

Saleae Marketplace Partner Agreement

This Saleae Marketplace Partner Agreement (this “**Agreement**”) forms a legally binding agreement between Saleae, Inc. (“**Saleae**”, “**we**” or “**us**”) and the individual or entity registering as a vendor or partner in the Saleae Marketplace (“**Marketplace Partner**” or “**you**”). If you are an individual registering for the Saleae Marketplace on behalf of your company, government, or other entity (for example, as an employee or governmental official), then “you” means your entity and you are binding your entity to this Agreement. Under this Agreement, you appoint and authorize Saleae, as your commercial agent, to promote, test and distribute Marketplace Extensions (as defined below) on the terms and conditions of this Agreement, and Saleae accepts such appointment. Before clicking to agree to this Agreement, please carefully read the terms and conditions below. Saleae may modify this Agreement from time to time, subject to the terms in Section 16 (Agreement Changes) below. The Saleae Marketplace is not intended for and may not be used by anyone under the age of 18.

This Agreement does not have to be signed in order to be binding. You indicate your assent to the terms of this Agreement by (i) checking the box (or similar action) to accept the Agreement that is presented to you at the time you sign up to list your products on the Saleae Marketplace or (ii) by submitting any Marketplace Extension to the Saleae Marketplace.

1. Introduction to the Saleae Marketplace

The Saleae Marketplace is a forum for connecting partners who make Extensions for Saleae software with potential end users. Extensions can be written using python, c++ and java script and can be written for use with Saleae’s downloaded software. As a partner, you may only offer your Extensions free of charge under the Agreement.

2. Key Definitions

2.1. “Marketplace Extensions” or “Extensions” means downloadable applications, plug-ins or extensions that are designed to interoperate with Saleae’s own software (through use of Saleae Developer Assets) and that you deliver to Saleae or make available through the Marketplace. “Extensions” also include any New Versions of existing Extensions.

2.2. “Marketplace Guidelines” means the Saleae Terms of Services and Privacy Policy.

2.3. “New Versions” means any enhancements, upgrades, updates, bug fixes, patches, new versions and other modifications and amendments to your Extensions.

2.4. “Saleae Developer Assets” has the meaning given in the Saleae Developer Terms.

2.5. “Saleae Marketplace” or “Marketplace” means description of where the extensions are located within the Saleae Application.

3. Your Content; License to Saleae; End User Licensing

3.1. Delivery of Your Content. You will deliver Marketplace Extensions to Saleae on or prior to the initial availability date you designate for the Marketplace Extension (the “**Initial Availability Date**”). Together with delivery of each Marketplace Extension, you will also provide the following information and materials: (a) Marketplace Extension title, Initial Availability Date, category, Marketplace Partner name, product description, icon, logo or banner images, and any other information related to the Marketplace Extensions that Saleae requires; (b) the metadata, graphics, artwork, images, trademarks, trade names, logos and other descriptive or identifying information and materials associated with you or a particular Marketplace Extension that you wish to appear in connection with your Extension; and (c) your Marketplace Partner Terms (defined in Section 3.6). Together, the Marketplace Extensions and Product Information are “**Content**”.

3.2. Accuracy. You are responsible for providing accurate Product Information. If any Product Information is inaccurate or needs to be updated or modified, you will promptly provide Saleae with corrections, updates, or modifications.

3.3. Compliance. You will ensure that all Content complies with this Agreement, including Saleae’s Marketplace Guidelines (which are hereby incorporated into this Agreement). However, this Agreement will control in the event of any direct conflict with the Marketplace Guidelines or any additional policies included or referenced in the Marketplace Guidelines.

3.4. License Grant to Saleae. You hereby grant Saleae, during the Term (and thereafter in accordance with Section 9 (Term and Termination)), the nonexclusive, royalty-free, worldwide right and license:

(a) to distribute or make available (including via download), as applicable, the Marketplace Extensions through the Saleae Marketplace to end users by all means of electronic distribution available now or in the future;

(b) to use, reproduce, distribute, reformat, create excerpts from, promote, advertise, transmit, and publicly display and perform the Product Information (and any such excerpts) in any and all digital and other formats for promotional purposes in connection with (i) the Saleae Marketplace and (ii) listings for your Extensions;

(c) otherwise to use, store, copy and distribute your Content (i) for testing and evaluation (including scanning for Viruses, as defined in Section 10.6) conducted by Saleae and its third party vendors; (ii) for purposes of exercising Saleae’s rights and fulfilling Saleae’s obligations hereunder; and (iii) for purposes of enforcing this Agreement and the Marketplace Guidelines;

(d) to use your Extensions for Saleae’s own business purposes internally, within the scope for which the Software’s use is reasonably intended (“**Internal Use License**”).

