox will provide support services in accordance with the applicable Support Plan available at [automox.com/platform/services-support-plans](https://automox.com/platform/services-support-plans). You will reasonably cooperate with Automox to resolve any issues relating to your use of the Software and Cloud Services.

2.3 **Restrictions.** You will not (A) permit anyone other than your Authorized Users to use the Offerings; (B) use the Offerings for the benefit of any third party other than your Authorized Users; (C) use the Offerings except as permitted under this Agreement; (D) decompile, reverse engineer, modify or create a derivative work of the Offerings (to the extent this restriction is not prohibited by law); (E) attempt to test the vulnerability of, gain unauthorized access to, or circumvent limitations on the use of, the Offerings or their related systems or networks; (F) interfere with the performance of the Offerings; (G) remove any copyright or other proprietary notices in the Offerings; or (H) access the Offerings for the purpose of developing or operating products or services in competition with the Offerings.

2.4 **Evaluation Use.** You may ask Automox to make an Offering or a new feature or functionality available to you on an evaluation or beta basis ("**Evaluation Offering**"). Each Evaluation Offering is provided "AS IS" without Service Level Agreement, support or warranty of any kind. You must only use an Evaluation Offering for evaluation purposes during the evaluation period set by Automox.

### 3. INTELLECTUAL PROPERTY

3.1 **Customer Ownership.** As between you and Automox, you retain all right, title and interest in and to the Customer Data and all related Intellectual Property Rights. During the term of this Agreement, Automox will use your Customer Data solely to perform under this Agreement. Automox's rights to use the Customer Data are only those expressly granted in this Agreement. If you choose to use a non-Automox application with an Offering, Automox may allow the non-Automox application and its provider to access Customer Data and information about your usage of the non-Automox application as appropriate for the interoperation of that non-Automox application with the Offering.

3.2 **Automox Ownership.** As between you and Automox, Automox retains all right, title and interest in and to the Offerings and all related Intellectual Property Rights. Automox uses third-party software in its Offerings, including open source software. Your rights to use the Offerings are only those expressly granted in this Agreement. All Software is licensed and not sold, even if Automox uses words like "sale" or "purchase" in sales materials.

3.3 **Feedback and Community Worklets.** If you provide any suggestions to Automox regarding the Offerings, Automox may use the suggestions and incorporate them into the Offerings without compensation or restriction. If you submit any Worklets to the Automox community, Automox and its other customers may use those Worklets without compensation or restriction.

3.4 **Third Party Content.** The Offerings allow you to access content that is not created by Automox, such as patches, community Worklets, and applications ("**Third Party Content**"). If you use the Offerings to install any Third Party Content, then Automox is acting as your service provider, and you authorize Automox to accept on your behalf any licenses or terms of use required as part of an installation process for Third Party Content you select (e.g., click-through terms). Automox does not control or review any Third Party Content. You are responsible for ensuring that the Third Party Content is appropriate for your intended usage and that you have the rights necessary to use the Third Party Content.

### 4. SECURITY AND DATA PROCESSING

4.1 **Automox Obligations.** Automox will provide the Software and Cloud Services in accordance with the Information Security Addendum available at [automox.com/legal/information-security-addendum](https://automox.com/legal/information-security-addendum). Automox will process your Customer Data in accordance with the Data Processing Addendum available at [automox.com/legal/data-processing-addendum](https://automox.com/legal/data-processing-addendum). You can use the "Request Signed DPA" link on the Data Processing Addendum page to request an executed copy of the Data Processing Addendum. Following the expiration or termination of your Subscription Term, and unless prohibited by applicable law, Automox will delete any Customer Data in accordance with the applicable Documentation. If you request, Automox will provide written certification that Automox deleted your Customer Data.

4.2 **Customer Obligations.** You are responsible for providing notices, obtaining consents and licenses, and satisfying any other requirements for Automox to use the Customer Data to perform under this Agreement.

4.3 **Automox Data.**

(A) The Offerings are designed to automate your IT operations by collecting data pertaining to your devices. Your Customer Data includes information about operating systems, installed applications and device performance. Because your IT environment is unique in configurations and naming conventions, device information could include information, such as a user name, that could identify an individual. Automox also collects information about the performance of the Offerings, such as the frequency of feature usage, technical performance metrics and product configuration. Automox analyzes the device and performance information to provide you the Offerings. This analysis may also result in generalized product improvements. “**Service Data**” means (1) these generalized product improvements and (2) synthetic data that Automox generates from device and performance information, in each case which are anonymized and cannot be identified with you or an individual. Automox uses Service Data to: (a) analyze trends and performance and (b) improve the functionality of, and develop, the Offerings and new products. Service Data is accessed only by Automox, and Automox will not provide Service Data to any third party to use for its own purposes. Service Data is not your Confidential Information or Customer Data.

