

SUBSCRIPTION AND SERVICES AGREEMENT

These terms and conditions create a contract between you and Varnish Software (the “Agreement”). Please read the Agreement carefully. To confirm your understanding and acceptance of the Agreement, click “Agree”.

This Subscription and Services Agreement (“Agreement”) is effective as of the date of the date of acceptance online and is by and between Varnish Software, Inc., for itself and its affiliates, including its parent company, Varnish Software AB, a Swedish company (together “Varnish”), and the customer identified below which may be placed online (“Customer”). This Agreement includes the applicable Order Form and Exhibits attached hereto. In addition to terms defined elsewhere in this Agreement, capitalized terms shall have the meanings set forth in the “Definitions” Section set forth below. In consideration of the promises and the mutual obligations of the parties set forth herein, and for other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Software and Support Services.

Varnish and Customer enter into this Agreement pursuant to the Partnership Agreement executed between Akamai Technologies, Inc. (“Akamai”) and Varnish with effective date March 24, 2017 (the “Partnership Agreement”). Under the terms of this Agreement, and as further described below, Varnish offers to Customer a one year license to Version 1 of the Varnish-Akamai Bridge (the “Software”) on a subscription basis as well as access to ongoing support services, as defined herein (the “Services”).

2. License Grant.

During the Term, Customer hereby subscribes to the Services and Varnish hereby grants to Customer a non-exclusive, non-transferable, non-assignable license to install, access, copy, study, and use the Software solely for Customer's internal use. The license is automatically revoked at the end of the Term without the need for any notice.

3. Reservation of Rights.

Varnish reserves all rights not expressly granted in Section 2. Customer may not, except as permitted in this Section 3, copy, modify, adapt, or create derivative works of the Software or Documentation (located at www.varnish-software.com/products), or remove any copyright or other proprietary rights notices thereon. All rights granted herein are a time limited license, not a sale. Other than the rights licensed to Customer hereunder, Customer has no other implied license or right of any kind regarding the foregoing. Customer shall not itself, and shall not permit its Users or any other party to, directly or indirectly, in whole or in part, sublicense, distribute, lease, make available as a service bureau or otherwise allow any third parties any right or access to the Software; disassemble, decompile, decrypt, or reverse engineer, or otherwise attempt to discover or replicate source code for the Software; or alter, modify, or prepare derivative works based on the Software or Services. Customer acknowledges and agrees that Varnish owns and retains all rights existing from time to time in any jurisdiction under copyright law, patent law, moral rights law, trade secret law, confidential information law, trademark law, unfair competition law or other similar rights (“Proprietary Rights”) in the Software, Services, and Documentation, any training materials and any copies, modifications, adaptations, derivative works, and enhancements thereof, by whomever produced.

4. Services.

During the Term, Akamai shall initially field Customer inquiries concerning the Software; and Varnish will, as needed, assist Akamai in addressing basic Software-related support issues raised by Customers.

5. Third-Party Software.

Varnish does not warrant any such third-party providers or any of their products or services, and shall have no liability for any interaction between such third party software and the Varnish Services. Any exchange of data or other interaction between Customer and a third-party provider, and any purchase by Customer of any product or service offered by such third-party provider, is solely between Customer and such third-party provider, and Varnish shall have no liability for the same. No purchase of such third-party products or services is required to use the Software or Services.

6. Fees and Payment.

General. In accordance with the Partnership Agreement, Varnish shall provide Customer with access to the Software and Services at no cost for the first year. If Customer elects to renew the subscription for additional terms of one year each, Customer might be obligated to pay the fees applicable at the time of renewal depending on the status of the Partnership Agreement. Unless otherwise agreed, the first annual Fee shall be paid within 30 days of the Effective Date. Unless otherwise agreed in writing, customer agrees to make all payments by ACH transfer and agrees to provide Varnish with its payment information. If Varnish fails to receive timely payment of any Fees, it may, in its sole discretion, suspend or terminate Customer's account. Any accrued but unpaid fees may accrue late charges at the rate of 1.5% of the balance per month, or the maximum rate permitted by law, whichever is lower.

Use of Billing Information. To the extent that Customer shares billing information with Varnish, Varnish may share any billing information with companies that handle Varnish's payment processing, but only for checking credit, servicing your account, in response to valid legal process, or to establish or protect its rights. Varnish assumes no responsibility for any use or disclosure by any such third parties.

