

Oxygen Forensic® Detective

End User License Agreement

PLEASE READ THIS LICENSE AGREEMENT CAREFULLY BEFORE INSTALLING OR USING THE PRODUCT

This agreement explains when and how you may use "**Oxygen Forensic® Detective**".

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This Software End User License Agreement (the "**End User Agreement**" or "**Agreement**") is entered into as of the date of acceptance hereof by Oxygen Forensics ("**Effective Date**"). Oxygen Forensics will notify Licensee about Effective Date by electronic mail after acceptance of this Agreement) by and between Oxygen Forensics and the person or entity, who / that is installing the "Oxygen Forensic® Detective" ("**Licensee**") and jointly with Oxygen Forensics, the "**Parties**" and each, a "**Party**").

WHEREAS, Oxygen Forensics develops, designs and licenses the forensic software and is willing to enter into the End User Agreement with Licensee on the terms and conditions set forth herein; and

WHEREAS, Licensee wishes to license the Product from Oxygen Forensics under the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual agreements hereinafter contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties hereto, intending legally to be bound hereby, agree as follows:

- 1. Definitions.** Each of the expressions indicated below will have, in this agreement, the meaning assigned to it, namely:
 - 1.1. "**Computer**" shall mean a device that is owned by Licensee on which the Product licensed hereunder is installed and operated by Licensee pursuant to the terms hereof.

- 1.2. **"Android Device"** shall mean an Android device that is owned by Licensee or a device which is the object of the forensic or other lawful examination.
- 1.3. **"iPhone Device"** shall mean an iPhone device that is owned by Licensee or a device which is the object of the forensic or other lawful examination.
- 1.4. **"Device"** shall mean other devices that are owned by Licensee or devices which are the object of the forensic or other lawful examination.
- 1.5. **"Operate"** shall mean to access, download, store, load, install, execute, display, copy the Product into the computer memory or otherwise benefiting from using the functionality of the Product in accordance with the Documentation.
- 1.6. **"Object Code"** shall mean computer programs assembled or compiled in a magnetic or electronic binary form on software media, which are readable and usable by machines, but not generally readable by humans without reverse-assembly, reverse-compiling, or Reverse Engineering.
- 1.7. **"Reverse Engineering"** shall mean the examination, disassembly, decompilation, decryption, simulation, code tracing of object code or executable code, debugging, or analysis of the Product or Confidential Information to determine its Source Code, structure, organization, internal design, constituent technologies, algorithms, or encryption devices.
- 1.8. **"User"** shall mean any individual, which is an employee or consultant of Licensee that may Operate the Products pursuant to the License granted to Licensee hereunder and may exercise lawful forensic examination of Android, iPhone and other Devices or individual, which is own Android or iPhone or other Devices and may Operate Product pursuant to the License granted to Licensee hereunder.
- 1.9. **"Intellectual Property Rights"** shall mean all worldwide:
 - 1.9.1. inventions (whether patentable or unpatentable, whether or not reduced to practice, and/or whether developed alone or jointly with others), all improvements thereto, patents, patent applications, patent and invention disclosures, and all other rights of inventorship, together with all reassurances, continuations, continuations-in-part, divisions, revisions, supplementary protection certificates, extensions and reexaminations thereof;
 - 1.9.2. Internet domain names, trademarks, service marks, trade dress, trade names, logos, designs, slogans, product names, corporate names, together with all of the goodwill symbolized thereby and associated therewith, and registrations and applications for registration thereof and renewals thereof;
 - 1.9.3. copyrights (registered or unregistered), copyrightable works, rights of authorship, and registrations and applications for registration thereof and renewals thereof;
 - 1.9.4. integrated circuit designs, cell libraries, electronic masks, net lists, simulations, mask works, semiconductor chip rights, and registrations and applications for registration thereof and renewals thereof;
 - 1.9.5. computer software (including without limitation Source Code, Source Code engines, source data files, and Object Code), software development tools (including without limitation assemblers, compilers, converters, utilities, compression tools), libraries, algorithms, routines, subroutines, commented and documented code, programmer's notes, system architecture, logic flow, data, computer applications and operating programs, databases and documentation thereof;
 - 1.9.6. trade secrets and other confidential information (including without limitation

ideas, technologies, know-how, manufacturing and production processes and techniques, research and development information, drawings, schematics, specifications, bill of material, designs, plans, proposals, technical data, pricing data, marketing data, financial records, customer and supplier lists, and other proprietary information), (vii) copies and tangible embodiments thereof (in whatever form or medium), and all modifications, enhancements and derivative works of any of the foregoing; and