(B) Automox also collects account-related data, such as billing contact name and email, during your purchase and use of the Offerings (“**Administrative Data**”). Administrative Data never includes Customer Data. Automox uses Administrative Data to provide the Offerings, bill you for the Offerings, advise you of new Automox products and service, and comply with Automox’s contractual obligations and applicable law. Automox will process the Administrative Data in accordance with this Agreement and the Automox privacy statement available at: [automox.com/privacy-policy](https://automox.com/privacy-policy).

5. **ORDERING AND PAYMENT**

5.1 **Orders.** You may purchase Offerings directly from Automox or through an Automox authorized reseller. No non-negotiated terms or conditions of any Order, purchase order, invoice, acknowledgment or other business form used in connection with any purchase from Automox (including those for subsequent purchases from Automox of additional subscription terms) will have any effect on the terms of any agreement regardless of either party’s failure to object to such terms or conditions. Each party rejects all additional or conflicting terms or conditions. No Order is binding on Automox until Automox provides written confirmation of acceptance or delivers an ordered Offering to you by making Cloud Services available to you. All Orders are non-refundable and non-cancelable except as expressly provided in this Agreement.

5.2 **Reseller Orders.** If you purchase through an Automox authorized reseller, sections 5.3 (Ordering and Payment: Affiliate Orders), 5.4 (Ordering and Payment: Fees and Payment), and 5.5 (Ordering and Payment: Taxes) will not apply to that purchase. If Automox provides you a refund under this Agreement, Automox will issue the refund to your authorized reseller. Automox will require the authorized reseller to refund you based on the amount the authorized reseller received from you for the refunded portion of the Offering.

5.3 **Affiliate Orders.** Your Affiliates may submit Orders as “you” to Automox under this Agreement. You will place Orders with Automox or its Affiliate as indicated on the Quote. If you place an Order with a Automox Affiliate, then that Affiliate will act as “Automox” for sections 5.4 (Ordering and Payment: Fees and Payment) and 5.5 (Ordering and Payment: Taxes). Each party is responsible for its Affiliate’s compliance with this Agreement.

5.4 **Fees and Payment.** Automox will invoice you for the fees stated on your Quote after accepting your Order. You will pay all undisputed fees in the amount and currency specified on your invoice within the time period identified on your Quote from Automox’s electronic transmission of the invoice to the email address you have provided. If Automox accepts your credit card for payment of fees and applicable taxes, Automox may charge the credit card until you provide written notice to Automox to stop.

5.5 **Taxes.** All fees owed under this Agreement are exclusive of any Taxes. “**Taxes**” means any sales, VAT, GST (Goods and Services Tax), use, gross receipts, business and occupation, and other taxes (other than taxes on Automox’s income), export and import fees, customs duties and similar charges imposed by any government or other authority. You will pay or reimburse Automox for all Taxes arising out of the transactions occurring under this Agreement. If you are required to pay or withhold any Tax for payments due under this Agreement, you will gross up your payments to Automox so that Automox receives all sums due in full and free from any deductions. Automox can rely on the name and address you provide to

Automox as being the place of supply for sales tax, income tax, and VAT purposes. If you are tax exempt, you will provide exemption certificates for the applicable taxing authorities.

**6. MODIFICATIONS.** This Agreement incorporates by reference all of the documents that this Agreement identifies as applicable to your ordered Offerings (“**Ancillary Documents**”). Ancillary Documents may include the Documentation, Service Level Agreement, Information Security Addendum, and Data Processing Addendum. Because the Offerings are continually evolving, Automox may update any of the Ancillary Documents from time to time, and the Ancillary Document applicable at any time is the then-current version. Updates to the Information Security Addendum and Data Processing Addendum will never be materially adverse to you. Automox will provide you with 30 days’ written notice if any update to the Offerings or any other Ancillary Document will materially and adversely affect your use of an Offering or Automox’s obligations to you, and in that case you may elect in writing to terminate the affected Offering within 60 days of the notice date. If you terminate the Offering, Automox will refund the amount that Automox received for the unused portion of the Subscription Term for the terminated Offering.

