



## Customer License Agreement (also may be referred to as Master Services Agreement)

This Master Services Agreement also known as Customer License Agreement and which replaces any prior Customer License Agreement (“**Agreement**”) is entered as of the earlier of: the date you access the product and the date we received an Order Form (as defined below) from or on behalf of you (such as from a reseller) (“**Effective Date**”), by and between Forward Networks, Inc., a Delaware corporation, with its principal place of business at 2390 Mission College Blvd. #401, Santa Clara, CA 95054 (“**Forward Networks**” or “us/we”), and you (“**Customer**” or “you/your”). Forward Networks and Customer are each referred to as a “**Party**” and together, the “**Parties**”. By signing up for or using the Services, you agree to be bound by these Terms. To purchase a Service, you must also submit an Order Form that we both sign (an “Order Form”). This Agreement governs your license and use of our services and products purchased under an Order Form or otherwise accessed or used by you.

For good and valuable consideration, the adequacy, receipt and sufficiency of which are acknowledged, Customer and Forward Networks agree as follows:

### 1. Definitions.

“**Affiliate**” means, with respect to a Party, any entity that, directly or indirectly, controls, is controlled by, or is under common control with a Party; and “control” means the direct possession of the power to direct or cause the direction of the management and policies of another entity, whether through the ownership of voting securities, by contract or otherwise.

“**Aggregate Data**” means all aggregate and statistical information or analyses collected by Forward Networks relating to the performance, operation, and use of the Solution.

“**Authorized User**” means Customer’s employees and the employees of Customer’s subcontractors that have been assigned a unique username-password combination to access and use the Solution.

“**Customer Data**” means: (a) any content or information that Customer, Customer’s subcontractors or their respective Authorized Users upload to the Solution; and (b) Network Data collected by the Solution.

“**Customer Property**” means: (a) Customer Data; and (b) Customer’s Confidential Information.

“**Confidential Information**” means all technical, business, financial and other information of a Party that derives economic value, actual or potential, from not being generally known to others, including, without limitation, any technical or non-technical data, designs, methods, techniques, drawings, processes, products, inventions, improvements, methods or plans of operation, research and development, business plans and financial information of the Party. The Confidential Information of Forward Networks shall include, without limitation, any non-public portion of the Forward Networks Property, any pricing and Fee information in any Order, and the results of any benchmarking test or other analysis of the Solution. Confidential Information does not include information that the receiving Party can document: (i) has entered the public domain through a source other than the receiving Party and through no fault of the receiving Party; (ii) was rightfully known to the receiving Party without a confidentiality obligation prior to the commencement of the Solution; (iii) is disclosed to the receiving Party by a third party that has no confidentiality obligation; or (iv) is developed by the receiving Party independently of and without reference to any Confidential Information.

“**Documentation**” means any user documentation regarding the Solution that Forward Networks makes available to Customer.

“**Feedback**” means any comments or other feedback Customer provides to Forward Networks concerning the functionality and performance of the Solution, including without limitation identification of potential errors and improvements.

**“Fees”** means the Forward Networks fees for the Solution, as set forth in each Order.

**“Forward Networks SaaS Service”** means Forward Networks’ proprietary platform that hosts and provides the Software as a service, excluding any Third-Party Software.

**“Forward Networks Property”** means: (a) the Forward Networks SaaS Service; (b) the Software (including any On-Premises Software and any license keys); (c) any inventions or other technology resulting from providing support and other services in connection with the Solution; (d) any Confidential Information of Forward Networks; (e) any Feedback; and (f) Aggregate Data.

**“Intellectual Property Rights”** means patent rights (including patent applications and invention disclosures), design rights, copyrights, rights in database, moral rights, trademarks, service marks, trade secrets, know-how, rights in or relating to confidential information and any other intellectual property right (whether registered or unregistered) recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded including all rights of reversion and rights to any applications and pending registrations and the right to sue for and recover damages for past infringements.

**“Network Data”** means Network Device data collected through the Solution.

**“Network Device”** means Customer’s physical or virtualized device, or public cloud account that the Solution accesses to collect configuration and state information, as further described in the Documentation.

**“On-Premises Software”** means Software that is installed on Customer’s servers at Customer facilities owned, licensed, or rented by Customer (“Customer’s Facilities”).

**“Order”** means a written or electronic order document for the Solution and any related services that is entered into between Customer and Forward Networks (or an authorized reseller).

**“Software”** means Forward Networks’ proprietary software, which Forward Networks will make available to Customer either through the Forward Networks SaaS Service or as On-Premises Software, as further described in each Order, including any Updates, but excluding any Third-Party Software.

**“Solution”** means either the Forward Networks SaaS Service (including any Software available through the Forward Networks SaaS Service) or On-Premises Software, as specified in each Order, as well as any support, maintenance and other related services provided by Forward Networks, and any Documentation.

**“Term”** has the meaning set forth in Section 10.1.

**“Third-Party Software”** means any software, code or other technology licensed by a third party under separate license terms. These separate terms may be specified in the Documentation, readme, help, notice, about or source files. Third-Party Software includes any software licensed by a third party under any open source license, including any license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation), or any substantially similar license.

**“Updates”** means any upgrades, updates, revisions, corrections, modifications improvements, bug fixes, patches, maintenance releases, versions, and enhancements to the Software that Forward Networks makes generally available to its customers at no additional charge during the Term, excluding any beta versions.

## **2. Solution.**

2.1. Provision of Solution; Orders. Forward Networks shall provide to Customer the Solution in accordance with this Agreement and each Order. If the Order specifies that Customer is

purchasing a subscription to use the Software via the Forward Networks SaaS Service, Forward Networks will host the Software on the Forward Networks SaaS Service and provide Customer with access to the Forward Networks SaaS Service. If the Order specifies that Customer is purchasing a license to use the On-Premises Software, Forward Networks will make the On-Premises Software available to Customer for installation at Customer's Facilities. To the extent that Forward Networks provides On-Premises Software to Customer, the terms and conditions set forth in Exhibit A will additionally apply and will control in the event of any conflict with the terms set forth in this main Agreement. The terms and conditions set forth in Exhibit A do not otherwise apply. Forward Networks' personnel performing the Solution may be either Forward Networks employees or subcontractor personnel. Forward Networks shall be responsible for any acts or omissions of Forward Networks' employees or subcontractors that cause Forward Networks to be in breach of this Agreement. Customer shall cooperate reasonably with Forward Networks' efforts to provide the Solution, and Forward Networks will not be responsible for any delays in providing the Solution to the extent caused by Customer's failure to cooperate or to provide any assistance specified in the applicable Order.