- 1.9.7. all rights to sue and collect remedies for any past, present and future infringement of any of the foregoing, and rights of priority and protection of interests therein under the laws of any jurisdiction worldwide.
- 1.10. **"Confidential Information"** shall mean any information, product, document, or other material of any nature relating to or concerning Oxygen Forensics, that is provided or made available to Licensee either before or after the Effective Date, directly or indirectly in any form whatsoever, including in writing, orally, and machine readable, and including, but not be limited to License Registration Key, any correspondence, memoranda, notes, e-mails, formulas, samples, equipment, compilations, blueprints, business information, technical information, know-how, information regarding patents, patent applications, software, computer Object Code or Source Code, algorithms, high-level structures, graphic user interfaces, ongoing research and development, business plans, business or marketing strategies or plans, products or product development strategies or plans, information concerning current and future products and services, customers, suppliers and markets, price lists and pricing information, financial statements and forecasts, computerized or other magnetically filed data, methods and techniques, manufacturing processes, developments, inventions, designs, drawings, engineering specifications, hardware configuration information, trade secrets, financial information of Oxygen Forensics, and any other business records and information, including without limitation the information about this Agreement, the use or disclosure of which might reasonably be construed to be contrary to the interests of such Oxygen Forensics, including information of third parties subject to confidentiality obligations and which one Oxygen Forensics, may share with Licensee, provided, however, that Confidential Information shall not include information which:
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 - 1.10.4. is disclosed under operation of law to the public or to a third party without a duty of confidentiality. If Licensee asserts one of the four exceptions to Confidential Information above, then Licensee shall prove such assertion by proper forms of documentary evidence.
- 1.11. **"Software"** shall mean software titled **Oxygen Forensic® Detective** owned, developed, and designed by Oxygen Forensics.
- 1.12. **"Product"** shall mean Software in Object Code, licensed Source Code, and all related Documentation included therewith in any form and on any media and all fixes, Updates, modifications, enhancements, and new releases of the foregoing.
- 1.13. **"Documentation"** shall mean user manuals, operator instructions, training materials, product descriptions and specifications, technical manuals, supporting

materials, maintenance know-how, text and graphic elements of all user interfaces and any modifications or upgrades of the foregoing, developed for use in connection with Products and provided or made available by Oxygen Forensics or any of its affiliates from time to time.

- 1.14. **"Source Code"** shall mean the human-readable form of the computer programming code and related system documentation including all comments and any procedural code.
- 1.15. **"Support"** except as otherwise agreed by the Parties during the one (1) year period from the Effective Date, Oxygen Forensics will provide Licensee with Support services per applicable terms and conditions set forth on Exhibit A hereto, and/or the Oxygen Forensics website or the terms provided to Licensee from time to time, as applicable. Upon expiration of the initial one (1) year period (i.e. after the one year anniversary from the Effective Date), Licensee may extend Support services for additional charge as may be set forth on Oxygen Forensics' website at: <http://www.oxygen-forensic.com/en/> or pursuant to [Oxygen Forensics' invoicing terms.](#)
- 1.16. **"Term"** shall have the meaning set forth in Section 11.1. hereof.
- 1.15. **"Updates"** shall mean a subsequent updates of the Software that Oxygen Forensics may make available to Licensee during the Term and subject to the terms and conditions of this Agreement, provided that such Updates shall not include any release, new version, option, or future application which Oxygen Forensics licenses for an additional charge.