3.5. License Clarifications. The licenses granted to Saleae in Section 3.4: (i) include rights to distribute, promote and make available New Versions to eligible end users, (ii) include the right, as described in Section 9 (Term and Termination), to continue to retain and make available Extensions and Product Information to existing end users after the Term, and (iii) are granted under all applicable intellectual property rights (including patent rights).

3.6. Marketplace Partner Terms. You, not Saleae, license your Extensions to end users, and you must provide your own customer terms and privacy policy (“Marketplace Partner Terms”) with any Marketplace Extension. Your Marketplace Partner Terms must comply with, and be consistent with, the terms and conditions of this Agreement, including Section 8.4 (End User Data and Privacy- Related Obligations). You agree that Saleae does not and will not have any responsibility or liability related to compliance or non-compliance by you or any end user under the Marketplace Partner Terms.

3.7. Partner Documentation. The documentation related to the Saleae Software is located [here](#).

4. Delivery Commitments and Responsibilities related to End Users

4.1. Delivery Commitment. You will deliver electronically to Saleae (and continue to make available during the Term) all versions of Extensions for which you have the rights required under this Agreement. You will deliver any New Versions to the Marketplace Extensions, together with any related Product Information, as soon as they are available.

4.3. End User Support. You will use commercially reasonable efforts to provide telephone, web-based and/or email support to the end users for your Marketplace Extensions during normal business hours (except in the case of Free Extensions, where you must provide the support you promise to users). You will provide to Saleae a current email address to which Saleae may direct inquiries from users regarding your Marketplace Extensions. You are solely responsible for providing all support for your Marketplace Extensions, and for providing to users of your Marketplace Extensions all information necessary for their use of your Marketplace Extensions. At a minimum you agree to respond within 24 hours to any support request that Saleae identifies as critical, and in all other cases within five business days of request from an end user or Saleae.

5. Reservations of Rights

As between you and us, you retain all right, title and interest in and to Content that you deliver to us, excluding any Saleae Developer Assets or other Saleae technology or materials used or included in the Content. Subject to your foregoing rights in the Content, Saleae retains all right, title and interest in and to the Saleae Marketplace, Saleae Developer Assets, all Saleae products, and all technology, content, information, services, trademarks and other intellectual property used in connection with the foregoing.

6. Additional Saleae Marketplace Terms

6.1. Prohibited Actions; Responsibilities. You may not reverse engineer, disassemble or decompile any Saleae code or technology used in connection with the Saleae Marketplace, including any Saleae Developer Assets. You will not take any action that interferes with, damages, or accesses or uses in any unauthorized manner the hardware, software, networks, technologies or other properties or services of Saleae or of any end user or other third party. You agree not to make any representations, guarantees or warranties (1) that violate any laws or regulations, including any false advertising or consumer protection laws, (2) with respect to Saleae, the Saleae Marketplace, or Saleae's product or services, or (3) by Saleae or on behalf of Saleae. You may not sell any data provided by Saleae or collected from end users in connection with providing your Extension. In addition, you may not license, share or transfer any such data to a third party unless it is necessary solely for providing the functionality of your Extension and, in such case, only in accordance with (i) applicable Laws and (ii) any representations, statements and agreements you have made to your end users. In all activities under this Agreement, you agree to conduct yourself in a professional manner and not to disparage or devalue Saleae or the Marketplace.

6.2. Review of Marketplace Extensions by You. The Saleae Marketplace allows you to post reviews of Marketplace Extensions offered by other vendors. Any review by you of a Marketplace Extension shall be made in good faith after reasonable evaluation of the full Marketplace Extension. You (including your employees and others acting on your behalf) may not review or comment on your own Extension or those of competitors. As an exception, you may provide informational responses to support requests or other inquiries directed to you within the reviews or comments section of your Extension. All reviews must comply with the Marketplace Guidelines, and Saleae (in its discretion) may take down reviews or block reviewers in event of a violation of the Marketplace Guidelines.

