Terms and Conditions
verinice and verinice.EVAL

§ 1 Recitals

verinice is an information security management system tool (ISMS tool) developed by SerNet. *verinice* has licensed the IT-Grundschutz catalogues of the German Federal Office for Information Security (BSI). *verinice* is released and distributed with costs as open source software under the LG-PLv3 licence. *verinice.EVAL is a* trial version of *verinice,* free of charge and with limited functionality. The applicable open source conditions for using each of the versions of *verinice* are specified in the applicable description of each product version. The LGPL conditions may be downloaded from: https://www.gnu.org/licenses/lgpl-3.0.html

§ 2 Grant

2.1 Grant of Subscription

SerNet grants to the customer the right to download the procured version of *verinice* and *verinice.EVAL* issued on the website http://shop.verinice.com for the use for **one** client system under the terms and condition of this agreement.

The software download service granted by SerNet does not include any support. The customer has no right to get access to older versions of the software and/or versions that are no longer distributed by SerNet.

2.2 Grant of Support or Additional Services

The rights granted under section 2.1 of this agreement do not include any support or other service. If SerNet decides to offer any support or additional service the terms and conditions will be published by SerNet on the website http://portal.verinice.com.

SERNET IS NOT OBLIGED TO PROVIDE ANY SPECIFIC VERSION OF *VERINICE* OR EXTENSIONS OF THE SOFTWARE. THIS SPECIFICALLY ALSO INCLUDES NEW RELEASES, UPDATES, UPGRADES OR PREVIOUS VERSIONS, ADDITIONAL PRODUCT SERVICES OR SUPPORT.

§ 3 Licence

The customer expressly acknowledges that the purchase of the software created by the verinice authors is governed by the LGPLv3. The programs may contain or require the use of third party technologies provided with the programs. SerNet may provide Customer with certain notices in the program documentation, readmes or notification files related to such third party technologies. Third-party technology is licensed to Customer either under the terms of this Agreement or, if specified in the Program Documentation, under separate terms. Customer's rights to use separately licensed third-party technology under separate terms are not limited in any way by this Agreement. For the sake of clarity, however, notwithstanding the existence of any notice, Third Party Technology, which is not separately licensed Third Party Technology, shall be deemed to be part of the Programs and licensed to the Customer under the terms of this Agreement.

§ 4 Trademarks *verinice* and SerNet

The customer acknowledges that *"verinice"* and "SerNet" are trademarks of SerNet. The customer is not entitled to use the trademarks without prior written consent of SerNet. No express or implied licence or other rights to use the trademarks are granted to the customer under this agreement. § 5 Access, Term, Payments, Payment Conditions

5.1 Access

Upon procurement of verinice under the rules of this agreement the customer will receive a download link for the software and a password key for the optional update function of *verinice*.

The customer will keep the download link and key confidential and will use it for its own internal uses and will not make it available to any third party.

Sale and rent of *verinice* are not permitted.

5.2 Term and Termination

The contract duration starts after the activation of the customer's account and the subscription, which occurs after billing and payment. The software download will be made available for at least 24 month in the verinice-Shop.

SerNet is entitled to stop or terminate the access to verinice software downloads if one of the following conditions applies:

- the customer is in default of due payment obligations under this agreement
- the customer uses the *verinice* software in breach of the terms of this agreement
- the customer is in breach of the applicable terms of the open source licence
- the customer uses the trademarks *verinice* or SerNet against the § 4 of this agreement

SerNet is further entitled to terminate the subscription with immediate effect if SerNet becomes aware that the provision or the use of the *verinice* software infringes any intellectual property rights of a third party. In this case SerNet will refund the portion of the subscription fee corresponding to the remaining period of the selected subscription term. Any further claims are excluded.

Any rights to use verinice software that has been downloaded before termination of this subscription contract are NOT affected by the termination of the subscription contract itself. According to GPL the user keeps all rights regarding the downloaded software after termination of the subscription contract.

§ 6 Limitation of Liability, Warranties

6.1 Limitation of Liability

SERNET SHALL ONLY BE LIABLE FOR DAMAGES ON WHATEVER LEGAL GROUNDS IN THE EVENT OF GROSS NEGLIGENCE. THIS DOES NOT APPLY IN CASE OF PHYSICAL INJURY AND IN CASE OF THE GERMAN PRODUCT LIABILITY LAW (PRODUKTHAFTUNGSGESETZ). SER NET ASSUMES LIABILITY WITH LIMITATION TO THE CONTRACTUAL ANTICIPATED TYPICAL TYPES OF DAMAGES IN CASES FOR EACH SLIGHTLY NEGLIGENT BREACH OF ESSENTIAL CONTRACTUAL OBLIGATIONS. LIABILITY FOR LOSS OF PROFIT, FAIL OF MATERIALIZED SAVINGS OR OTHER INDIRECT CONSEQUENTIAL DAMAGES AS WELL AS DAMAGES AT RECORDED DATA ARE EXCLUDED. NO-FAULT LIABILITY AS DEFINED IN 536 A BGB IS EXCLUDED. THE LIMITATION OF LIABILITY SHALL ALSO APPLY ON THE LIABILITY OF REPRESENTATIVES AND ORGANS OF SERNET.

6.2 Warranties

The customer acknowledges that *verinice* is an open source software. SerNet does not make any warranties that the *verinice* software is a fit for any specific purpose of the customer except as otherwise agreed upon in writing. All claims based on the supply of *verinice* shall be barred after 12 months from the first download of the respective *verinice* version by the statute of limitations.

§ 7. General

7.1 Governing Law

This agreement shall be governed by and construed in accordance with the laws of Germany, without giving effect to its principles of conflict of laws. Application of the CISG is hereby explicitly excluded. Any dispute that may arise between the parties shall be subject to the jurisdiction of the Landgericht Göttingen, Germany, except that SerNet may also select the customer's principal place of business.

7.2 Force Majeure

SerNet shall not be liable in damages and the customer shall not have the right to terminate this agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond SerNet's control including, but not limited to acts of God, government restrictions (including the denial or cancellation of any export or other necessary licence), wars, insurrections and/or any other cause beyond the reasonable control of SerNet.

7.3 Transfer of Rights Waiver of Contractual Right

This agreement may not be transferred, assigned, or distributed by the customer without the prior written consent of SerNet. SerNet has the right to assign its rights and obligations or to transfer its obligations to a subcontractor.

Waiver of any provision herein shall not be deemed a waiver of any other provision herein, nor shall waiver of any breach of this agreement be construed as a continuing waiver of other breaches of the same or other provisions of this agreement.

7.4 Complete Agreement

This agreement constitutes the entire agreement of the parties and supersedes all prior communications, understandings and agreements relating to the subject matter hereof, whether oral or written.

7.5 Notices, Confidentiality

Any notices or communications between the parties shall be send at the addresses at the beginning of this agreement or by e-mail. Customer acknowledges to be listed on a list of customer by SerNet.

7.6 Export

verinice may be subject to export or import control regulations. The customer is solely responsible for compliance with any such import, use, or export restrictions. In case the customer uses *verinice* in breach of applicable export or import control regulations, SerNet is entitled to stop or terminate the access to *verinice*.

7.7 Severability

In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this agreement, but this agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein, unless the deletion of such provision or provisions would result in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

Göttingen, April 27th 2017 – SerNet GmbH