- 2.2. Customer's Account and Authorized Users. Forward Networks will establish in the Forward Networks SaaS Service any necessary accounts for Authorized Users. Authorized Users of the Solution will have the ability to use the Solution functionalities described in the Documentation for the Solution listed in the applicable Order for Customer's internal purposes only. Customer agrees to keep confidential Customer's account information for the Solution, including any license keys and access codes, and not to share it with any third party other than Authorized Users. Customer is fully responsible for all activities that occur under Customer's account and for maintaining up-to-date and accurate information (including without limitation valid contact information) with respect to Customer's account. Forward Networks reserves the right to refuse account registration of or cancel passwords it deems insecure.
- 2.3. Ability to Download Data. At any time during Customer's subscription period, Customer will have the ability to download any Customer Data then stored in the Solution. Customer will not have the ability to download Customer Data following any expiration or termination of Customer's subscription period, and Forward Networks will have the right to delete any Customer Data in its sole discretion at that time.
- 2.4. Support: Service Levels. Forward Networks will provide the support services set forth in Exhibit B. In addition, if Customer has an active subscription to use the Forward Networks SaaS Service, Forward Networks will comply with the service level obligations set forth in Exhibit C.
- 2.5. Customer Equipment. Customer is responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Solution, including, without limitation, hardware, servers, software, operating systems, networking and the like (collectively, "**Equipment**"). Customer shall also be responsible for maintaining the security of the Equipment, and for all uses of the Equipment.
- 2.6. Collection of Network Data. To provide the basic Software functionality, the Software requires the collection of Network Data. Customer acknowledges and agrees that the Software may access third party Network Device software to collect Network Data. Customer is solely responsible for ensuring that access does not violate any third-party agreements to which Customer is bound with respect to Network Device software, and Forward Networks will have no responsibility for any violation of third-party agreements resulting from access.
- 2.7. Trans-Border Use of Solution. Customer and its Authorized Users will have the ability to access the Forward Networks SaaS Service without regard to geographic location and to transfer or otherwise move Customer Data between the Forward Networks SaaS Service and other locations such as Network Devices. Customer is solely responsible for the authorization and management

of user accounts across geographic locations, as well as export control and geographic transfer of Customer Data.

- 2.8. Excluded Uses and Excluded Data. Customer shall not use the Solution in connection with the design, construction, maintenance, or operation of any (a) nuclear facility, (b) aircraft, aircraft communication, or aircraft ground support system, or (c) safety or health care control system, including without limitation, life support system. Customer shall not upload or make available to the Solution the following types of data: (i) data that is classified and or used on the U.S. Munitions list, including software and technical data; (ii) articles, services, and related technical data designated as defense articles and defense services; or (iii) ITAR (International Traffic in Arms Regulations) related data. Forward Networks specifically disclaims all liability resulting from Customer's violation of the preceding sentence.
- 2.9. Reseller Orders. If Customer orders any Solution from an authorized reseller pursuant to an Order between Customer and the authorized reseller: (a) all references to an Order in this Agreement shall mean the applicable Order between Customer and the authorized reseller; (b) Section 5 (Payment Obligations) is superseded by the terms set forth in the applicable Order between Customer and the authorized reseller, and fees set forth in the Order shall paid directly to the authorized reseller; and (c) Customer shall look exclusively to the authorized reseller for any credits and refunds. Notwithstanding anything to the contrary, no additional terms in any Order between Customer and an authorized reseller shall be binding on Forward Networks, and, as between Forward Networks and Customer, this Agreement shall prevail in the event of any conflict between this Agreement and any Order between Customer and an authorized reseller.
- 2.10. Affiliate Orders. An Affiliate of Customer may use the Solution by entering into its own Order(s) as agreed with Forward Networks. Each such Order creates a separate agreement between the Affiliate and Forward Networks which incorporates this Agreement, with the Affiliate treated as "Customer". Neither Customer nor any Customer Affiliate has any rights or obligations under each other's agreement with Forward Networks, and breach or termination of any agreement is not breach or termination under any other.

### **3. Licenses and Restrictions.**

- 3.1. License to Solution. If Customer subscribes to use the Forward Networks SaaS Service in an Order, subject to the terms and conditions of this Agreement, Forward Networks hereby grants to Customer a non-exclusive, non-sublicensable (except as expressly permitted under this Agreement), non-transferable (except as expressly permitted under this Agreement), revocable license, during the subscription period set forth in each Order, to access and use the Forward Networks SaaS Service (including any hosted Software specified in each Order) and applicable Documentation for the purposes described in Section 2.2 and subject to any limitations set forth in each Order. Customer may permit the number of Authorized Users authorized under each Order to exercise the foregoing rights. Authorized Users who are subcontractors may only exercise these rights in the course of performing services for Customer. Customer shall ensure that all Authorized Users comply with this Agreement and Customer will be liable for any breach of this Agreement caused by any Authorized Users.
- 3.2. Restrictions on Use of Forward Networks Property. Except as expressly authorized under the Agreement, Customer shall not, and shall not permit any third party to: (a) reverse engineer, disassemble, reconstruct, decompile, copy, or create derivative works of the Forward Networks Property, or attempt to discover any underlying ideas, algorithms, structure or architecture of the Forward Networks Property; (b) use the Forward Networks Property for the purpose of creating a competing service; (c) copy, modify, translate, transfer or distribute any portion of the Forward Networks Property, or extract or run any component of the Software independently; (d) rent, lease, or provide access to the Forward Networks Property on a time-sharing or service-bureau basis or as a hosted service provider to third parties; (e) violate any usage limitations set forth in the Order;

(f) remove any proprietary notices or labels from any Forward Networks Property; (g) interfere with or disrupt any of the Forward Networks Property, including without limitation removing, circumventing, disabling, damaging or otherwise interfering with any security-related features of the Solution or features that enforce limitations on the use of the Solution; (h) use the Solution other than as described in the Documentation, this Agreement and the Order, or with any unsupported software or hardware (as described in the Documentation); or (i) disclose the results of any benchmark tests on, or other analysis of, the Solution. Customer will use the Forward Networks Property solely for authorized and legal purposes and will not use the Forward Networks Property to violate any applicable laws or regulations.