6.3. Saleae Marketplace Operations. Saleae maintains sole discretion to determine all features and operations of the Saleae Marketplace. You acknowledge that Saleae has no obligation to promote, distribute, list or offer for Sale any Marketplace Extension, or to continue to do so. Saleae will have sole ownership and control of all Sales and other data Saleae obtains from end users in connection with the Saleae Marketplace, but will make available certain End User Data (as defined below) to you, subject to Section 6.4.

6.4. End User Data and Privacy-Related Obligations.

(a) Data Collection. Based on the activities under this Agreement, you may not collect any information or data from end-users. Any data or information provided or collected pursuant to this subsection (a) is collectively "**End User Data**".

6.5. Export Controls and Economic Sanctions. You acknowledge that you develop and offer Extensions through Saleae via its Marketplace, and therefore you agree to ensure compliance with all export controls and economic sanctions laws and regulations. You also acknowledge that Saleae and others may lawfully rely on your determination of your Marketplace Extension's export control status. Thus, you hereby represent, warrant, and certify that: (1) your Marketplace Extensions are authorized for export from the United States to each country to which you permit them to be distributed or made available through the Saleae

Marketplace, in accordance with the requirements of the United States Export Administration Regulations, 15 C.F.R. Parts 730-774; and (2) either (i) the Marketplace Extensions do not contain, use or support any data encryption or cryptographic functions (“**Encryption Technology**”) or (ii) you have qualified each Marketplace Extension containing, using or supporting Encryption Technology for export as a “mass market encryption item” in accordance with 15 C.F.R Part 742.15(b)(2) and will, upon request, provide Saleae with a copy of the applicable Encryption Registration Number or mass market export classification ruling (CCATS) issued by the United States Commerce Department, Bureau of Industry and Security. You further agree to comply with any and all ongoing export-control and reporting obligations, if applicable, related to any of your Marketplace Extensions. You agree to indemnify Saleae of any claim brought against Saleae for violation of any export-controls or economic sanctions law or regulation related to your Marketplace Extensions. You further agree to notify Saleae of any non-U.S. export control laws or regulations relevant to your Marketplace Extensions, and you represent, warrant, and certify to Saleae that you will comply with all applicable export control and economic sanctions laws and regulations.

6.6. Feedback. “**Feedback**” means any feedback, comments, suggestions, ideas, description of processes or other information that you may provide to Saleae from time to time about or in connection with Saleae Marketplace, including any ideas, concepts, know-how or techniques contained therein. You hereby grant Saleae a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, including incorporating or implementing the Feedback in the Saleae Marketplace or any Saleae products, applications or services. You agree that Saleae may exploit all Feedback without any restriction or obligation on account of intellectual property rights or otherwise.

6.7. Aggregated Information. In addition to Saleae’s other rights, Saleae may collect aggregated information regarding the Saleae Marketplace and Marketplace Extensions (excluding any personally identifiable information). We will not provide information to any third party about Marketplace Extensions, or customers purchasing Marketplace Extensions, except as necessary for us to perform our obligations under this Agreement, or otherwise provide the products or services to our customers under the applicable Cloud Terms of Service or Saleae Software License Agreement.

7. Saleae Control of Marketplace

Saleae may determine in its sole discretion to make available or list any Marketplace Extension through the Saleae Marketplace, or to remove any Extension from the Saleae Marketplace. Saleae may stop any transaction, or take other actions as needed to restrict access to or availability of any Content that does not comply with this Agreement or that otherwise might adversely affect end users. Inclusion of a Marketplace Extension in the Saleae Marketplace does not relieve you of responsibility to ensure the Marketplace Extension complies with this Agreement or to perform other obligations under this Agreement.

