



RIVERBED EVALUATION AGREEMENT

IMPORTANT: PLEASE READ BEFORE INSTALLATION OR USE OF ANY EVALUATION PRODUCTS (AS DEFINED BELOW). THIS RIVERBED EVALUATION AGREEMENT ("**AGREEMENT**") IS A BINDING AGREEMENT BETWEEN RIVERBED (AS DEFINED BELOW) AND THE ENTITY OR COMPANY THAT IS THE AUTHORIZED USER OF THE EVALUATION PRODUCTS ("**COMPANY**"). BY DOWNLOADING, INSTALLING, ACCESSING OR IN ANY WAY USING THE EVALUATION PRODUCTS, COMPANY IS UNCONDITIONALLY CONSENTING TO BE BOUND BY AND IS BECOMING A PARTY TO THIS AGREEMENT WITH RIVERBED. IF COMPANY DOES NOT UNCONDITIONALLY AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, COMPANY IS NOT AUTHORIZED TO AND MAY NOT DOWNLOAD, INSTALL, ACCESS OR USE ANY OF THE EVALUATION PRODUCTS.

1. DEFINITIONS.

- (a) "**Affiliate**" means an entity that controls, is controlled by, or is under common control with Riverbed Technology LLC.
- (b) "**Cloud Service(s)**" means any software-as-a-service or cloud-based solutions on Riverbed's or one of its Affiliate's then-current price list or otherwise made available by Riverbed, including associated offline components provided by Riverbed as part of the Cloud Service.
- (c) "**Documentation**" means the then-current written and/or electronic end user or technical documentation pertaining to the applicable Evaluation Product that is provided by Riverbed together with the delivery of the applicable Evaluation Product or otherwise made available by Riverbed.
- (d) "**Evaluation Confirmation**" means the Riverbed evaluation quotes or confirmations provided to Company from time to time by Riverbed.
- (e) "**Evaluation Period**" means the period of time commencing on the date of original shipment by Riverbed or issuance by Riverbed of a license key and/or login information (as applicable) until the evaluation end date provided in the Evaluation Confirmation. If no evaluation end date is provided in the Evaluation Confirmation, the period shall be for 30 days following the date of original shipment by Riverbed or issuance by Riverbed of a license key and/or login information (as applicable).
- (f) "**Evaluation Products**" means, the Riverbed products, listed on the Evaluation Confirmation that are provided to Company for evaluation hereunder, including, the Hardware, Software, Cloud Services and all Documentation associated therewith.
- (g) "**Hardware**" means any hardware or equipment on Riverbed's or one of its Affiliate's then-current price list or otherwise made available by Riverbed, including any components or replacements of any of the foregoing.
- (h) "**Riverbed**" means Riverbed Technology LLC or its applicable Affiliate(s).
- (i) "**Software**" means any software on Riverbed's or one of its Affiliate's then-current price list or otherwise made available by Riverbed, including (i) software provided on a stand-alone basis, (ii) software provided on or with any Hardware, and (iii) any upgrades, updates, patches, enhancements, or fixes to any of the foregoing that may be made available by Riverbed.
- (j) "**Supplemental Terms**" means the additional terms that apply to certain Evaluation Products as set forth in Attachment A.
- (k) "**Support**" means Riverbed's then-current generally available end user maintenance and support services as described at www.riverbed.com/supportservicesdescription.

2. **EVALUATION.** Subject to the terms and conditions of this Agreement, Company may use the Evaluation Product during the Evaluation Period solely to internally test and evaluate the performance of the Evaluation Products. Riverbed hereby grants to Company a limited, personal, non-transferable, non-sublicensable, non-exclusive, revocable license to install, access and use the Software and access and use the Cloud Services solely in accordance with the Documentation and Supplemental Terms and solely for the purpose of internally testing and evaluating the Evaluation Products. Company may provide feedback regarding the Evaluation Products to Riverbed, including without limitation, usability, bug reports and test results ("**Feedback**"). The Evaluation Products are loaned to Company for evaluation and Riverbed and its suppliers retain ownership of all right, title and interest to the Evaluation Product and Feedback and any intellectual property rights related thereto. This Agreement does not entitle Company to any Support with respect to the Evaluation Product, but any such support provided by Riverbed in its sole discretion shall be subject to this Agreement. Evaluation Products may not be accessed or used for purposes of monitoring or discovering their performance, functionality, features, availability, or for Company's own competitive purposes or that of any third party.

3. **DELIVERY AND RETURN OF HARDWARE EVALUATION PRODUCTS.** If the Evaluation Product includes any Hardware, Riverbed shall ship such products to the evaluation site listed in the Evaluation Confirmation at a mutually agreed upon time; Riverbed shall be responsible for all shipping costs for the delivery of such products to Company. At the conclusion of the Evaluation Period, or, if earlier, upon termination of the evaluation by Riverbed or Company, unless the Hardware Evaluation Products have been purchased by Company, Company shall return such products to Riverbed at Company's expense and Company shall be responsible for, and shall reimburse Riverbed for, any loss of, damage to, or failure to timely return such products from the time the products are in Company's possession or control until such products are returned to Riverbed. If Company elects to purchase the Hardware Evaluation Product, Riverbed reserves the right to charge for any shipping costs, taxes or duties incurred in connection with shipment of the Hardware Evaluation Product to Company.