3.3. Trials and Betas. If Customer receives access to the Solution or Solution features on a free or trial basis or as an alpha, beta or early access offering (“**Trials and Betas**”), use is permitted only for Customer's internal evaluation during the period designated by Forward Networks (or if not designated, 30 days). Trials and Betas are optional and either party may terminate Trials and Betas at any time for any reason. Trials and Betas may be inoperable, incomplete or include features that Forward Networks may never release, and their features and performance information are Forward Networks' Confidential Information. **Notwithstanding anything else in this Agreement, Forward Networks provides no warranty, indemnity, SLA, or support for Trials and Betas, and its liability for Trials and Betas will not exceed US\$50.**

3.4. Third-Party Software; Third-Party Standards. The Solution may include or require the use of Third-Party Software. Forward Networks may provide notices to Customer in the Documentation, or in readme, help, notice, about or source files, regarding Third-Party Software. Customer's use of Third-Party Software is licensed to Customer solely under the third-party terms governing use, and Forward Networks is not a party to these terms. No license, warranty, indemnity or other obligation of Forward Networks in this Agreement will apply to any Third-Party Software. Any references to third-party standards providers (such as NIST) are offered as informational tools, and you are solely responsible for your compliance with any standards or regulations. We offer tools for you to use as part of a larger program for compliance standards and industry benchmarks. These tools are not a guarantee nor a verification of compliance. You must independently ensure you are complying with applicable, current standards and benchmarks and should not rely on any Forward Networks' tool or checks as a definitive assessment.

3.5. License to Customer Data. Subject to the terms and conditions of this Agreement, Customer hereby grants Forward Networks non-exclusive, royalty-free, non-transferable (except as expressly permitted under this Agreement), non-sublicensable (except as expressly permitted under this Agreement), worldwide license to reproduce, store, display and use any of Customer Data: (a) during the Term, to provide the Solution to Customer; (b) on an irrevocable, perpetual basis, for product improvement, research and development, operations management, testing and troubleshooting and for other commercial purposes. Forward Networks will have the right to permit it subcontractors to exercise the foregoing rights, provided that Forward Networks will be responsible for any breach of this Agreement caused by any subcontractors.

#### 4. **Proprietary Rights.**

4.1. Forward Networks Property. Except for the limited license granted in this Agreement, Forward Networks and its licensors own and retain all right, title, and interest in and to any Forward Networks Property, including without limitation any associated Intellectual Property Rights and any improvements, modifications, enhancements and other derivative works to Forward Networks Property. Forward Networks reserves all rights in and to all the Forward Networks Property and nothing contained in this Agreement shall be construed as conveying any right or license in Forward Networks Property, by implication, estoppel, or otherwise. All the copies of the Solution provided or made available under this Agreement are licensed, not sold.

- 4.2. Use of Aggregate Data. Forward Networks has the right to collect Aggregate Data, owns the Aggregate Data, and has the right to use Aggregate Data for product improvement, research and development, operations management, and for other commercial purposes in its sole discretion. Forward Networks will also have the right to share Aggregate Data with third parties, but Forward Networks may only share Aggregate Data in a form that cannot be used to identify Customer or any Authorized User. Forward Networks does not collect personal data as part of its collection of Aggregate Data.
- 4.3. Customer Property. Except for the limited license expressly granted to Forward Networks, all right, title, and interest in and to any of Customer Property, including without limitation any Intellectual Property Rights therein, are and will remain the exclusive property of Customer and Customer's licensors.
- 4.4. Responsibility for Customer Data. Customer is responsible for all Customer Data, including for the accuracy, legality and integrity of content, and Customer shall obtain in advance all consents, approvals, licenses, and permissions necessary to collect and upload Customer Data to the Solution. Customer shall not upload to the Solution, or permit any third party to upload, any content that violates third-party privacy, publicity, or intellectual property rights; violates applicable laws, regulations or industry standards; or contains hate speech or material that is violent, obscene, pornographic, abusive, defamatory, offensive, or otherwise not reasonably related to the Solution. In addition, the Solution does not collect personal data or personally identifiable information ("**Personal Data**"), and no personal data from Customer is needed to provide the Solution. ACCORDINGLY, CUSTOMER SHALL NOT CAUSE TO BE UPLOADED TO THE SOLUTION: (A) ANY CONTENT FOR WHICH CUSTOMER DOES NOT HAVE ALL NECESSARY OWNERSHIP RIGHTS AND LICENSES, CONSENTS, OR PERMISSIONS; OR (B) ANY PERSONAL DATA. Without limiting any of Forward Networks' other rights and remedies, Forward Networks shall have the right (but not the obligation) in its sole discretion to remove from the Solution any content that violates this Agreement or any of Forward Networks' policies and procedures or is otherwise objectionable.

## **5. Payment Obligations.**

- 5.1. Fees. Customer shall pay Forward Networks the Fees set forth in each Order.
- 5.2. Invoices and Payment. Forward Networks shall invoice Customer in accordance with the invoice schedule set forth in each Order. Customer will pay each invoice within 30 days after receipt of invoice. If Customer's use of the Solution exceeds any usage limit set forth on the Order or otherwise requires the payment of additional fees under the Order, Forward Networks will invoice Customer for any additional fees, and Customer agrees to pay the invoice. If Customer believes that Forward Networks has billed Customer incorrectly, Customer must contact Forward Networks no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, to receive an adjustment or credit. Except as otherwise expressly provided in this Agreement, all Fees are non-refundable. Except as otherwise provided in the Order, all amounts billed to Customer shall be expressed in, and Customer shall make all payments in, United States dollars. Customer shall pay all amounts due without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Forward Networks may, at its option, apply money Customer owes to Forward Networks against any money Forward Networks owes to Customer. Forward Networks and Customer shall use good faith efforts to resolve any disputed invoiced amounts or charges. Customer's obligation to pay for any Solution and/or service offerings is not contingent on the delivery or performance of any other Solution or services.
- 5.3. Taxes. Customer shall bear all local, state and federal sales, use, gross receipts, excise, import or export, value added, withholding or similar taxes, duties, fees, assessments or levies ("**Taxes**"), if any, legally imposed in connection with the Fees paid or Solution delivered under this Agreement; provided, however, that Customer will not be responsible for taxes on Forward Networks' net