8. Saleae Developer Terms

Marketplace Extensions can be written or developed using the Saleae Developer Assets (as described in the Saleae Developer documentation), and the development of Extensions is subject to the separate Saleae Developer Terms that are located [here](#). The Saleae Developer Terms govern your use of Saleae Developer Assets and the creation and operation of Extensions (or “Add-ons”) generally, while this Agreement contains terms specific to the Marketplace and any Extensions you choose to submit to the Marketplace. Nothing in this Agreement changes the Saleae Developer Terms (including any referenced policies or API call limits), and you and your Extensions must continue to comply with the Saleae Developer Terms. However, in the event of a direct conflict between this Agreement and the Saleae Developer Terms, this Agreement will govern with respect to activities on the Marketplace.

9. Term and Termination

9.1. Term. The term of this Agreement (the “**Term**”) will begin on the date you agree to it in the manner set forth in the second paragraph of this Agreement and will continue until you or Saleae terminates it.

9.2. Termination Rights.

(a) Either Saleae or you are entitled to terminate (i) this Agreement, in its entirety or with respect to particular Extensions, and (ii) access to your account with thirty (30) days advance written notice to the other party. In addition, either party may terminate this Agreement upon written notice to the other party if (1) the other party becomes the subject of a petition in bankruptcy or other proceeding relating to insolvency, or makes an assignment for the benefit of creditors, (2) the party breaches its confidentiality or privacy related obligations under this Agreement, or (3) infringes or misappropriates the terminating party’s intellectual property rights.

(b) Notwithstanding anything to the contrary in this Agreement, immediately upon notice to you (or with the notice specified by Saleae at the time), Saleae may also terminate this Agreement (and/or terminate or suspend either your account on the Marketplace or this Agreement with respect to any particular Extensions) under the following circumstances: (i) Saleae ceases to operate the Marketplace, (ii) you violate Saleae’s Terms and Conditions or Privacy Policy, (iii) Saleae suspends or terminates the Saleae Developer Terms as relates to you or your Extension(s), or (iv) Saleae determines (in its discretion) that your participation in the Marketplace could result in legal or business liability to Saleae or any third party or otherwise harm the Marketplace or other Marketplace partners or users.

9.3. Effect of Termination; Transition.

(a) Pending Orders; Transition Period. Following any termination or expiration of this Agreement or withdrawal of your Extension from the Marketplace, (i) in Saleae's discretion, Saleae may continue to fulfill any end user orders for Extensions pending as of the date the termination takes effect, and (ii) Saleae will use reasonable efforts to take down the listing for your Extension within forty-five (45) days after the effective date of termination (or, if specified by Saleae, within the same period after notice of termination) (the “**Transition Period**”). Saleae

may also retain copies of your Content after termination or expiration of this Agreement, or withdrawal of your Extension, for its own record-keeping purposes.

(b) End User Rights. Unless otherwise specified by Saleae, all end user licenses and subscriptions to Extensions (including any related support or maintenance periods) will survive termination or expiration of this Agreement in accordance with the applicable Marketplace Partner Terms. As such, Saleae may continue to make available any Extensions for further access, downloads or re-downloads by existing end users of those Extensions for the duration of their applicable license, subscription or maintenance term (including after the Transition Period) (the “**Surviving Term**”), either directly or through Saleae Partners.

9.4. Survival. The following sections of this Agreement will survive termination or expiration of this Agreement and any Transition Period: 3.2 (Accuracy), 6 (Additional Saleae Marketplace Terms, and 8 (Saleae Developer Terms) through 17 (General).

10. Representations and Warranties

You represent, warrant and covenant that:

10.1. You are at least 18 years of age and are able to form a legally binding contract. If Marketplace Partner is a business or other legal entity and not an individual, then the individual entering into this Agreement on Marketplace Partner’s behalf represents that he or she has all necessary legal authority to bind Marketplace Partner to this Agreement;

10.2. You have the full right, power, and authority to enter into and fully perform this Agreement;

10.3. Before providing Saleae any Content or listing Content in the Saleae Marketplace, you will have obtained the rights necessary for the exercise of all rights granted under this Agreement and to end users in relation to the Content, and you will be solely responsible for and will pay any licensors or co-owners any royalties or other monies due to them related to such Content;

10.4. None of the following will violate any Law, contain any defamatory material, or violate or infringe any intellectual property, proprietary, or other rights of any person or entity (including contractual rights, copyrights, trademarks, patents, trade dress, trade secret, common law rights, rights of publicity, or privacy, or moral rights): (i) the exercise of any rights granted under this Agreement; (ii) the Content; (iii) the sale or distribution of the Content as contemplated in this Agreement; or (iv) any notices, instructions or advertising by you for or in connection with any Content;