## **7. WARRANTIES**

**7.1 Performance Warranty.** Automox warrants that the Software and Cloud Services will substantially conform to the applicable Documentation during the Subscription Term. This warranty only applies if the Software and Cloud Services are used in unmodified form in accordance with the Documentation. Automox will correct any reproducible error that you identify. If Automox determines that it cannot correct the error, Automox will refund to you the amount that Automox received for the unused portion of the Subscription Term after the date you notified Automox of the breach for that Offering, in which case your rights to use the Offering will terminate. Automox will do this at its own expense and as its sole obligation and your sole remedy for breach of this performance warranty.

**7.2 Technical Services Warranty.** Automox warrants that it will perform Technical Services in a workmanlike manner in accordance with the standards of the industry. If you provide written notice to Automox within a reasonable period after any alleged breach of this warranty, Automox will correct that breach or terminate that Technical Service and refund to you the amount that Automox received for that Technical Service. Automox will do this at its own expense and as its sole obligation and your sole remedy for breach of this Technical Services warranty.

**7.3 Disclaimer.** **The express warranties set forth in section 7 (Warranties) are in lieu of all other warranties. Automox makes no warranties with respect to Third Party Content. To the extent permitted by law, Automox disclaims all other warranties, whether express, implied or statutory (including any implied warranties of merchantability, fitness for a particular purpose, title or noninfringement), and any warranties arising from usage of trade, course of dealing or course of performance. Automox does not warrant that the Offerings will meet your requirements or that they will be accurate or operate without interruption or error. You have not relied on any promise, warranty, or representation not expressly provided in this Agreement.**

## **8. MUTUAL INDEMNIFICATION**

### **8.1 Automox Indemnification.**

(A) Subject to the remainder of section 8.1 (Mutual Indemnification: Automox Indemnification), Automox will defend you against any unaffiliated third party suit or proceeding (1) alleging that the Software or Cloud Services infringe any patent, trademark or copyright, or misappropriate a trade secret, of that third party (“**Infringement Claim**”), or (2) arising from Automox’s failure to comply with applicable laws (together with an Infringement Claim, “**Indemnified Claim**”). Automox will indemnify you from the damages finally awarded against you to that third party by a court of competent jurisdiction or agreed to in settlement. Automox’s obligations only apply if you: (i) promptly notify Automox of the Indemnified Claim in writing, (ii) allow Automox sole control over the defense for the claim and any settlement negotiations provided that Automox will not agree to any settlement that obligates you to pay any amounts to the party bringing the claim or admits your liability without your prior written consent, such consent not to be unreasonably withheld, delayed or conditioned, and (iii) reasonably cooperate in response to Automox’s requests for assistance at Automox’s expense. You may not settle or compromise any Indemnified Claim without Automox’s prior written consent, provided that Automox assumes obligation for defense of the claim.

(B) If Software or Cloud Service become, or in Automox’s opinion is likely to become, the subject of an Infringement Claim, Automox will at its option and expense do one of the following: (1) procure the rights necessary for you to make continued use of the affected Software or Cloud Service; (2) replace or modify the affected Software or Cloud Service to

make it non-infringing; or (3) terminate your right to use the affected Software or Cloud Service, and upon your certified deletion of any affected Software, refund you the amount that Automox received for the unused portion of the Subscription Term for the terminated Software and Cloud Services Offering. Nothing in this section 8.1(B) (Mutual Indemnification: Automox Indemnification) will limit Automox's obligation under section 8.1(A) (Mutual Indemnification: Automox Indemnification) to defend and indemnify you, provided that you replace any allegedly infringing Software upon Automox's making alternate Software available to you and you discontinue using any allegedly infringing Software upon receiving Automox's notice terminating your license to use the Software.

(C) Automox will not have any obligation under section 8.1(A) (Mutual Indemnification: Automox Indemnification) with respect to any claim based on (1) a combination of Software or Cloud Services with non-Automox products except for a device running the Software; (2) continued use of an infringing version of the Software after Automox has provided you a noninfringing version or terminated your right to use the affected Software or Cloud Service under section 8.1(B) (Mutual Indemnification: Automox Indemnification); (3) any modification to the Software except by Automox or at Automox's direction; or (4) Customer Data or Third Party Content.