income. If Customer is required to withhold any taxes on the amounts payable to Forward Networks under this Agreement, Customer shall pay Forward Networks additional amounts as are necessary to ensure receipt by Forward Networks of the full amount that Forward Networks would have received but for the deduction on account of the withholding. Forward Networks shall separately state on each applicable invoice, and Customer shall pay, any Taxes unless, prior to the date Forward Networks issues an invoice to Customer, Customer provides Forward Networks with a valid tax exemption certificate authorized by the appropriate taxing authority or Customer provides other evidence acceptable to Forward Networks that a transaction is non-taxable.

- 5.4. Remedies for Non-Payment. In addition to any other remedies available to Forward Networks, including any remedies set forth in the applicable Order, in the event that Customer fails to pay any invoiced amounts when due: (a) Forward Networks will have the right to immediately suspend or block Customer's access to the Solution until full payment of all amounts is received; and (b) Customer shall pay a late charge equal to the lesser of 1.5% per month (pro-rated if necessary) or the maximum amount permitted under applicable law, on any past due balance, and the charge shall accrue beginning on the day after the amount is due.

## **6. Confidentiality, Data Security and Data Privacy.**

- 6.1. Confidentiality. The Party receiving Confidential Information agrees: (a) to hold and maintain in strict confidence the Confidential Information and not to disclose it to any third party other than its employees and subcontractors who have a need to know and have executed confidentiality agreements with the receiving Party no less protective of the Confidential Information than this Section; (b) to protect the Confidential Information from disclosure with the same degree of care it uses to protect its own proprietary information similar in nature, but in no event less than a reasonable degree of care; (c) not to use any Confidential Information for any purpose other than performing its obligation or exercising its rights under this Agreement; and (d) to return or destroy Confidential Information promptly upon the disclosing Party's written request. For clarity: (i) Customer Data shall not be deemed Confidential Information, and Forward Networks' use and disclosure of Customer Data is restricted under the provisions set forth in Section 3.5; and (ii) nothing in this Section 6 will restrict or limit Forward Networks' rights to use Customer Data as provided in Section 3.5. Either Party may disclose Confidential Information in response to a valid order of a court or other governmental body, but only to the extent of and for the purposes of the order; provided, however, that the receiving Party agrees to immediately inform the disclosing Party in writing of the existence, terms, and circumstances surrounding the request or order. Receiving Party will immediately give notice to disclosing Party of any unauthorized use or disclosure of Confidential Information. Receiving Party agrees to assist disclosing Party in remedying the unauthorized use or disclosure of the Confidential Information. The receiving Party acknowledges that the unauthorized disclosure or use of Confidential Information may cause irreparable harm to the disclosing Party, which harm may not be compensated by damages alone. Therefore, in addition to all other rights and remedies at law and in equity, the disclosing Party may seek an injunction to prevent a violation of the obligations of confidentiality.
- 6.2. Data Security and Privacy. Forward Networks shall maintain a data security program that is designed to prevent unauthorized use or disclosure of Customer Data stored in the Solution in accordance with applicable laws and generally accepted industry standards. Forward Networks will have the right to suspend Customer's access to the Solution on an emergency basis: (a) in the event that Forward Networks detects any actual or apparent theft, unauthorized access or use of the Solution, or other malicious activity by Customer or any third party; or (b) to maintain data integrity within the Solution. The parties shall each comply with all applicable privacy laws and regulations relating to the protection of Personal Data. Notwithstanding the foregoing, Customer acknowledges and agrees that (i) the Solution does not collect Personal Data; (ii) no personal data from Customer is needed to provide the Solution; and (iii) Customer is prohibited from uploading Personal Data to the Solution. Customer hereby consents to Forward Networks' use of any Business Card Data (defined below) that Customer provides to Forward Networks: (A) for the

purpose of providing the Solution to Customer; and (B) in any additional manner described in the Forward Networks privacy policy governing the Solution. “**Business Card Data**” means any business contact information of Authorized Users, Customer’s employees, or Customer’s subcontractors (i.e., name, title, company/organization, business email, business phone number, and business address).

## **7. Representations And Warranties; Disclaimer.**

7.1. General Representations and Warranties. Each Party represents and warrants as of the Effective Date and at all times throughout the Term: (a) it has the full corporate right, power and authority to enter into this Agreement and to perform its obligations under this Agreement; (b) the execution of this Agreement by the Party and performance of its obligations under this Agreement comply with all applicable laws, rules and regulations (including privacy, export control, and obscenity laws); (c) when executed and delivered, this Agreement will constitute a legal, valid and binding obligation of the Party, enforceable against it in accordance with its terms; and (d) neither the execution nor performance of this Agreement will violate any agreement to which it is a party or by which it is otherwise bound.

7.2. Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY MAKES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY ITEMS OR SOLUTION PROVIDED UNDER THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING BY USAGE OF TRADE, COURSE OF DEALING, OR COURSE OF PERFORMANCE, AND FORWARD NETWORKS HEREBY DISCLAIMS THE SAME ON BEHALF OF ITSELF AND ITS LICENSORS AND SUPPLIERS. FORWARD NETWORKS DOES NOT REPRESENT OR WARRANT THAT THE SOLUTION OR DOCUMENTATION WILL MEET CUSTOMER’S NEEDS OR REQUIREMENTS, THAT ANY CONTENT OR DATA GENERATED BY THE SOLUTION WILL BE ACCURATE, COMPLETE, OR RELIABLE, THAT USE OF THE SOLUTION WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, OR THAT ANY DEFECTS IN THE SOLUTION OR DOCUMENTATION WILL BE CORRECTED. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED FROM FORWARD NETWORKS OR ELSEWHERE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

## **8. Indemnification.**

8.1. Indemnification by Forward Networks. Forward Networks will defend Customer from and against any third-party claim to the extent alleging that the Solution as operated by Forward Networks infringes or misappropriates a third-party’s U.S. patent, copyright, trademark or trade secret, and will indemnify and hold harmless Customer against any damages and costs awarded against Customer (including reasonable attorneys’ fees) or agreed in settlement by Forward Networks resulting from the claim.