10.5. You will immediately notify Saleae if you lose any IP rights related to your Marketplace Extensions or become aware of a third-party claim related to these rights;

10.6. Your Content will not contain any viruses, spyware, “Trojan horses,” or other “malware” or harmful code (“**Viruses**”), and will not cause injury to any person or damage to any property; and

10.7. You will include any attributions, copyright information and other notices, terms and conditions that may be required to be provided to end users (e.g., as part of your Marketplace Partner Terms) based on your use of third party “open source” software or other third-party intellectual property in any Extension. You will also promptly make available to Saleae, end users and any other third party that is entitled to it, the source code corresponding to any Extension or portion thereof if required, and in the manner required, by applicable third-party terms and conditions. Saleae’s exploitation (in any manner as permitted hereunder) of any Content will not subject it to, or cause it to violate, any open source or other third-party terms or agreements of any kind.

11. Indemnity

11.1. By Saleae. Subject to the terms and conditions of this Agreement, Saleae shall pay damages finally awarded by a court of competent jurisdiction against such Marketplace Partner for such a claim or, if Saleae settles the claim, the settlement amounts. Saleae’s obligations in this Section 11.1 apply only to the Saleae Marketplace itself and not to any Marketplace Extensions, Saleae Developer Assets, other Saleae products or services, or other third-party content hosted on or used with the Saleae Marketplace, and in any case Saleae’s obligations do not apply if the alleged infringement, misappropriation or violation resulted from any modifications, combinations, or unauthorized use of the Saleae Marketplace. As a condition to Saleae’s obligations under this Section 11.1, you must provide Saleae (i) prompt written notice of the claim (and in any event notice in sufficient time for Saleae to respond without prejudice), (ii) the exclusive right to control and direct the investigation, settlement and defense (if applicable) of the claim, and (iii) all reasonably necessary cooperation. This Section 11.1 sets forth Saleae’s sole liability and your exclusive remedy with respect to third party claims of intellectual property rights infringement.

11.2. By You. You will indemnify, defend and hold Saleae and its subsidiaries (including its respective affiliates, officers, directors, employees, contractors and assigns) harmless from and against any loss, claim, liability, damage, action or cause of action (including reasonable attorneys’ fees) arising out of any third party claim relating to any (i) Content or the use of Content (including any claims made by or arising from end users), (ii) your breach or alleged breach of this Agreement, or (iii) any Incidents caused by your Extensions or third party services supporting your Extensions (individually, a “**Claim,**” and collectively, the “**Claims**”). In any defense or settlement negotiations, you will keep Saleae apprised of all relevant developments, including the choice of counsel. Saleae may participate in the defense or settlement of any Claim at its own expense. You will provide Saleae with reasonable notice of any judgment entered against Saleae or any settlement terms offered to settle a Claim and you will not consent to the entry of a judgment or settle a Claim without Saleae’s prior written consent, which we may not unreasonably withhold. If you do not promptly assume and reasonably conduct the defense of a Claim or take reasonable action to settle any such Claim after being provided with sufficient reasonable advance notice to evaluate the Claim, then Saleae

may take control of the defense (without limiting your indemnification obligations). Your obligations under this Section 11.2 are independent of your other obligations under the Agreement.

12. Saleae Confidential Information

12.1. Definition. All information disclosed by Saleae that is marked as confidential or proprietary or that you should reasonably understand to be confidential or proprietary is “**Confidential Information**”. Confidential Information includes non-public aspects of the Saleae Marketplace and Saleae’s applications; non-public aspects of third-party applications listed in the Saleae Marketplace to which you obtain access as a result of the relationship between you and Saleae under this Agreement; non-public End User Data; and non-public technology, technical information and product plans to which you obtain access as a result of the relationship between you and Saleae under this Agreement. Confidential Information shall not include any information that: (i) is or becomes generally known to the public; (ii) was known to you before its disclosure hereunder; or (iii) is received from a third party, in each case without breach of an obligation owed to Saleae or anyone else.