4. **RESTRICTIONS.** Company agrees not to (a) copy, modify, distribute, or create derivative works of any Evaluation Product, (b) disassemble, decompile or reverse engineer any of the Evaluation Products, or otherwise attempt to discover any source code, structure, algorithms, sequence, organization or ideas underlying any of the Evaluation Products (except where the foregoing is expressly prohibited by applicable local law, and then only to the extent so prohibited), (c) sell or resell any Evaluation Products, (d) sublicense, rent, lease, use for timesharing or service bureau purposes for third parties or otherwise provide temporary access to any Evaluation Product or use any Evaluation Product for the benefit of any third party, (e) provide Evaluation Product passwords or other Evaluation Product log-in information to any unauthorized third party, (f) publish or disclose any information or results relating to performance, performance comparisons or other "benchmarking" activities relating to any Evaluation Product, (g) obscure, alter, remove, or destroy any proprietary markings, restrictive legends, or intellectual property notices on any Evaluation Product, or (h) access or use any Evaluation Product for purposes of designing or developing a competing product or service. Company shall not remove the Hardware Evaluation Products from the evaluation site. Company may not retain the Evaluation Products after the Evaluation Period except with the written approval of Riverbed and then only if Company has paid the then-current list price for the Evaluation Products (or such other price if mutually agreed). Company shall keep confidential all business, technical or financial information which Company knows or has reason to know is confidential, proprietary or trade secret information of Riverbed and its suppliers ("**Confidential Information**"), and Company shall not use Confidential Information except as expressly authorized by Riverbed under



this Agreement. Company shall comply with all laws and regulations relating to export control. Company shall disclose the Evaluation Product and Confidential Information to Company's employees and consultants only as may be necessary in connection with Company's evaluation hereunder; any consultants shall have first agreed in writing to be bound by provisions substantially similar to those in this Agreement.

5. DATA AND DATA PROTECTION.

(a) Company acknowledges that certain Evaluation Products may process data submitted by Company or Company's behalf ("**Company Data**"). Company retains all rights and ownership in Company Data. Riverbed does not claim any ownership rights in Company Data.

(b) The terms of data processing addendum at www.riverbed.com/data-processing-addendum ("**DPA**"), as may be updated by Riverbed from time to time, are hereby incorporated by reference and shall apply to the extent that Riverbed processes Personal Data as a Processor on Company's behalf, as defined in the DPA. Riverbed shall maintain appropriate administrative, physical and technical security measures designed to protect Company Data and Personal Data from unauthorized access, destruction, use, modification, or disclosure.

(c) Unless otherwise mutually agreed in writing, Company Data shall not include and Company shall not process or submit to Riverbed any: (i) special categories of personal data enumerated in European Union Regulation 2016/679, Article 9(1) or any successor legislation; (ii) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (HIPAA); (iii) credit, debit, or other payment card data subject to PCI DSS; (iv) other personal information subject to regulation or protection under specific laws such as the Gramm-Leach-Bliley Act (or related rules or regulations); (v) social security numbers, driver's license numbers, or other government ID numbers; or (vi) any data similar to the foregoing that is protected under foreign or domestic laws or regulations.

(d) Riverbed processes, uses and collects certain types of data and information from Company and Company's authorized users in connection with use of the Evaluation Products to deliver, analyze, support and improve the Evaluation Products and as otherwise described in this Agreement, Riverbed's then-current Privacy Policy (available at www.riverbed.com/privacypolicy) and the applicable Documentation. Riverbed may collect certain information and data that relates to the use and operation of the Evaluation Products, including features used, device and application identifiers, operating and system configuration information, location, log files, event files and other diagnostic files, as well as statistical, aggregated data (collectively, "**Usage Data**"). Riverbed uses Usage Data for development, diagnostic and corrective purposes in connection with providing technical and customer support, to maintain the security of the Evaluation Products, to deliver performance insights, and to analyze and enhance the Evaluation Products and other Riverbed product and service offerings.

6. TERM AND TERMINATION. The Evaluation Period will conclude on the sooner of: (a) the end of the Evaluation Period, (b) termination of the evaluation by Riverbed or Company, or (c) Company's purchase of the Evaluation Product. At the conclusion of the Evaluation Period, unless the Evaluation Products have been purchased by Company, Company shall (x) if the Evaluation Product consists of any Hardware, return such products in accordance with Section 3, or (y) if the Evaluation Product consists solely of Software and/or Cloud Services, immediately discontinue any use of the Evaluation Product and de-install the Software in accordance with any de-installation instructions provided by Riverbed. In the event Company fails to return or discontinue use of the Evaluation Product within thirty (30) days after the end of the Evaluation Period, Riverbed reserves the right to invoice Company for the then-current list price of such product and Company shall pay such invoice in accordance with Riverbed's standard terms and conditions of sale and license as described at www.riverbed.com/termsandconditions. Upon payment of the invoice, such product will no longer be deemed an Evaluation Product and Company's use is subject to the applicable terms set forth at www.riverbed.com/license. Company acknowledges that following the conclusion of the Evaluation Period, unless the Evaluation Products have been purchased by Company, Company shall have no further access to any of Company Data and within 30 days following the conclusion of the Evaluation Period, Riverbed shall delete Company Data. Either party may terminate this Agreement for any reason immediately by written notice to the other party. Upon termination hereof for any reason, the terms of sections 2 through 9 shall survive.