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- 2.5. Updates. Oxygen Forensics may provide Licensee with Updates and upgrades to Products in Object Code at its sole discretion in such form as Oxygen Forensics finds

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- 3.1. Licensee agrees that all right, title, and interest in and to Product, including Updates, modifications, developments, improvements, enhancements, and all Intellectual Property Rights are, and always shall remain, the sole and exclusive property of Oxygen Forensics.
- 3.2. Licensee acknowledges that the Source Code for the Product is proprietary to Oxygen Forensics and constitutes trade secrets of Oxygen Forensics. No right to disclose,

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- 3.5. Licensee may be obliged to provide Oxygen Forensics with a valid document identifying Licensee's identity or verifying the registration data of Licensee's company if Oxygen Forensics has doubts about the authenticity of data provided during registration or in case of the unlawful use of the program.
- 3.6. Except as otherwise expressly set forth in this End User Agreement, Licensee, without Oxygen Forensics' advance written consent, shall not:
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 - 3.6.2. reproduce any Product except as otherwise expressly provided herein;
 - 3.6.3. adapt in any way, modify, insert, delete, replace, change, prepare, or create derivative works or otherwise alter any files in the Product (except as such files may be modified as an incidental effect of the normal installation process);
 - 3.6.4. use any portion of the Product as a stand-alone application or with applications other than the Product;
 - 3.6.5. attempt to defeat, avoid, bypass, remove, deactivate, or otherwise circumvent any software protection mechanisms in the Software, including without limitation any such mechanism used to restrict or control the functionality of the Software, without prior written approval from Oxygen Forensics which can be withheld at Oxygen Forensics sole discretion;
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- 4.1. Licensee Representations and Warranties. Licensee represents and warrants that:
- 4.1.1. it is acting under the color of the law when Operating the Product or Licensee is otherwise approved by Oxygen Forensics in writing;
 - 4.1.2. it is a legal owner or in legal possession and/or control of the Licensee's Computer Device and Android, iPhone, or other devices and the files and content contained therein, and has a legal right to Operate the Product in conjunction with such Android, iPhone, or other devices;
 - 4.1.3. it will neither Operate the Product for the purpose of circumventing a technological measure nor will it Operate the Product in conjunction with a third party application for the purpose of circumventing a technological measure that effectively protects a right of a copyright owner in a copyrighted work or a portion thereof;
 - 4.1.4. there is no pending or threatened action (or basis therefore) for the dissolution, liquidation, or insolvency of Licensee;
 - 4.1.5. it has all requisite power and authority necessary to execute and deliver this End User Agreement, to perform its obligations hereunder and to Operate the Product in accordance with the Documentation;
 - 4.1.6. the End User Agreement has been duly authorized, executed, and delivered, and constitutes a valid, legal and binding obligation of Licensee enforceable against Licensee in accordance with its terms, subject to any law affecting creditors' rights;
 - 4.1.7. the execution, delivery and performance by Licensee of the End User Agreement do not and will not violate any law (including, without limitation, privacy, export control, obscenity and anti-spam laws), violate any charter document of Licensee, violate any agreement or order to which Licensee is a party or by which Licensee or its assets are bound, or require any consent from any Person; and
 - 4.1.8. it is not or will not be at any time in the future during the Term: (i) located in a country embargoed by the United States, (ii) the target of any sanctions program that is established by Executive Order of the President or published by the Office of Foreign Assets Control, U.S. Department of the Treasury ("OFAC"); (iii) designated by the President or OFAC pursuant to the Trading with the Enemy Act, 50 U.S.C. App. § 5, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, the Patriot Act, Public Law 107-56 or any Executive Order of the President issued pursuant to such statutes; (iv) named on the following list that is published by OFAC: "List of Specially Designated Nationals and Blocked Persons", (v) designated as a person or entity on the U.S. Treasury Department's list of Specially Designated Nationals,