12.2. Your Obligations. During and after the term of this Agreement, you shall (a) maintain Confidential Information in confidence (using at least the same measures as for your own confidential information, and no less than reasonable care) and not divulge it to any third party and (b) only use Confidential Information to fulfill your obligations under this Agreement. If you are compelled by law to disclose Confidential Information, you must provide Saleae with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Saleae’s cost, if Saleae wishes to contest the disclosure.

12.3. Injunctive Relief. In event of actual or threatened breach of this Section 14, Saleae shall have the right, in addition to any other remedies available to it, to seek injunctive relief to protect its Confidential Information, it being specifically acknowledged by the parties that other available remedies may be inadequate.

13. Information You Provide Is Not Confidential

13.1. You understand and agree that Saleae develops its own products and services and works with many other partners and developers, and either Saleae or these third parties could in the future develop (or already have developed) products similar to yours.

13.2. You should not provide to Saleae any information that you consider confidential, and you agree that Saleae is not subject to any confidentiality obligations or use restrictions related to information that you may provide to us in relation to this Agreement. You expressly agree that neither this Agreement nor your participation in the Marketplace limits Saleae’s right to develop or have developed for it, products, concepts, systems or techniques that are similar to or compete with any Marketplace Extension or any other products, concepts, systems or techniques contemplated by or embodied in information you disclose to Saleae. For clarity,

however, this paragraph, in itself, does not grant Saleae any license under your intellectual property rights.

13.3. Subject to Section 13.1, and Section 13.2 notwithstanding, Saleae agrees to keep your source code confidential to the extent any of it is given to or reverse engineered by Saleae pursuant to section 6.4(f).

14. Saleae Trademarks/Publicity/Intellectual Property

You will not violate Saleae intellectual property in any form, including Saleae patents, trademarks, copyrights, and trade secrets. You will: (i) only use the Saleae Marks only with prior written consent of Saleae and only in connection with the sale of your Marketplace Extensions in the Saleae Marketplace; (ii) follow any other policies that Saleae communicates to you regarding the use of Saleae Marks as keywords in online search engines; (iii) not register any domain names that contain any terms that are the same or similar to any Saleae Marks; and (iv) upon expiration or termination of this Agreement for any reason, immediately cease all use of the Saleae Marks, unless you are otherwise authorized to continue using the Saleae Marks pursuant to a separate written agreement with Saleae. **“Saleae Marks”** means the trademarks, trade names, service marks and logos owned or otherwise used by Saleae. Nothing contained herein shall grant you any ownership right in the Saleae Marks or any other Saleae intellectual property.

15. Disclaimers and Limitations of Liability

15.1. Disclaimer of Warranties. THE SALEAE MARKETPLACE, SALEAE MARKS AND ALL SALEAE DEVELOPER ASSETS ARE PROVIDED “AS IS” AND SALEAE EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT.

15.2. Limitations of Liability. EXCEPT FOR A PARTY’S INDEMNIFICATION OBLIGATIONS UNDER SECTION 11 ABOVE AND EXCEPT FOR MARKETPLACE PARTNER’S BREACH OF SECTION 6.1 (PROHIBITED ACTIONS; RESPONSIBILITIES), SECTION 8.4 (END USER DATA AND PRIVACY-RELATED OBLIGATIONS) OR SECTION 14 (CONFIDENTIALITY): (A) NEITHER YOU NOR SALEAE SHALL HAVE ANY LIABILITY TO THE OTHER FOR ANY LOST PROFITS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EVEN IF YOU OR WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (B) IN NO EVENT SHALL EITHER YOUR OR SALEAE’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SALEAE MARKETPLACE, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY.

15.3. Basis of Bargain; Failure of Essential Purpose. The parties have entered into this Agreement relying on the limitations of liability, disclaimers of warranty and other provisions relating to allocation of risk stated in this Agreement and agree that such provisions are an

essential basis of the bargain between the parties. The parties further agree that all such limitations, disclaimer and other provisions will survive and apply even if any limited remedy is found to have failed of its essential purpose.