**(D) This section 8.1 (Mutual Indemnification: Automox Indemnification) is your sole exclusive remedy and Automox's entire liability for any Indemnified Claim.**

**8.2 Customer Indemnification.** You will defend Automox against any unaffiliated third party suit or proceeding (A) alleging that the Customer Data infringes any patent, trademark or copyright, or misappropriates a trade secret, of that third party; (B) arising from your installation or use of Third Party Content; or (C) alleging your failure to comply with applicable laws ("**Customer Data Claim**"). You will indemnify Automox from the damages finally awarded against Automox to that third party by a court of competent jurisdiction or agreed to in settlement. Your obligations only apply if Automox: (a) promptly notifies you of the Customer Data Claim in writing, (b) allows you sole control over the defense for the claim and any settlement negotiations provided that you will not agree to any settlement that obligates Automox to pay any amounts to the party bringing the claim or admits Automox's liability without Automox's prior written consent, such consent not to be unreasonably withheld, delayed or conditioned, and (c) reasonably cooperates in response to your requests for assistance at your expense. Automox may not settle or compromise any Customer Data Claim without your prior written consent, provided that you assume obligation for defense of the claim. **This section 8.2 (Mutual Indemnification: Customer Indemnification) is Automox's sole exclusive remedy and your entire liability for any Customer Data Claim.**

## **9. LIMITATIONS OF LIABILITY**

**9.1 Exclusion of Damages.** Subject to the exclusions in section 9.3 (Limitations of Liability: Exclusions), **neither Automox nor you are liable for any lost profits or business opportunities, loss of use, business interruption, or any indirect, punitive, special, incidental or consequential damages under any theory of liability. This exclusion applies regardless of whether Automox or you have been advised of the possibility of those damages and regardless of whether any remedy in this Agreement fails of its essential purpose.**

**9.2 Cap on Monetary Liability.** Subject to the exclusions in section 9.3 (Limitations of Liability: Exclusions), **the maximum aggregate liability for Automox or you for claims related to this Agreement will not exceed an amount equal to the total fees paid or payable to Automox for your use of the Offerings in the 12 months prior to the event giving rise to the claim.**

**9.3 Exclusions.** The exclusions and limitations in section 9 (Limitations of Liability) will not apply to: (A) either party's violation of the other party's Intellectual Property Rights; (B) either party's obligations in section 8 (Mutual Indemnification); (C) your payment obligations under section 5 (Orders and Payment); (D) either party's liability for death or personal injury caused by its negligence; or (E) any liability that cannot be excluded under applicable law.

## **10. CONFIDENTIAL INFORMATION**

**10.1 Obligations.** "**Confidential Information**" means non-public information provided in connection with this Agreement that is labeled "confidential" or the like, or is provided under circumstances reasonably indicating its confidentiality. Automox's Confidential Information includes this Agreement, your pricing, and product roadmaps. Your Confidential Information includes your Customer Data. A party ("**recipient**") may use Confidential Information of the other party ("**discloser**") solely to exercise its rights and perform its obligations under this Agreement. Automox and you will each protect the other party's Confidential Information in the same manner as it protects its own Confidential Information of a similar nature, but in any event with not less than reasonable care. Automox will process your Customer Data in accordance with

the Information Security Addendum. Upon request, Automox and you will each delete any Confidential Information of the other party. Automox will automatically delete your Customer Data in accordance with section 4.1 (Security and Data Processing: Automox Obligations).

**10.2 Exclusions.** The recipient's obligations under section 10.1 (Confidential Information: Obligations) will terminate with respect to any Confidential Information that the recipient can show: (A) was already rightfully known to the recipient without any obligation of confidentiality at the time of disclosure; (B) was disclosed to the recipient by a third party who had the right to make the disclosure without any confidentiality restrictions; (C) was at the time of disclosure, or through no fault of the recipient has become, generally available to the public; or (D) was independently developed by the recipient without access to or use of the discloser's Confidential Information.

**10.3 Permitted Disclosures.** The recipient may disclose Confidential Information only to its employees, professional advisors, service providers or contractors who have a need to know the Confidential Information and who are under a similar duty of confidentiality. The recipient may also disclose Confidential Information to the extent required by law or regulation, in which case the recipient will notify the discloser as soon as practicable if permitted by law or regulation. At the discloser's request and expense, the recipient will take reasonable steps to contest and to limit the scope of any required disclosure.