Other Services. Fees for access to software and services not covered by the Partnership Agreement shall be agreed in writing by the parties in a separate Statement of Work or Order Form and subject to the terms of this agreement. All amounts are due thirty (30) days from invoice date, and if past due will incur interest at 1.5% per month or the maximum rate under applicable law, if less. Customer shall reimburse Varnish for preapproved, out-of-pocket expenses reasonably incurred in rendering any services ordered hereunder, including without limitation, reasonable travel and transportation expenses, lodging, and meals.

Taxes. Unless otherwise stated, Varnish's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties, or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder, excluding taxes based on Varnish's net income or property. If Varnish has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Varnish with a valid tax exemption certificate authorized by the appropriate taxing authority.

7. Warranty.

Warranties. Varnish represents and warrants that: (a) Varnish is financially solvent and has the ability to perform its obligations hereunder; (b) the person signing below is a duly authorized officer or representative of Varnish with the authority to enter into and bind Varnish to the terms and conditions in this Agreement; (c) the Services will be performed in a competent manner by qualified personnel and all Software and services will be provided on a timely basis; (d) any Services provided do not infringe the intellectual property rights of third parties; (e) all Software will operate in all material respects as described in the applicable software documentation and (f) Varnish owns, licenses and/or has the right to grant and extend the subscription and access to Software provided hereunder, including without limitation third party software or material, if any, provided to Customer. However, Varnish does not warrant that the Software and services are or will be error free. Customer must notify Varnish of any deficiencies without undue delay within fifteen (15) days of when the defective Service performance was discovered or should have been discovered, if the claim is not to lapse. Varnish will use reasonable efforts to correct any warranty failure or errors in the Software that materially affect Customer operations within thirty (30) days of Customer reporting such failure or errors to Varnish. If Varnish is unable to provide a solution to the failure after notice from Customer, Varnish will refund to Customer all amounts paid by Customer for the failed Services or defective Software, in the period lapsed from the complaint till termination.

DISCLAIMER OF WARRANTIES. SUBJECT TO THE EXPRESS WARRANTIES PROVIDED IN THIS SECTION 7, THIS SOFTWARE IS PROVIDED BY VARNISH "AS IS" AND ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED.

Additional Services. Varnish agrees to provide requested support or other services that do not fall within the scope of the Services on an as-available basis at the rate of USD1,800.00 per day. Varnish and Customer will execute a separate agreement corresponding to such additional services.

Procedure for Warranty Claims and Support Requests. Customer agrees to report all defects it encounters with the Software and to make all non-warranty support requests by e-mail to: support@varnish-software.com.

8. Term and Termination.

Term. This Agreement shall become effective as of the Effective Date and shall remain in effect for one year (the "**Initial Term**") unless terminated by either party as described herein. If the Customer elects to renew the subscription after the Initial Term, this Agreement will renew for an equal term (i.e. a "**Renewal Term**") (the Initial Term and all Renewal Terms are the "**Term**") on the same terms and conditions as included herein at Varnish's standard rates in effect at the time of such renewal (unless renewal fees are paid by Akamai pursuant to the Partnership Agreement). If Customer wishes to renew this Agreement, it shall so notify Varnish at least 30 days in advance of this Agreement's date of expiration.

Termination. Either party may terminate this Agreement (i) if the other party commits a material breach of this Agreement that remains uncured thirty (30) days after written notice of such breach is delivered to the other party, (ii) immediately upon breach of confidentiality obligations in this Agreement that remain uncured thirty (30) days after written notice of such breach, or (iii) immediately if the other party assigns any of its assets to its creditors, or voluntarily or

involuntarily petitions for the protection of bankruptcy court. Additionally, Varnish may terminate this Agreement if the Partnership Agreement terminates as a result of Akamai's breach. Rights of termination are in addition to any other remedies available to the parties, at law or in equity. Upon any termination or expiration of this Agreement, including in the event that this Agreement terminates due to Customer's breach (of this Agreement) or Akamai's breach of the Partnership Agreement, then all license rights shall immediately terminate and be revoked and Customer and Customer's Users shall immediately cease use of the Software and Services. For the sake of clarity, however, if the Partnership Agreement simply expires, then this Agreement shall continue for the remainder of its term. The following sections of this Agreement shall survive termination: 3, 7, 8, 9, 10, 11 and 13. Customer acknowledges and agrees that Varnish will have no liability for any loss of the use of data resulting from its exercising the rights set forth in this paragraph. Varnish will give Customers a minimum of 180 days' notice of terminating support for the Software. If this Agreement expires beyond this 180 day notice period, Varnish will provide support until the end of this Agreement's term.