16. Agreement Changes

As the Saleae Marketplace evolves over time, we may need to update this Agreement. Therefore, Saleae reserves the right to change this Agreement at any time in its sole discretion with the changes to the Agreement becoming effective thirty (30) days after notice (unless Saleae specifies a shorter notice period). Saleae will give you notice of the changes by posting an updated version of this Agreement on its website or within the Marketplace, or by emailing you at an email address you have provided. **If you do not agree to any of the changes, your sole remedy is to terminate this Agreement prior to the date on which the changes are to take effect by (i) providing written notice to Saleae and (ii) withdrawing all of your Extensions from the Marketplace.** If you terminate this Agreement according to the preceding sentence, the changes will not apply to you. Otherwise, your continued participation in the Saleae Marketplace after the changes take effect will constitute your acceptance of the changes. In addition, you may be required to click to agree to the modified Agreement to continue participating in the Marketplace.

17. Dispute Resolution; Governing Law

17.1. Informal Resolution. In the event of any controversy or claim arising out of or relating to this Agreement, the parties will consult and negotiate with each other and, recognizing their mutual interests, attempt to reach a solution satisfactory to both parties. If the parties do not reach settlement within a period of sixty (60) days, either party may pursue relief as may be available under this Agreement pursuant to Section 17.2 (Governing Law; Jurisdiction). All negotiations pursuant to this Section 17.1 will be confidential and treated as compromise and settlement negotiations for purposes of all similar rules and codes of evidence of applicable legislation and jurisdictions.

17.2. Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the applicable laws of the State of California, USA, without giving effect to the principles of that State relating to conflicts of laws. Each party irrevocably agrees that any legal action, suit or proceeding arising out of or related to this Agreement must be brought solely and exclusively in, and will be subject to the service of process and other applicable procedural rules of, the State or Federal court in San Francisco, California, USA, and each party irrevocably submits to the sole and exclusive personal jurisdiction of the courts in San Francisco, California, USA, generally and unconditionally, with respect to any action, suit or proceeding brought by it or against it by the other party.

17.3. Injunctive Relief; Enforcement. Notwithstanding the provisions of Section 17.1 (Informal Resolution) and 17.2 (Governing Law; Jurisdiction), nothing in this Agreement will prevent Saleae from seeking injunctive relief with respect to a violation of intellectual property

rights, any Incident or other security issue, confidentiality obligations or enforcement or recognition of any award or order in any appropriate jurisdiction.

17.4. Exclusion of UN Convention and UCITA. The terms of the United Nations Convention on Contracts for the Sale of Goods do not apply to this Agreement. The Uniform Computer Information Transactions Act (UCITA) will not apply to this Agreement regardless of when or where adopted.

18. General

This Agreement may not be amended except in writing signed by both parties or as provided in Section 16 (Agreement Changes) above. If any provision of this Agreement is held invalid by a court with jurisdiction over the parties to this Agreement, such provision will be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and the remainder of this Agreement will remain in full force and effect. The word “including” will be interpreted without limitation when used in this Agreement. The parties to this Agreement are independent contractors, not agents, joint venturers or partners, despite use of the term “Partner”. Each party will bear its own costs and expenses in performing this Agreement. Saleae’s failure to enforce any provision of this Agreement will not constitute a waiver of Saleae’s rights to subsequently enforce the provision. Saleae may freely assign, transfer, and delegate its rights and obligations under this Agreement. You acknowledge and agree that Saleae’s affiliates, contractors and service providers may exercise all rights of Saleae under this Agreement, including Saleae’s license rights. You may not assign any of your rights or obligations under this Agreement, whether by operation of law or otherwise, without Saleae’s prior written consent, except that you may assign all of your rights and obligations under this Agreement to any corporation or other entity without consent in connection with a merger or the sale of all or substantially all of your assets as long as (1) you give Saleae written notice of any such assignment at least ten business days before such assignment and (2) the assignee agrees in writing to be bound by all terms and conditions of this Agreement; however, in the event that Saleae determines that such assignment is to a competitor of Saleae, Saleae may terminate this Agreement upon notice to you. Subject to the foregoing limitations, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns. This Agreement constitutes the entire agreement between the parties with respect to its subject matter, supersedes any and all prior or contemporaneous agreements between the parties with respect to its subject matter, and does not give any third party (except where specified) any rights or remedies hereunder. Any notice or other communication to be given hereunder will be in writing and given by support@saleae.com. The date of receipt will, in the case of email, be deemed the date on which such notice is transmitted.