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- 4.2. Oxygen Forensics Representations and Warranties. Oxygen Forensics represents and warrants that:
- 4.2.1. there is no pending or threatened action (or basis therefore) for the dissolution, liquidation, or insolvency of Oxygen Forensics Product;
 - 4.2.2. it has all requisite corporate power and authority necessary to execute and deliver the End User Agreement, to perform its obligations hereunder and to consummate the transactions contemplated hereby;
 - 4.2.3. the End User Agreement has been duly authorized, executed, and delivered, and constitutes a valid, legal, and binding obligation of Oxygen Forensics enforceable against Oxygen Forensics in accordance with its terms, subject to any law affecting creditors' rights;
 - 4.2.4. the Product is neither designed nor intended for the purpose of circumventing a technological measure that effectively protects a right of a copyright owner in a copyrighted work or a portion thereof; and
 - 4.2.5. it has all the necessary rights, titles, and/or interests, in Product to grant Licensee the rights and licenses contained in this End User Agreement.
 - 4.2.6. Oxygen Forensics does not promise that Product will be free of bugs or program errors; however, Product shall operate substantially in accordance with the Documentation. Licensee may report a program error or bug to Oxygen Forensics. Oxygen Forensics will use commercially reasonable efforts to correct the reported errors. If Oxygen Forensics issues a maintenance release for Product which includes a correction for an error Licensee reported, Oxygen Forensics will send Licensee a copy of that maintenance release at no charge. Oxygen Forensics will only do this for maintenance releases, not for new major releases or other new versions of Product.
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5. Personal data.

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6. Audit.

- 6.1. Oxygen Forensics may, at Oxygen Forensics' sole expense (except as provided herein), no more than once per year during the Term, and upon thirty (30) days advance written notice to Licensee during Licensee's business hours after duly executing a Confidentiality Disclosure Agreement examine and/or audit the books and records of Licensee which relate to Licensee's obligations relating to this Agreement and the use of the Software.
- 6.2. Oxygen Forensics shall not have access to any of Licensee's records beyond those necessary to complete any audit contemplated under this Section 6. No provision of this Section 6 shall be construed as limiting or restricting any Oxygen Forensics' rights or remedies provided elsewhere in this Agreement or by law.
- 6.3. If any examination or audit should reveal that the fee due to Oxygen Forensics under this Agreement for any period was understated in any report, then Licensee shall pay to Oxygen Forensics immediately upon demand in the form of an invoice the amount understated. If any examination or audit discloses an understatement in any report of five percent (5%) or more (provided that any revisions and corrections in the subsequent reports will be taken into the account). In the event that any examination or audit discloses an understatement in any report of ten percent (10%) or more, Licensee, in addition to covering the underpayment, shall also pay to Oxygen Forensics as an underpayment penalty an amount equal to the amount of the underpayment and reimburse Oxygen Forensics for any and all costs and expenses connected with the examination or audit. In the event any of the understatement of ten percent (10%) or more is determined to be intentional, Oxygen Forensics may at its option terminate this Agreement immediately upon written notice to Licensee. The foregoing remedies shall be in addition to any other remedies Oxygen Forensics may have hereunder. No provision of this Section 6 shall be construed as limiting or restricting any Oxygen Forensics' rights or remedies provided elsewhere in this Agreement or by law.

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- 8.2. Licensee shall notify Oxygen Forensics if disclosure of Confidential Information is necessary to comply with the requirements of any law, government order, regulation, or legal process prior to such disclosure and Licensee, at Oxygen Forensics request, shall use best efforts to seek an appropriate protective order in connection with such legal process and, if unsuccessful, to use best efforts to assure that confidential treatment will be accorded to the disclosed Confidential Information.
- 8.3. Licensee shall not remove any proprietary notices or labels on the Product or the Documentation and retain and maintain all electronic prominent copyright, logos, and other notices (e.g. "*Copyright © 2018 Saferworld Forensics Ltd. and/or its licensees. All rights reserved*").
- 8.4. Licensee shall take all necessary steps to ensure compliance by its employees or its other representatives with Licensee's obligations under this End User Agreement.
- 8.5. Licensee shall keep and maintain accurate books, records, reports, and customer data relating to Products for a period of two (2) years following expiration or termination of this Agreement.
- 8.6. Licensee shall in Operating the Product and in using any report or information derived as a result of Operating this Product, comply with all applicable international, national, state, regional and local laws and regulations, including, without limitation, privacy, trademark, patent, anti-spam, copyright and obscenity law and Licensee shall not use the Product for unethical, illegal, prohibited practices or in violation of any obligation to a third party in using, operating, accessing or using any of the Product or its functionality and shall not assist any other person or entity to so violate any obligation to a third party.
- 8.7. Licensee shall in exercising its rights and performing its obligations hereunder, comply with all applicable international, national, governmental, quasi-governmental