**10.4 Remedies.** The discloser may seek an injunction to prevent the actual or threatened unauthorized disclosure of Confidential Information.

## **11. TERM; SUSPENSION AND TERMINATION**

**11.1 Term.** This Agreement will remain in effect for the period identified in the preamble. Either party may terminate this Agreement before the end of the term if expressly permitted by this Agreement. The Subscription Term and any renewal of it is described in the applicable Quote. Each Subscription Term is a continuous and non-divisible commitment for the full duration of the Subscription Term. If you place an Order after the start date stated on your Quote, Automox may adjust your start date to the date on which your Order was accepted, in which case your Subscription Term will be described on your invoice.

**11.2 Suspension.** If you have not paid past-due fees within 15 days of Automox's written notice of delinquency, then Automox may suspend your access to the Offerings. Automox will not exercise its suspension rights under this section if you are disputing the applicable charges reasonably and in good faith, you are cooperating diligently to resolve the dispute, and you have paid any undisputed fees in accordance with this section.

### **11.3 Termination.**

(A) **For Convenience.** Either party may terminate this Agreement upon written notice if there are no Orders then in effect.

(B) **For Breach.** If the other party materially breaches this Agreement and does not cure the breach within 30 days of receiving written notice describing the breach from the other party, the non-breaching party may terminate this Agreement immediately by written notice while the breach remains uncured. Termination under this section will also terminate any Orders then in effect. If you terminate under this section or in accordance with the Service Level Agreement, then Automox will promptly refund the amount that Automox received for the unused portion of the Subscription Term for the terminated Offering.

(C) **For Insolvency.** Either party may terminate this Agreement effective immediately by written notice if the other party (A) becomes insolvent, admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or (B) becomes subject to control of a trustee, receiver or similar authority, or to any bankruptcy or insolvency proceeding. Termination under this section will also terminate any Orders then in effect.

**11.4 Effect of Expiration or Termination.** Upon termination or expiration of an Order, you will stop using and Automox will stop providing the applicable Software or Cloud Services. Automox will automatically delete your Customer Data in accordance with section 4.1 (Security and Data Processing: Automox Obligations).

**11.5 Survival.** The following sections will survive termination or expiration of this Agreement: 3 (Intellectual Property); 4 (Security and Data Processing); 5.4 (Ordering and Payment: Fees and Payment); 7.3 (Warranties: Disclaimer); 8 (Mutual Indemnification); 9 (Limitations of Liability); 10 (Confidential Information); 11 (Term; Suspension and Termination); and 12 (General).

## **12. GENERAL**

12.1 **Assignment.** Neither party may assign its rights or obligations under this Agreement or any Order, by operation of law or otherwise, without the prior written consent of the other party. But either party may assign this Agreement without consent to its Affiliates or to any successor or assign that has acquired substantially all of its business relating to this Agreement. This Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns. Any purported assignment in violation of this section is void.

12.2 **Governing Law and Venue.** If you are domiciled in North America, this Agreement is governed by the laws of the State of New York without regard to its principles of conflicts of law, and any dispute arising out of this Agreement will be exclusively resolved in the State or Federal courts located in Denver, Colorado. If you are domiciled outside of North America, this Agreement is governed by the laws of England and Wales without regard to its principles of conflicts of law, and any dispute arising out of this Agreement will be exclusively resolved in the English courts. The 1980 U.N. Convention on Contracts for the International Sale of Goods will not apply.

12.3 **Compliance with Laws.** Each party will comply with any statutes and regulations that apply to it in its performance under this Agreement.

12.4 **Export Compliance.** The Offerings are of United States origin, are provided subject to the U.S. Export Administration Regulations, and may be subject to export control laws. You will not, and are not acting on behalf of: (A) any person who is a citizen, national, or resident of, or who is controlled by, the government of any country to which the United States has prohibited export transactions; or (B) any person or entity listed on the U.S. Treasury Department list of Specially Designated Nationals and Blocked Persons, or the U.S. Commerce Department Denied Persons List or Entity List. You are not subject, either directly or indirectly, to any order issued by any agency of the United States government revoking or denying, in whole or in part, your United States export privileges.