9. Confidentiality.

Definitions. "Proprietary Information" is, collectively and without regard to form, any third party information which either party has agreed to treat as confidential, and Confidential Information and Trade Secrets. "Confidential Information" means non-public information of value to its owner (other than Trade Secrets) and that is the subject of its owner's reasonable efforts to maintain confidentiality thereof. "Trade Secrets" means information that derives actual or potential economic value because it is not generally known to, and by proper means not readily ascertainable by, others who can obtain economic value from its disclosure or use; and is the subject of commercially reasonable efforts to maintain its secrecy. Without limitation of the foregoing, Varnish's Proprietary Information includes the Software and all source code associated therewith and the Documentation.

Scope of Obligations. Each party shall protect the Proprietary Information of the other party with the same standard of protection and care that it uses for its own Proprietary Information, but in no event less than reasonable care and diligence. Neither party shall disclose, publish, transmit, or make available all or any part of such Proprietary Information except in confidence or a need-to-know basis to its own employees and third party contractors who have undertaken a written obligation of protection and confidentiality at least as protective as those, and shall not duplicate, transform, or reproduce such Proprietary Information except as expressly permitted hereunder.

Exclusions. Any information will not be considered "Proprietary Information" to the extent, but only to the extent, that such information: (a) is already known to the receiving party free of any confidentiality obligation at the time it is obtained; (b) is or becomes publicly known through no wrongful act of the receiving party; (c) is rightfully received from a third party without restriction and without breach of this Agreement; or (d) is required to be disclosed by law or court order. If either party is required by law or court order or regulatory authority to disclose any Proprietary Information, except such disclosure may be made only after the other party has been notified and has had a reasonable opportunity to seek a court order or appropriate agreement protecting disclosure of such Proprietary Information.

Trade Secrets. With regard to Trade Secrets, the obligations in this Section shall continue for so long as such information continues to be a Trade Secret. With regard to Confidential Information, the obligations in this Section shall continue for the term of this Agreement and for four (4) years thereafter.

10. Indemnification – Limitation of Liability.

Indemnity. To the maximum extent allowed by law, Varnish (“Indemnitor”) shall indemnify, defend, and hold harmless Customer and its directors, officers, employees, and agents (the “Indemnitees”), from and against any and all final and binding awards or judgment (collectively referred to as “Claims”), including reasonable attorneys’ fees, that the Indemnitees may suffer or incur arising out of or in connection with any infringement or violation of any patent, copyright or trademark (collectively, “IP Rights”); or any personal injury (including death) or damage to property arising out of the Indemnitor’s acts or omissions, except to the extent such portion of any Claims are caused by the negligence or willful misconduct of the Indemnitees, provided Indemnitees notify Indemnitor of any Claim without undue delay and leaves Indemnitor to negotiate, settle, and defend against such Claim.

Indemnity Procedure. The Indemnitees will give prompt notice of any Claim to the Indemnitor. If Customer is unable to use the Software because of a Claim that such use infringes or violates any IP Rights, Indemnitor will, at its expense and option: (i) procure for Customer the right to continue using such Software; or (ii) replace or modify the portion of the Software that is infringing so that it becomes non-infringing.

Exceptions to Indemnity. The indemnity obligations set forth above in this Section 10 do not apply if the Claim is caused by, or results from: (a) modification of the Services or Software by anyone other than the Indemnitor, if the third party claim would have been avoided by use of the unmodified Services or Software; (b) Customer’s continued allegedly infringing activity after being notified thereof or after being provided modifications that would have avoided the alleged infringement; (c) Customer’s use of the Services or Software in a manner not in accordance with this Agreement, Varnish advise or the Documentation; or (d) use of other than Varnish’s most current release of the Services or Software if the third party claim would have been avoided by use of the most current release or revision.

Exclusion of Liability for Indirect Damages. Apart from indemnity as described above in this Section 10, either party is liable only for direct, documented damages or loss inflicted on the other party due to negligence. Notwithstanding anything to the contrary, neither party shall be liable to the other party for indirect, incidental, special, punitive or other consequential damages, including damages for lost opportunities, lost profits from this Agreement or any other transaction, or lost savings or data, even if such damages were foreseeable or results from a breach of this Agreement.