and/or local laws and regulations, including without limitation, relevant embargo and export laws and regulations, and assure that, in connection with performance of its obligations pursuant to this End User Agreement, or arising or relating therefrom, no Product, Documentation, Confidential Information or any portion thereof, and any information relating thereto or to this End User Agreement, is exported, transshipped, or re-exported, directly or indirectly any to any individual, group, organization, entity or nation in violation of any applicable law (collectively the "**Excluded Territory and Persons**").

- 8.8. Licensee shall ensure that Users are properly trained and possess sufficient knowledge and qualifications in the field.

9. Governing Law; Jurisdiction.

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Virginia, USA without reference to conflicts of law rules and principles. To the extent permitted by law, the provisions of this Agreement shall supersede any provisions of the Uniform Commercial Code as adopted or made applicable to the Products in any competent jurisdiction. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly disclaimed and excluded. If Licensee is a resident of the United States for purpose of determination of personal jurisdiction, the federal and state courts within the Commonwealth of Virginia, USA shall have exclusive jurisdiction to adjudicate any dispute arising out of this Agreement. Licensee agrees that this Agreement is to be performed in the Commonwealth of Virginia and that any action, dispute, controversy, or claim that may be instituted based on this Agreement, or arising out of or related to this Agreement or any alleged breach thereof, shall be prosecuted exclusively in the state and federal courts in of the Commonwealth Virginia and Licensee, to the extent permitted by applicable law, hereby waive the right to change venue to any other state, county, district or jurisdiction; *provided, however,* that Oxygen Forensics as claimant shall be entitled to initiate proceedings in any court of competent jurisdiction. If Licensee is a non-US resident Licensee hereby agrees that any dispute, controversy, or claim arising or concerning this Agreement shall be determined and settled by arbitration in accordance with the International Chamber of Commerce accordance with the Rules of Arbitration of the International Chamber of Commerce (the "Rules"). The claimant party shall appoint one arbitrator and the respondent party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint the third arbitrator, in accordance with the provisions of the Rules. The place of arbitration shall be Arlington, Virginia (USA). The language of the arbitration shall be English. Any award granted by the arbitrator(s) shall be final and binding upon the involved parties and shall constitute the sole and exclusive remedy for any dispute between the involved parties regarding the issue at dispute resolved by such arbitration.

10. Indemnification.

- 10.1. Licensee shall indemnify, defend, and hold harmless Oxygen Forensics and its respective officers, directors, shareholders, employees, agents, and representatives against all damages, claims, liabilities, losses and other expenses asserted by a third party, including without limitation reasonable attorneys' fees and costs, whether or not a lawsuit or other proceeding is filed, that arise out of:

- 10.1.1. Licensee's breach or violation of any warranty, covenant, or obligation pursuant to this End User Agreement;

- 10.1.2. any modification, whether authorized or not, of the Product by Licensee; or
- 10.1.3. and any transaction with Licensee's customers, including without limitation the use and distribution of any of Software, components or results of Operating of the Product by any third party.