7. WARRANTY DISCLAIMER. THE EVALUATION PRODUCTS ARE FOR EVALUATION ONLY AND ARE PROVIDED "AS IS" WITHOUT WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, ACCURACY, SECURITY, RELIABILITY AND NONINFRINGEMENT. RIVERBED ALSO MAKES NO WARRANTY REGARDING NONINTERRUPTION OF USE OR FREEDOM FROM BUGS OR THAT ANY EVALUATION PRODUCT WILL MEET COMPANY'S REQUIREMENTS. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT.

8. LIMITATION OF LIABILITY. RIVERBED AND ITS SUPPLIERS SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY THEORY OF LIABILITY FOR (I) ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS, CONTRACTS, BUSINESS, REVENUES, GOODWILL OR REPUTATION, (II) COST OF COVER OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES, OR (III) INTERRUPTION OF USE, LOSS OF GOODWILL, WORK STOPPAGE, ACCURACY OF RESULTS, COMPUTER FAILURE OR MALFUNCTION, OR DAMAGES RESULTING FROM COMPANY'S USE OF (OR INABILITY TO ACCESS OR USE) ANY EVALUATION PRODUCT, (IV) FOR ANY AMOUNT IN THE AGGREGATE IN EXCESS OF US\$1,000, OR (V) FOR ANY MATTER BEYOND ITS REASONABLE CONTROL.

9. GENERAL. This Agreement shall be governed by and construed under the laws of the State of California (without reference to conflicts of laws provisions), without application of the UN Convention on Contracts for the International Sale of Goods. No waiver hereunder shall constitute a subsequent waiver hereunder. All notices and waivers hereunder will be in writing, and this Agreement may be modified only in a mutually signed writing. This Agreement is the complete agreement between the parties concerning the subject matter hereof and replaces all prior communications between the parties with respect thereto. Neither party shall issue a press release or otherwise advertise, make a public statement, disclose to any third party information pertaining to the relationship arising under this Agreement, or otherwise refer to the other party in relation to this Agreement without the other party's prior written consent.



Attachment A
SUPPLEMENTAL TERMS

The following additional terms apply to Company's evaluation of SD ECDN and Integrations (each, a "**SD ECDN Cloud Service**").

1. The license to access and use to the SD ECDN Cloud Services includes the right to use up to twenty-five (25) copies of the desktop client application (the "**Agent**") on machines under Company's control, which number may be increased at Company's reasonable request and with e-mail approval by a Riverbed sales representative.
2. It is possible to use the SD ECDN without the Agent through browser-based peering ("**BBP**"). If Company elects to evaluate BBP, Company may provide access to and use of those SD ECDN Cloud Services to up to 300 internal users without the Agent, subject to potential increase as set forth in Section 1 above.
3. In the event Company is evaluating the SD ECDN as part of an integration with a third party service (an "**Integration**") such as Microsoft Teams, Zoom, etc. (an "**Integration Partner**"), a plug-in (a "**Plug-in**") may be installed in or included with the Integration Partner's web application (a "**Bundled App**") in order to perform the SD ECDN Cloud Services through the Integration. Company must have a valid and subsisting license with the Integration Partner in order to use the Bundled App, and Riverbed and its suppliers shall have no responsibility or liability in connection with the performance or operation of the Integration Partner's service.
4. Company agrees to use and operate the SD ECDN Cloud Services in compliance with any applicable laws and any testing procedures and/or usage guidelines provided by Riverbed. In particular, Company acknowledges that in the normal operation of the SD ECDN Cloud Service(s), certain of Company's network resources may be consumed by the SD ECDN Cloud Services, including without limitation, bandwidth and memory on the machines upon which the Agent or the App Bundle is installed.
5. For security purposes, Company and/or Company's users may be asked to provide user names and/or passwords ("**Passwords**") in order to access the SD ECDN Cloud Service(s). Protection of Passwords shall be Company's sole responsibility, and Riverbed and its suppliers shall have no liability of any kind to Company if unauthorized access to the content occurs as a result of Company's failure to protect Passwords. Company shall immediately notify Riverbed of any unauthorized use of the SD ECDN Cloud Services occurring through its network or equipment of which Company becomes aware. Company acknowledges use of the SD ECDN Cloud Services is subject to Kollektive Technology, Inc.'s Privacy Policy located at <http://www.kollektive.com/privacy-policy/>.