8.2. Indemnification by Customer. Customer will defend Forward Networks from and against any third-party claim to the extent resulting from Customer Data, Customer Materials, or Customer’s breach or alleged breach of Section 6 (Customer Obligations) and will indemnify and hold harmless Forward Networks against any damages and costs awarded against Forward Networks (including reasonable attorneys’ fees) or agreed in settlement by Customer resulting from the claim.

8.3. Procedures. The indemnifying party’s obligations in this Section 8 are subject to it receiving: (a) prompt written notice of the claim; (b) the exclusive right to control and direct the investigation, defense and settlement of the claim; and (c) all reasonably necessary cooperation of the indemnified party, at the indemnifying party’s expense for reasonable out-of-pocket costs. The



indemnifying party may not settle any claim without the indemnified party's prior consent if settlement would require the indemnified party to admit fault or take or refrain from taking any action (other than relating to use of the Solution, when Forward Networks is the indemnifying party). The indemnified party may participate in a claim with its own counsel at its own expense.

- 8.4. **Mitigation.** In response to an actual or potential infringement claim, if required by settlement or injunction or as Forward Networks determines necessary to avoid material liability, Forward Networks may at its option: (a) procure rights for Customer's continued use of the applicable Solution, (b) replace or modify the allegedly infringing portion of the applicable Solution to avoid infringement or misappropriation without reducing the Solution's overall functionality; or (c) terminate the affected Order and refund to Customer any pre-paid, unused fees for the terminated portion of the Subscription Term.
- 8.5. **Exceptions.** Forward Networks' obligations in this Section 8 do not apply: (a) to infringement or misappropriation resulting from Customer's modification of Services or use of Services in combination with items not provided by Forward Networks (including Third-Party Platforms); (b) to infringement resulting from Software other than the most recent release; (c) to unauthorized use of Services; (d) if Customer settles or makes any admissions about a claim without Forward Networks' prior consent; or (e) to Trials and Betas (as defined in Section 3.3) or other free or evaluation use.
- 8.6. **Exclusive Remedy.** **This Section 8 sets out Customer's exclusive remedy and Forward Networks' entire liability regarding infringement or misappropriation of third-party intellectual property rights.**

**9. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER FORWARD NETWORKS, NOR ITS AFFILIATES OR LICENSORS SHALL BE LIABLE, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, OR FOR LOSS OR CORRUPTION OF DATA, COST OF PROCUREMENT OF SUBSTITUTE GOODS, OR LOST PROFITS OR BUSINESS. IN NO EVENT SHALL THE TOTAL LIABILITY OF FORWARD NETWORKS, ITS AFFILIATES OR ITS LICENSORS UNDER THIS AGREEMENT EXCEED THE TOTAL FEES PAID TO FORWARD NETWORKS UNDER THE RELEVANT ORDER(S) DURING THE 12-MONTH PERIOD IMMEDIATELY PRIOR TO THE DATE THE CAUSE OF ACTION AROSE. THE FOREGOING EXCLUSIONS OF LIABILITY AND LIMITATIONS OF LIABILITY SHALL APPLY WHETHER OR NOT FORWARD NETWORKS HAS BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING, AND EVEN IF A REMEDY HAS FAILED OF ITS ESSENTIAL PURPOSE. NOTWITHSTANDING THE FOREGOING, NOTHING HEREIN SHALL EXCLUDE OR LIMIT FORWARD NETWORKS' LIABILITY FOR LOSSES THAT MAY NOT BE LAWFULLY EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

**10. Term and Termination.**

- 10.1. **Term.** This Agreement shall become effective on the Effective Date and, unless earlier terminated in accordance with this Agreement, shall continue in full force and effect for the subscription or service period set forth in each Order ("Term").
- 10.2. **Termination for Breach.** Either Party may terminate this Agreement by written notice to the other Party if the other Party commits a material breach of this Agreement and the breach remains uncured for 30 days following written notice of breach by the terminating Party. Forward Networks may immediately terminate the Agreement without refund, upon written notice to Customer, in the event that: (a) Customer violates Section 3.2; or (b) Customer fails to pay any amount owed under an Order within 10 days after the due date. For any termination or expiration other than material breach by Forward Networks, Customer will receive no refund and will remain responsible for payment of all Fees under the applicable Order for the full term.

10.3. Effect of Expiration or Termination: Survival. Upon the expiration or termination of this Agreement for any reason: (a) Customer will immediately cease all access to and use of the Solution and delete all copies of On-Premises Software and the corresponding software keys and certify their deletion in writing; (b) all licenses granted under this Agreement will immediately terminate (except for any license expressly stated to be perpetual) and Forward Networks will immediately cease providing the Solution to Customer; (c) Customer shall, within 30 days of expiration or termination, pay to Forward Networks all outstanding accrued and payable amounts owed by Customer to Forward Networks under this Agreement; and (d) Sections 1, 2.3, 3.2, 3.3, 3.4, 3.5(b), 4, 5.3, 5.4, 6.1, 7.2, 8, 9, 10.3 and 11 shall survive. Neither Party will be liable for exercising any termination right in accordance with this Agreement. Except as expressly provided, expiration or termination of this Agreement shall not release either Party from any liability or obligation that had already accrued as of the effective date of expiration or termination, and the expiration or termination shall not constitute a waiver or release of, or otherwise be deemed to prejudice or adversely affect, any rights, remedies or claims, whether for damages, injunctive relief, or otherwise, which a Party may have under this Agreement at law, in equity or otherwise or which may arise out of or in connection with termination.