11. Term and Termination.

- 11.1. Term. This End User Agreement is effective as of the Effective Date and, unless earlier terminated pursuant to the terms hereof or unless otherwise agreed, will remain in full force and effect for a period of (i) twenty (20) days if the Product is licensed under Detective Demo Version (Internet License) per Section 2.2.5. hereof, and (ii) twelve (12) months for other types of licenses granted hereunder (the "**Term**"), unless the Parties mutually agree to extend the Term of this Agreement.
- 11.2. Termination. This End User Agreement may be terminated as provided below:
 - 11.2.1. Licensee and Oxygen Forensics may terminate this End User Agreement by mutual written consent at any time;
 - 11.2.2. Oxygen Forensics may terminate this End User Agreement by giving notice to Licensee at any time if Licensee has breached any representation, warranty, obligation, or covenant contained in this End User Agreement and this breach has not been cured within a ten (10) day period;
 - 11.2.3. Oxygen Forensics may terminate this End User Agreement immediately by notice to Licensee at any time if Licensee has breached any Section 2.1. and/or Section 4.1. hereof;
 - 11.2.4. Licensee may terminate this End User Agreement by giving notice to Oxygen Forensics at any time if Oxygen Forensics has breached any representation, warranty, obligation, or covenant contained in this End User Agreement in any material respect and this breach has not been cured within a thirty (30) day period;
 - 11.2.5. either Party may terminate this End User Agreement if the other Party declares insolvency or bankruptcy, if a petition is filed in any court and not dismissed in ninety (90) days to declare the other Party bankrupt or for the other Party's reorganization under bankruptcy, insolvency, reorganization, moratorium, or other laws relating to or affecting the rights of creditors; or if the other Party consents to the appointment of a trustee in bankruptcy or a receiver or similar entity.
- 11.3. Licensee's Actions upon Termination. In the event of termination or expiration of this End User Agreement, Licensee shall:
 - 11.3.1. as soon as practicable but not later than ten (10) days after the termination destroy, uninstall, delete, or return to Oxygen Forensics all of Oxygen Forensics' Confidential Information in Licensee's possession or under its control and all and every part of the Products and all copies thereof, including, without limitation, any copies installed on any hard-drive or other fixed, electronic, optical, magnetic or other media and any authorized or unauthorized modifications of the Products, and any software into which the Products have been merged (except that if destruction of such Software shall be precluded by written agreement, then it shall remove and destroy the Software to the extent so merged with or incorporated within any such software) or as contained in any other form or media; except that one (1) copy may be retained by Licensee solely for back-up or archival purposes;

11.3.2. the provisions of the Section 11.3.1. are applied equally to full-function and trial versions of the Product.

11.4. Surviving Provisions. Notwithstanding any provisions to the contrary herein, the provisions of Sections 1., 2.3., 3., 4., 5., 6. (for one (1) year), 7., 8., 9., 10., 11.3. – 11.4., and 12. shall survive the termination or expiration of the End User Agreement and such termination or expiration shall not release Licensee or Oxygen Forensics of their respective obligations regarding the Confidential Information, Licensee's obligations with respect to Intellectual Property Rights or any duties, liabilities or obligations which by the terms hereof or in context are to survive termination.

12. Miscellaneous Provisions.

12.1. No Assignment. This End User Agreement, including without limitation any Licenses granted hereunder, may not be assigned, in whole or in part, by either Party without the prior written consent of the other Party, provided that Oxygen Forensics shall have the right to assign this Agreement to its distributors or affiliates without Licensee's prior consent.

12.2. Remedies. If Licensee breaches, or threatens to commit a breach of, any of the covenants set forth herein, Oxygen Forensics will be entitled, in addition to any other rights Oxygen Forensics may enjoy, to obtain injunctive or other equitable relief by any court of competent jurisdiction to restrain any actual or threatened breach or otherwise to specifically enforce the provisions of this Agreement, it being agreed that such breach or imminent breach will cause irreparable injury to Oxygen Forensics and money damages alone would not be an inadequate remedy and would fail to fully compensate Oxygen Forensics for such Licensee's breach. The rights and remedies of the Parties to this Agreement are cumulative and not alternative. Licensee further agrees to waive any requirement for the securing or posting of any bond in connection with the obtaining of any such equitable relief and that this provision is without prejudice to any other rights that the Parties hereto may have for any failure to perform this Agreement.