12.5 **U.S. Government Rights.** Automox provides the Offerings, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Offerings include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Automox to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

12.6 **Notice.** All notices will be in writing and deemed given the second “**Business Day**” (Monday through Friday, excluding federal holidays) after mailing if sent by a recognized overnight courier (receipt requested). Automox will send notices to you at the address in your Quote. You will send notices to Automox at: Automox Inc., 4845 Pearl East Cir., Ste 118, PMB 80340, Boulder, CO 80301-6112, United States of America, Attention: Legal Department, with an electronic copy to [legal@automox.com](mailto:legal@automox.com). Except for notices of termination or indemnification, notices may also be delivered by email and are effective the Business Day after sending. Automox will email billing-related notices to the billing contact that you designate. Automox will email Offering-related notices to the system administrator that you designate. You will email all notices to Automox at [legal@Automox.com](mailto:legal@Automox.com).

12.7 **Force Majeure.** Neither party will be liable for any delay or failure to perform any obligations under this Agreement or any Order, due to any cause beyond its reasonable control including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications or other utility failures, supply failures by third party service providers (including internet service provider failures or delays, or denial of service attacks), earthquakes, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism or war, so long as the party continues to use commercially reasonable efforts to resume performance.

12.8 **Entire Agreement.** This Agreement includes any separately executed agreements between you and Automox relating to this Agreement, each of which is incorporated by reference. The Agreement as it may be modified from time to time is the entire agreement of the parties regarding your purchase and use of the Offerings. The Agreement supersedes all prior or contemporaneous communications, understandings and agreements, whether written or oral, between the parties regarding its subject matter. In the event of a conflict, the descending order of precedence is: (A) the Quote, (B) the body of this Agreement, and (C) the applicable Ancillary Document.

12.9 **Counterparts.** Each party may sign this agreement using an electronic or handwritten signature, which are of equal effect, whether on original or electronic copies.

12.10 **Waiver and Amendment.** The waiver of a breach of any provision of the Agreement will not constitute a waiver of any other provision or any later breach. Any modification of this Agreement must be in writing and signed by the party against whom the modification will be enforced.

12.11 **Relationship of the Parties.** The parties are independent contractors. Nothing in this Agreement creates a partnership, joint venture or agency relationship. Neither party has any authority to assume or create any obligation of any kind in the name of or on behalf of the other party.

12.12 **Third Party Rights.** Other than as expressly provided in the Agreement, the Agreement does not create any rights for any person who is not a party to it, and no person who is not a party to the Agreement may enforce any of its terms or rely on any exclusion or limitation contained in it.

12.13 **Severability.** If any provision of the Agreement is held to be invalid or unenforceable, the remaining provisions of the Agreement will remain in force to the maximum extent feasible or permitted by law.

12.14 **Construction.** The Offerings will be provided in the English language. The words “include” and “including” mean “including but not limited to.” Section headings are for convenience only and are not to be used in interpreting this Agreement.

**13. AUSTRALIA.** If you are domiciled in Australia, the following provisions apply:

13.1 **Software and Cloud Services.** Replace the sentence stating “Automox will provide the Cloud Services in accordance with the applicable Documentation and Service Level Agreement” in section 2.2 (Customer Use of the Offerings: Software and Cloud Services) with the following:

“Automox will provide the Cloud Services in accordance with the applicable Documentation and Service Level Agreement subject and limited to the conditions and remedies set forth in section 7 (Warranties).”

13.2 **Customer Use of the Offerings; Restrictions.** Replace section 2.3(D) (Customer Use of the Offerings: Restrictions) with the following:

“decompile, reverse engineer, modify or create a derivative work of the Offerings (to the extent this restriction is not prohibited by law, and subject to any rights under the Australian Copyright Act 1968 (Cth) that cannot be excluded by agreement)”

13.3 **Security and Data Processing; Privacy.** Supplement section 4 (Security and Data Processing) with the following additional section:

**4.4 Privacy.** You represent and warrant that your access, collection, use, relocation, storage and disposal of Customer Data, and the receipt, processing and use of Customer Data by Automox in performing its obligations in accordance with this Agreement, shall comply with all applicable data privacy laws, including the Australian Privacy Act 1988 (Cth) and the Australian Privacy Principles contained in Schedule 1 of the Australian Privacy Act 1988 (Cth). You must, and must ensure that your Authorized Users, comply with the requirements of any such data privacy laws, and not do or omit to do anything in connection with the Customer Data that will cause Automox to breach any such data privacy laws. You warrant that you have provided the appropriate notifications and procured the necessary consents to allow Automox to collect any personal information required for this Agreement and to use that personal information as contemplated by this Agreement and in accordance with such data privacy laws.