## 11. **Miscellaneous.**

11.1. **U.S. Government Rights.** The Software is “commercial computer software” and the Services are “commercial services,” in each case as defined and used in the Federal Acquisition Regulation (“FAR”) and its agency supplements, e.g., 48 C.F.R. §§ 2.101, 12.212, 227.7202 and 252.227-7014(a)(1), and in each case developed exclusively at private expense. The Software, Services, and related documentation are provided to Customer for use by or on behalf of Customer subject to the terms of and with only those rights as are expressly granted in this Agreement. The license set forth in this Agreement represents the exclusive authority by which the U.S. Government may use, modify, distribute, or disclose the Software. Customer acknowledges it has reviewed and this Agreement is consistent with federal law and otherwise satisfies U.S. Government needs. Forward Networks shall be under no obligation to update, revise, or otherwise modify the Software, Services, or related documentation except as expressly provided in the Prime Contract. This Agreement is in lieu of, and supersedes, any provision or clause of the FAR, Department of Defense FAR Supplement (“DFARS”), or other clause or provision that purports to grant rights in computer software or technical data. If and to the extent any provision or term in this Agreement is deemed inconsistent with or prohibited by Applicable Law, the provision will be deemed modified only to the extent reasonably necessary to conform to Applicable Law but to give maximum effect to the provision or terms as written.

11.2. Compliance with Law. Customer represents and warrants that: (a) Customer is not located in, domiciled in, a resident of, controlled by the government of, or organized under the laws of a country or region that is subject to a U.S. Government embargo (currently, Crimea, Cuba, Iran, North Korea, Syria and Venezuela); and (b) Customer is not on or, directly or indirectly, owned, in whole or part, by any person or persons on the U.S. Treasury Department’s List of Specially Designated Nationals and Blocked Persons or any other U.S. government list of parties with respect to which transactions are forbidden or restricted. Customer shall not export, re-export, import, or transfer any good, service or other item that Customer received from Forward Networks or Customer’s right to access the Solution in violation of applicable law, including U.S. law, or in any manner that is forbidden for U.S. citizens, including, without limitation, transfer to a country or region that is subject to a U.S. government embargo, and Customer shall not assist or facilitate others in doing any of the foregoing. Customer acknowledges that it is Customer’s responsibility to comply with any and all applicable export and import and economic sanctions laws.

11.3. Force Majeure. Forward Networks shall not be liable to Customer for any default or delay in the performance of any of its obligations under this Agreement if the default or delay is caused, directly or indirectly, by any cause beyond Forward Networks’ reasonable control.

- 11.4. Assignment. Neither party may assign this Agreement without the prior consent of the other party, except that either party may assign this Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all its assets or voting securities to the other party involved in such transaction. Any non-permitted assignment is void. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.
- 11.5. Notice. All notices authorized or required to be given pursuant to this Agreement shall be given in writing by email, personal delivery, or delivery by an established overnight courier service, addressed to the Party at its address set forth below the signatures in this Agreement (unless the address is changed by written notice to the other Party); provided, however, that any notice of breach or termination of this Agreement or any Order given by email shall also be given by one of the other methods listed above. Notices given by personal delivery or courier shall be deemed given when received, based on delivery records. Notices given by email shall be deemed given when sent.

Address for notices:

Forward Networks, Inc.  
Atten: Legal  
2390 Mission College Blvd. #401  
Santa Clara, CA 95054  
[legal@forwardnetworks.com](mailto:legal@forwardnetworks.com)

Your information on the Order Form will be used for notices to you.

- 11.6. Independent Contractors. The Parties acknowledge that the relationship of Customer and Forward Networks is that of independent contractors and that nothing contained in this Agreement shall be construed to place Customer and Forward Networks in the relationship of principal and agent, master and servant, partners or joint venturers.
- 11.7. Dispute Resolution. If any dispute arises under this Agreement, each Party may request that each party submit the dispute for resolution by a level of employee or officer with decision-making authority. At any time, either Party may pursue all available remedies at law or in equity.
- 11.8. Governing Law; Venue; Remedies Cumulative. This Agreement shall be interpreted in accordance with the laws of the state of California, USA without reference to its conflict of law provisions. Any litigation, suit or other proceeding regarding the rights or obligations of the parties shall be conducted exclusively before the state and federal courts in and for Santa Clara County, California, and the parties specifically consent to Santa Clara County, California, USA, as the exclusive venue for any proceeding. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods or the Uniform Computer Information Transactions Act, the application of which is expressly excluded. Except as set forth in this Agreement, the Parties' rights and remedies under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.
- 11.9. Entire Agreement. This Agreement, together with any attachments and Orders, embodies the entire agreement between the Parties with respect to its subject matter, and supersedes all prior agreements and understandings between the Parties relating to the subject matter of this Agreement, including without limitation any NDA's. For avoidance of doubt, the Parties agree that no terms in any form purchase order, invoice, or other document that either Party may deliver, or imposed by any governmental acquisition regulation, whether or not signed by the other Party, shall be deemed to modify or amend the terms of this Agreement and any additional or inconsistent terms shall automatically be deemed unacceptable to and rejected by both Parties, and null and void and of no force and effect.

- 11.10. Amendment: Waiver. No amendment of any provision of this Agreement shall be effective unless explicitly set forth in a writing signed by a representative of Customer and Forward Networks. No course of dealing on the part of either Party, nor any failure or delay by either Party with respect to exercising any of its rights, powers or privileges under this Agreement or law shall operate as a waiver. No waiver by either Party of any condition or the breach of any provision of this Agreement in any one or more instances shall be deemed a further or continuing waiver of the same or any other condition or provision.
- 11.11. Severability. If any term of this Agreement not essential to the commercial purpose of this Agreement is held illegal, invalid or unenforceable, it is the intention of the Parties that the remaining terms constitute their agreement and all remaining terms remain in full force and effect. To the extent legally permissible, any illegal, invalid or unenforceable provision of this Agreement shall be replaced by a valid provision that implements the commercial purpose of the illegal, invalid or unenforceable provision.
- 11.12. Customer List. Unless Customer notifies Forward Networks in writing that Customer does not wish for Forward Networks to list Customer's name and logo, Forward Networks will have the right to include, on its website and sales collateral, Customer's name and Customer's logo (if any) in lists that identify customers of the Solution, provided that Customer's name and logo shall be no more prominently featured than references to any other customers.
- 11.13. Headings. The headings contained in this Agreement are for convenience of reference only and are not intended to have any substantive significance in interpreting this Agreement.