12.3. Legal Costs of Prevailing Party. The substantially prevailing Party in any legal action, including arbitration, brought by one Party against the other and arising out of this End User Agreement shall be entitled, along with any other rights and remedies it may have, to reimbursement for its expenses, including court costs and reasonable attorney's fees. Such fees may be set by the court in the trial of such action or may be enforced in a separate action brought for that purpose. Such fees shall be in addition to any other relief that may be awarded.

12.4. Taxes. Each Party is responsible for complying with the collection, payment, and reporting of all taxes imposed by any governmental authority applicable to its activities in connection with this Agreement. None of the Parties is responsible for taxes that may be imposed on the other Parties. Notwithstanding anything to the contrary herein, Licensee shall be solely responsible for any sales, use, value added and similar taxes collections, payments and related registrations arising in any way out of or relating to this End User Agreement. If a certificate of exemption or similar document or proceeding is to be made in order to exempt the sale from sales or use tax liability, Licensee will obtain and provide Oxygen Forensics with such certificate, document, or proceeding. Licensee acknowledges and agrees that any shipments of the Products shall accompanied by an invoice, bill of lading, customs declaration and/or any other documentation as may be required indicating the full value of the Product pursuant hereto and may be insured, at the sole discretion of Oxygen Forensics, for the full value or any portion thereof.

- 12.5. Publicity. The Parties shall work together to issue publicity and general marketing communications concerning their relationship and other mutually agreed-upon matters. In addition, neither Party shall issue such publicity and general marketing communications concerning their relationship without the prior written consent of the other Party (not to be unreasonably withheld or delayed). Neither Party shall disclose the terms of this End User Agreement to any third party other than its outside counsel, auditors, and financial and technical advisors, except as required by law.
- 12.6. Severability. If this End User Agreement or any provision thereof is, or the transactions contemplated hereby are, found by a court of competent jurisdiction to be invalid, void, unenforceable for any reason or inconsistent or contrary to any valid applicable laws or official orders, rules and regulations, in whole or in part, the inconsistent or contrary provision of this End User Agreement shall be null and void and such laws, orders, rules and regulations shall control and, as so modified, this End User Agreement shall continue in full force and effect and the remaining provisions of this End User Agreement shall be unaffected thereby and shall remain in full force and effect to the fullest extent permitted by law; *provided, however*, that nothing herein contained shall be construed as a waiver of any right to question or contest any such law, order, rule or regulation in any forum having jurisdiction.
- 12.7. No Waiver. No provision of the End User Agreement will be considered waived unless such waiver is in writing and signed by the Party that benefits from the enforcement of such provision. No waiver of any provision in the Agreement, however, will be deemed a waiver of a subsequent breach of such provision or a waiver of a similar provision. In addition, a waiver of any breach or a failure to enforce any term or condition of the End User Agreement will not in any way affect, limit, or waive a Party's rights under the End User Agreement at any time to enforce strict compliance thereafter with every term and condition of the End User Agreement.
- 12.8. Force Majeure. Except for the obligation to make payments, nonperformance of either Party shall be excused to the extent the performance is rendered impossible by strike, fire, flood, governmental acts, or orders or restrictions.
- 12.9. Additional Actions. The Parties will each perform such acts, execute and deliver such documents and instruments, and do such other things as may be reasonably requested to accomplish the transactions contemplated by this End User Agreement and to carry out the purpose and intent hereof.
- 12.10. Notice to U.S. Government End Users. The Product and accompanying Documentation are deemed to be "Commercial Items," as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," respectively, as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights, including any use, modification, reproduction, release, performance, display, or disclosure of the Product and accompanying Documentation, as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States and Canada.
- 12.11. No Third Party Beneficiaries. This End User Agreement is solely for the benefit of the Parties and, except as otherwise provided herein, no other Person will have any right, interest, or claim under this End User Agreement.