Limitation of Liability. Apart from indemnity as described above in this Section 10, in no event will the parties be responsible for any liabilities or damages resulting from, or in any way related to, this Agreement, whether in contract, warranty, indemnity, tort (including negligence), strict liability, or otherwise greater than 100% of the value of all products and services purchased by Customer from Varnish during the twelve (12) months preceding the claim except to the extent such liabilities or damages result from the gross negligence or willful misconduct of such party. .

11. Insurance.

Varnish shall maintain the insurance coverage customary for a company of Varnish’s size and in Varnish’s line of business. The insurance certificate(s) is/are available for Customer review upon request.

12. General.

Relationship of Parties. The relationship of the parties is that of independent contractors, and this Agreement shall not be construed to create any employment relationship, partnership, joint venture, or agency relationship or to authorize any party to enter into any commitment or agreement binding on the other party.

Publicity. Customer hereby grants to Varnish a royalty-free, limited, nontransferable (except in connection with an assignment of this Agreement), nonexclusive license during the term of this Agreement to use and display Customer's name and publicly available branding in customer lists, advertising materials, trade show materials and other literature identifying Varnish's customers; provided that Varnish agrees to comply with Customer's then-current guidelines, as provided to Varnish, governing use of such Customer's name and branding.

Equitable Remedies. Customer agrees that any threatened or actual breach of Varnish's Proprietary Rights by Customer shall constitute immediate, irreparable harm to Varnish for which monetary damages is an inadequate remedy and for which equitable remedies may be awarded by a court of competent jurisdiction without requiring Varnish to post any bond or any other security (or if a court shall require a bond, then a bond in no amount above U.S. \$1,000). Nothing contained herein shall limit either party's right to any remedies at law, including the recovery of damages for breach of this Agreement.

Assignment. This Agreement and all rights and obligations may not in any event be assigned in whole or in part by either party without the prior written consent of the other, except the rights and obligations of Varnish may be assigned without consent to another entity in connection with a reorganization, merger, consolidation, acquisition, or other restructuring involving all or substantially all of the voting securities and/or assets of Varnish. Any attempted assignment in contravention hereof shall be void and of no effect.

Binding Effect. This Agreement shall be binding upon, and inure to the benefit of the parties, their legal representatives, successors, and assigns as permitted by this Agreement.

Force Majeure. Except for any payment obligations hereunder, neither party shall be liable for failure to perform any of its respective obligations hereunder if such failure is caused by an event outside its reasonable control, including but not limited to, an act of God, war, or natural disaster.

No Waiver. No delay or failure in exercising any right hereunder and no partial or single exercise thereof shall be deemed to constitute a waiver of such right or any other rights hereunder. No consent to a breach of any express or implied term of this Agreement shall constitute a consent to any prior or subsequent breach.

Amendments. No modifications, waivers, additions, or amendments to this Agreement shall be effective unless made in writing as an addendum to this Agreement and signed by handwritten signature by duly authorized representatives of the parties.

Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

Severability. If any provision hereof is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, so that the remainder of that provision and all remaining provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by applicable law.

Construction. Should any provision of this Agreement require judicial interpretation, the parties agree that the court interpreting or construing the same shall not apply a presumption that this Agreement shall be more strictly construed against one party than the other.

Order of Precedence. In the event of any conflict or inconsistency between or among this Agreement and the Exhibits hereto, the following order of precedence shall apply to resolve such conflict or inconsistency: this Agreement then the Exhibits.

Notices. All notices required to be given hereunder shall be given in writing and shall be delivered either by hand, by certified mail with proper postage affixed thereto, or by facsimile (with confirmation copy sent by certified mail) addressed to the signatory at the address set forth on the first page, or such other person and address as may be designated from time to time in writing. All such communications shall be deemed received by the other party upon the earlier of actual receipt or actual delivery.

Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to its rules regarding conflict of laws. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement.

13. Definitions.

In addition to other terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

“Documentation” means the hosted end-user instructions for use and operation of the Varnish Services.

“Fees” means the fees set forth on the first page hereof.

“Order Form” means a signed order form submitted by Customer to request Services and or to license Software from Varnish

“Users” means (i) any employee of Customer, or (ii) any other person authorized by Customer in writing and made subject to the confidentiality and license provisions set forth in this, who have been supplied separate user identifications and passwords by Varnish. Each User must have his or her own login credentials to access the Varnish Services.