## Exhibit A

### TERMS AND CONDITIONS APPLICABLE TO ON-PREMISES SOFTWARE

The terms and conditions set forth in this Exhibit A will additionally apply with respect to Customer's use of On-Premises Software. In the event of any conflict with the terms set forth in the main Agreement, these terms and conditions will control with respect to the On-Premises Software. If Customer is solely purchasing a subscription to use the Software via the Forward Networks SaaS Service, these terms and conditions do not apply.

**12. Delivery and Installation of On-Premises Software.** Forward Networks will deliver the On-Premises Software to Customer in the manner described in the applicable Order. To download and use the On-Premises Software, Customer may be required to obtain, use, and register a license key and provide additional information as requested by Forward Networks.

**13. License to Use On-Premises Software.** Forward Networks hereby grants to Customer a non-exclusive, non-sublicensable (except as expressly permitted under the Agreement), non-transferable (except as expressly permitted below), revocable license, during the subscription period set forth in each Order, to: (a) download, store and install the On-Premises Software on Customer's servers located at Customer's facility; (b) use the On-Premises Software, in object code form only, subject to any limitations set forth in the applicable Order; and (c) use any associated Documentation. Customer may permit the Authorized Users to exercise the foregoing rights, provided that: (i) any Authorized Users who are subcontractors shall only exercise these rights in the course of performing services for Customer; and (ii) Customer shall ensure that all Authorized Users comply with this Agreement and Customer will be liable for any breach of this Agreement caused by any Authorized Users.

**14. Reporting.** The On-Premises Software will automatically collect and report usage data to Forward Networks, and Customer hereby consents to this reporting.

**15. Audits.** Forward Networks has the right to audit and inspect Customer's use of the On-Premises Software at Customer's facility to verify Customer's compliance with the provisions of the Agreement during Customer's normal business hours, upon 10 days' notice to Customer, and no more than once in any 12-month period. Customer shall provide Forward Networks with reasonable access to its facility for this purpose and otherwise reasonably cooperate with the audit and inspection. Customer shall promptly remedy any underpayments or other violations of the Agreement that are revealed during any audit and inspection. Customer shall retain any applicable records pertaining to its use of the On-Premises Software for 2 years after the termination or expiration of the subscription term for the Software.

## Exhibit B

### SUPPORT SERVICES

This Exhibit B describes the policies and procedures under which Forward Networks will provide support services (“**Support Services**”) to Customer. Support Services are provided for the Solution subscription term specified in the Order (“**Subscription Term**”). Forward Networks may change the Support Services offered at any time, effective as of the commencement of any Subscription Term.

Forward Networks is committed to delivering a quality service experience to Customer. As part of our commitment, it is our goal to improve the Solution by effectively managing and quickly resolving technical inquiries. The purpose of this document is to communicate the support options and processes and clearly set service expectations.

#### Support Services Overview

If the Solution requires registration or activation, Customer is responsible for registering or activating Support Services for the Solution. Forward Networks’ obligation to provide Support Services is conditioned upon registration or activation, receipt of all amounts due and payable for the Solution, and Customer’s compliance with the Agreement and Documentation.

Forward Networks currently offers Standard Support, which is defined below. This offering is included with all Solution subscriptions and terminates upon expiry of the applicable Subscription Term. Premium Support services may be purchased for a fee as outlined below.

#### Standard Support

This level of support provides access to Forward Networks’ Customer Care Team via the Forward Networks Customer Care Center (also known as “**CCC**”). The CCC is accessed via the Forward Networks support portal, located at <https://forwardnetworks.com/support>. The CCC provides access to technical support, development, and product management personnel. The CCC is the point of access for self-service technical support.

Standard Support service is available from 6am to 5pm, Pacific Time, Monday through Friday, excluding U.S. public holidays. Target response times are in the response target matrix below.

#### Premium Support

Premium support provides 24-hour access to Forward Networks’ Customer Care Team via the CCC.

Target response times are indicated according to the priority level of reported problems indicated in the response target matrix below.

Reporting a Problem. Customer may use one of the following methods to report a support issue:

- *Online* – <https://forwardnetworks.com/support>
- *Email* – Send an email to [support@forwardnetworks.com](mailto:support@forwardnetworks.com), including the information requested below. Customer’s email will be routed to Forward Networks’ support system and the request will be assigned a case ID.

#### Case Notification:

Customer will receive an automated notification immediately following a case creation activity. The notification will include the case ID, a summary of the inquiry and the priority level that has been assigned. Case notification will always be done via email to the email address of the Customer contact who created the case.

Initial contact from the representative handling Customer’s case is based on priority and the target response time is listed in the response target matrix below.

**Information Customer Provides to Forward Networks:**

Customer must include the following when reporting a new issue:

1. The results of any troubleshooting measures that may have been already undertaken, and a list of steps that can be followed to reproduce the issue.
2. As many other details about the issue as possible, including any co-existing issues and any recent updates or changes that may have been made to the network topology or infrastructure. Details such as system logs, or device configuration and state may be required to investigate and resolve the issue.

**Response Target Matrix:**

During case creation, Customer will assign a priority level, based on the criteria described in the response target matrix below. Forward Networks will use commercially reasonable efforts to respond to Customer inquiries within specified targets based on the priority of the reported issue according to the response target matrix.

Priority	Priority Level	Criteria	Standard Support - Initial Response Targets	Standard Support - Follow-Up Response Targets	Premium Support - Initial Response Targets	Premium Support - Follow-Up Response Targets
Priority 3	Low	A feature of the Solution is not functioning correctly but does not impact data quality or access. This includes requests for general information.	1 business day	5 business days	24 hours	3 business days
Priority 2	Medium	The Solution exhibits one or more errors that cause some major features or functions to fail to conform to their Documentation, without rendering the features or functions completely unusable. This includes scripting and implementation of API-related requests and single-user authentication problems.	8 business hours	3 business days	4 hours	1 business day
Priority 1	High	The Solution is impaired which is impacting normal business operations, but business can continue to function. There is no workaround available.	4 business hours	1 business day	1 hour	4 hours
Priority 0	Critical	The Solution exhibits one or more errors that cause it to lock up and completely fail to operate. Normal business cannot function. There is no workaround available.	1 business hour	4 business hours	30 minutes	2 hours

**Case Solution:**

A case will be closed when Customer's problem is resolved. A solution is typically one of the following: an answer to the question, a suggestion on how to perform a particular task which resolves the issue, an acceptable workaround to a product issue, or a fix which resolves the issue. Customer will be notified of case closures, and this closure notification will always be done via email, to the email address on record.