- 12.12. Notices. This Agreement and any written notice, consent, agreement or document provided for in this Agreement shall be deemed signed and/or bearing the original signature of a given person, if such person's name and/or adopted signature is placed by such person on the document whether by manual signature, electronic transmission or facsimile transmission by the person. Delivery of a copy of this Agreement or such other document bearing an original signature by facsimile transmission or a scanned image of the original signature, by electronic mail in "portable document format" (".pdf") form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing the original signature.
- 12.13. Counterparts. This Agreement and any documents pursuant hereto may be separately executed by the Parties in two (2) or more counterparts and all such counterparts shall be deemed an original, but all of which together shall constitute one and the same instrument and will be binding on the Parties as if they had originally signed one copy of the Agreement.

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EXHIBIT A

SUPPORT AND MAINTENANCE

Licensee agree that the following terms shall govern the delivery of any support and maintenance services by Oxygen Forensics in accordance with the End User Agreement.

Ordering any Support from Oxygen Forensics or any authorized reseller indicates Licensee's acceptance of these terms.

1. **Services.** Subject to Licensee's timely payment of the applicable support and maintenance fees set forth in the End User Agreement, as applicable, Oxygen Forensics will provide the level of support and maintenance identified herein or the Oxygen Forensics website. No other support or maintenance for the Software is included in this Agreement.
2. **SMS Fees.** Upon expiration of the initial one (1) year period from the Effective Date ("Initial Period") or the applicable extension period, if any, pursuant to the terms hereof, Licensee may purchase additional Support in exchange for a certain support and maintenance fee ("**SMS Fees**"), which shall be due and payable prior to the expiration of the Initial Period or any further extension period, unless otherwise agreed to by the Oxygen Forensics. Oxygen Forensics will notify (electronically or otherwise) Licensee of the then-current SMS Fee for each notice of term renewal. SMS Fees will be non-refundable once paid.
3. **Scope of Support.** Subject to Section 7 of these terms, and Licensee's payment of the SMS Fees, Licensee is entitled to support for the following:
 - a. clarification of the software's functions, features, operations and documentation; and
 - b. error verification, analysis and correction.(taken together, "**Support**").
4. **Scope of Maintenance.** Subject to Licensee's payment of the SMS Fees, Licensee shall be entitled to all software upgrades, updates and maintenance releases to the extent made generally available by Oxygen Forensics to its end-users ("**Maintenance**").
5. **Access to Support.** Support is accessed through email at support@oxygen-forensic.com or online via an online ticketing system at <https://www.oxygen-forensic.com/en/submit-ticket>. All initial support requests shall be communicated to Oxygen Forensics through email or online as stated above. This enables the issue to be logged, plus makes the issue visible to each of the Oxygen Forensics support team ("**Support Team**"). support@oxygen-forensic.com and the Online Ticketing System are operational 24/7/365.
6. **Support Availability.** Support is available Monday – Friday 9:00 am to 5:00pm EST except weekends and holidays. Coverage outside this time is excluded from the scope of this agreement and must be arranged separately with Oxygen Forensics.
7. **Response Times; Support Efforts.** Upon receipt of Support Ticket (via email to support@oxygen-forensic.com or the online ticketing system) the Support Team will respond as detailed below. All response times are during standard business hours as described above. Licensee will receive immediate email notification of receipt of a Support email and the support issue will be dealt with according to its priority:

i. Priority 1 Issue (Critical):

means a program error that prevents operation of critical documented functions with high frequency or duration.

ii. Priority 2 Issue (High):

means a program error that has some impact on administration; non-critical operation or other secondary functions for which a temporary work around has been provided and also includes general clarification issues outlined in 3a above.

iii. Priority 3 Issue (Medium/Low):

means a program error with little or no impact on productivity, impacting unsupported software or functions or a request for an enhancement or additional functionality that is not due to a defect in the Software.

Priority	Response Time
Priority 1 Issue	1-3 hours
Priority 2 Issue	6-8 hours
Priority 3 Issue	10-15 hours

Updated: November 2018