Automox stores your Customer Data which may contain personal information (as the term is defined in the Australian Privacy Act 1988 (Cth)) on your behalf, as agent for you. For additional information on Automox’s privacy practices, please visit our privacy statement at [automox.com/privacy-policy](https://automox.com/privacy-policy).”

**13.4 Ordering and Payment; Orders; GST.**

(A) Add the following to the end of the last sentence of section 5.1 (Ordering and Payment: Orders):

“ or the Australian Consumer Law.”

(B) Supplement section 5 (Ordering and Payment) with the following additional section:

**"5.6 GST.** In this section 5.6, the expressions "Consideration", "GST", "Input Tax Credit", "Net Amount", "Recipient", "Supply", "Tax Invoice" and "Taxable Supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("GST Act"), and "Supplier" means any party treated by the GST Act as making a Supply under this Agreement. Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST. If GST is imposed on any Supply made under or in accordance with this Agreement, the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Supply at or before the time of payment. Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this Agreement. If this Agreement requires a party (the "**First Party**") to pay for, reimburse, set off or contribute to any expense, loss or outgoing ("**Reimbursable Expense**") suffered or incurred by the other party (the "**Other Party**"), the amount required to be paid, reimbursed, set off or contributed by the First Party will be the sum of: (i) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense ("**Net Amount**"); and (ii) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply, such that after the Other Party meets the GST liability, it retains the Net Amount."

### 13.5 Warranties; Australian Consumer Law.

(A) Supplement section 7 (Warranties) with the following additional section:

**"7.4 Australian Consumer Law.** The supply of the Offerings under this Agreement may be subject to the Australian Consumer Law, Schedule 2 of the Australian Competition and Consumer Act 2010 (Cth) ("**Australian Consumer Law**"). Where this is the case, the following statement applies in respect of any failure to comply with the consumer guarantees under the Australian Consumer Law:

Automox goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
- to a refund for the unused portion, or to compensation for its reduced value.

You are also entitled to choose a refund or replacement for major failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, right or remedy conferred on you by the Australian Consumer Law or any other applicable law that cannot be excluded, restricted or modified by agreement. Subject to the preceding sentence, any condition, warranty, guarantee, right or liability which would otherwise be implied in this Agreement or imposed by law is excluded. To the fullest extent permitted by law, Automox's liability for any breach of any consumer guarantee, right or remedy conferred by the Australian Consumer Law which cannot be excluded is limited, at Automox's option, to: (i) in the case of goods, any one or more of the following: (1) the replacement of the goods or the supply of equivalent goods; (2) the repair of the goods; (3) the payment of the cost of replacing the goods or of acquiring equivalent goods; or (4) the payment of the cost of having the goods repaired; or (ii) in the case of services: supplying the applicable service again or the payment of the cost of having that service provided again.

(B) Sections 7.3 (Warranties: Disclaimer), 8.1(D) (Mutual Indemnification: Automox Indemnification), and 9 (Limitations of Liability) are each subject to the Australian Consumer Law and to section 7.4 (Warranties: Australian Consumer Law).

13.6 **Survival.** Replace Section 11.5 (Survival) with the following:

"The following sections will survive termination or expiration of this Agreement: 3 (Intellectual Property); 4 (Security and Data Processing); 5.4 (Ordering and Payment: Fees and Payment); 5.5 (Ordering and Payment: Taxes); 5.6 (Ordering and Payment: GST); 7.3 (Warranties: Disclaimer); 7.4 (Warranties: Australian Consumer Law); 8 (Mutual

Indemnification); 9 (Limitations of Liability); 10 (Confidential Information); 11 (Term; Suspension and Termination); 12 (General); and 13 (Australia).”

**13.7 General; Governing Law and Venue.** Replace the first two sentences of section 12.2 (General: Governing Law and Venue) with the following:

“This Agreement is governed by and must be construed in accordance with the laws of New South Wales, Australia without regard to its principles of conflicts of law, and any dispute arising out of this Agreement will be exclusively resolved in the courts of New South Wales, Australia and the Commonwealth of Australia, and you and Automox submit to the exclusive jurisdiction of those courts.”