A case can be re-opened within 30 days of case closure at Customer's request if further investigation is required.

Forward Networks is not in breach of this Agreement if it is unable to provide a response within target set forth above. Forward Networks makes no representation or covenant that it will resolve any error or issue within a specific time period.

**Exclusions from Support:**

Support Services do not cover (and Forward Networks is not responsible for) issues arising from: (a) Customer's equipment, software, network connections or other infrastructure; (b) accident, negligence, improper installation, misapplication, abuse, or misuse of the Solution, or use of the Solution by Customer in a manner not consistent with the Documentation or this Agreement; (c) modifications to the Solution by any party other than Forward Networks; (d) third-party systems; (e) Customer's failure to use the most recent version of the Software; or (f) general Internet problems, force majeure events (as described in the Agreement), or other factors outside of Forward Networks' reasonable control. Additional charges may apply if Forward Networks determines that the cause of a Support Services request was not related to the Solution or the request is not covered by Forward Networks' obligations. Support does not cover, and Forward Networks disclaims any responsibility for, support requests related to Third-Party Software. Forward Networks may suspend Support Services if Customer fails to cooperate with Forward Networks' technical recommendations or instructions. Support Services specifically exclude any other services, such as custom programming, interface development and testing, data services, software engineering services such as porting, application development, or any other software development services. Any such services mutually agreed by the Parties will be governed by a separate professional services agreement.



## Exhibit C

### SERVICE LEVEL AGREEMENT FOR FORWARD NETWORKS PLATFORM

The terms and conditions in this Exhibit C will additionally apply with respect to Customer's use of Software via the Forward Networks SaaS Service. These terms and conditions do not apply to Customer's use of On-Premises Software.

#### 1. Availability.

Forward Networks will use commercially reasonable efforts to ensure that the Forward Networks SaaS Service is available 99% of the time, calculated on a calendar monthly basis. Failure to meet this standard is a "Service Unavailability." Percentage availability is determined by number of minutes the Forward Networks SaaS Service is available during a calendar month as a percentage of the total number of minutes in the calendar month, excluding certain excluded downtime, and is calculated with the following formula:

$$((43800 \text{ avg minutes in month} - \text{unplanned downtime} - \text{excluded downtime}) / (43800 \text{ avg minutes in month} - \text{excluded downtime})) * 100 \geq 99\%$$

Excluded downtime includes (a) scheduled maintenance for which Customer has received written notice (email or service notice is sufficient) at least 24 hours in advance, (b) reasons of force majeure, including outages resulting from third-party network service provider issues or Internet outages resulting from failures completely outside the control of Forward Networks, and (c) outages resulting solely from Customer's system or software application failures.

For any partial calendar month during which Customer subscribes to the Forward Networks SaaS Service, availability will be calculated based on the entire calendar month, not just the portion for which Customer subscribed. Forward Networks has no obligation to report availability of the Forward Networks SaaS Service to Customer, and Customer is solely responsible for determining availability. To report any failure to meet the availability standard above, Customer must send Forward Networks a notice, via email addressed to support@forwardnetworks.com within 24 hours of the outage, containing the following details:

- Subscription information, including Customer name, address, contact name and contact phone number; and
- Downtime information with dates and time periods for each instance of downtime during the relevant period, including relevant calculations.

All claims will be verified against Forward Networks' system records. If Forward Networks disputes any period of unavailability alleged by Customer, Forward Networks will provide to Customer a record of Forward Networks SaaS Service availability for the applicable period. Forward Networks will provide such records only in response to claims made by Customer in good faith.

#### 2. Remedies.

If Customer experiences Service Unavailability for more than 438 minutes in a calendar month, Customer is eligible for, at Customer's request, 1 day Service Credit for each 3 cumulative hours of Service Unavailability in any calendar month beyond the initial 438 minutes. Provided the Vendor Service experiences at least 438 minutes of Service Unavailability in any given calendar month, Service Unavailability of less than 3 hours (beyond the initial 438 minutes) will result in a proportional Service Credit. (Example: 1 hour, 30 minutes of Service Unavailability beyond the 438 minutes will result in .5 days Service Credits.)

In no case will the total credit earned in any quarter exceed the lesser of \$10,000 or 15% of the subscription fees paid by Customer for the quarter. Customer will not receive any refunds or other monetary compensation for any unused service credits. If Forward Networks fails to make the Forward Networks SaaS Service available as set forth in the Section 1 of this Exhibit in 3 consecutive calendar quarters, Customer may, in lieu of receiving the above-described credit for the third quarter, terminate the Agreement by providing notice of termination in accordance with Section 2 below, in which case Forward Networks will refund to Customer any prepaid fees for the remainder of the Forward Networks SaaS Service subscription term(s) following the date of termination. The remedies described in this paragraph are the sole and exclusive remedies available to Customer for Service performance issues or breach of this SLA.

### **3. Reporting, Claims and Notices.**

To claim a remedy under this SLA, Customer must send Forward Networks a notice, via email addressed to support@forwardnetworks.com, containing the following details:

- Billing information, including Customer name, billing address, billing contact, and billing contact phone number;
- Downtime information with dates and time periods for each instance of downtime during the relevant period; and
- An explanation of the claim, including any relevant calculations.

Claims may be made on a calendar-quarter basis only and must be submitted within 10 business days after the end of the applicable quarter, except where a Forward Networks SaaS Service subscription ends on a date other than the last day of a calendar quarter, in which case any claim related to that subscription must be submitted within 10 business days after the subscription end date.

All claims will be verified against Forward Networks' system records. If Forward Networks disputes any period of unavailability alleged by Customer, Forward Networks will provide to Customer a record of Forward Networks SaaS Services availability for the applicable period. Forward Networks will provide such records only in response to claims made by Customer in good faith.

Forward Networks Services designated in writing as beta, limited release, developer preview, development or test bed environments, or by descriptions of similar import are excluded from the availability obligation set forth above. Forward Networks will have no obligations to meet the availability standard above during any period in which Customer is in material breach of the Agreement, including any period in which Customer has failed to meet its payment obligations.