

## **"BERQNET VPN APPLICATION END USER LICENCE AGREEMENT"**

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- 1.2. User:** Defines the real or legal entity who has licensed the usage license which belongs to the Licensor only for its internal needs related to the Software.
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- 1.6. Third party:** This is a general term which defines any domestic or foreign legal personalities, such as real or legal entities, commercial businesses, foundations, associations and public legal entities who are not a part of this Agreement.
- 1.7. Third Party Software:** This defines software, which are embedded and/or integrated with the Software and/or are provided/processed alongside the software, whose intellectual property rights belong to Third Parties and these include, but are not limited to, open source software.
- 1.8. Reseller:** Refers to the real or legal person authorized to resell a Software / Usage License purchased from the Licensor to a User for one time only.
- 1.9. Resale Agreement:** Defines the sales contract for reselling the Usage Licenses purchased by the Reseller from the Licensor to the User.

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This Agreement regulates the mutual provisions and terms for the provision of standard services that will be provided for the Software within the scope of non-exclusive "Usage License" provided to the User for the Software which it has purchased.

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If the Software requires other software, development or Licensor services to operate, it is the User's responsibility to obtain the necessary licenses and services and to ensure the version to version compatibility required by such software. Changes to the legislation may require changes to the versions and releases of other software required for the operation of the Software, the possession of the most current release and version of such software, and other various Licensor services. In such a case, the User is responsible for obtaining the relevant versions, services and for providing the transition. New versions or releases of the Software may be published due to legislation or technical requirements. It is the User's responsibility to acquire these versions and releases within the framework and in return to the licensing fee to be determined by the Licensor.

In cases of transitions to new versions or releases of the software, some features or functions that had existed in older versions/releases may become unusable or payment gated, and the user interface or the menu display of the software may be altered.

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**3.6. Consultancy services:** It is recommended that the Software be within the scope of an application consultancy service in order to achieve its purpose and provide effectiveness and efficiency. However, the User has the right to decide whether it will receive such services or not. The efficiency of application consultancy depends on creating a jointly compatible working environment between the application consultant and the User. Application consultancy services are provided by independent companies working on

their own behalf, and therefore, the Licensor has no responsibility in regard to their actions.

**3.7. Software Copyright:** All copyright / intellectual property rights of the Software and the Documentation belong to the Licensor and they are protected by Intellectual and Artistic Works Law, Turkish Penal Code, Industrial Property Law, Turkish Commercial Code, and other relevant legislation. Unlawful copying and other similar acts other than those within the scope of usage license are subject to sanction with imprisonment of up to five years and large amounts of judicial fines, determined according to the type of the action. The User may not disassemble, copy, reverse engineer, alter the order, or use the Software in any other manner without the express written consent of Licensor, even for the purpose of achieving inter-operation with other software. The User may not make the Software available to third parties. The User has no right to process or modify the Software or the Third Party Software. In the event that the Software is processed in violation of this clause, the intellectual property rights of the changed and processed Software shall be within the sole right of the Licensor. The alteration of the materials and documents related to the Software, intellectual property right declarations that announce rights on the Software and/or Third Party Software, removal, obfuscation or alteration of other features through commercial and/or service brands, usage to achieve other ends, copying, and reproduction are all also prohibited and such actions mean the violation of the copyright. The User is responsible for obtaining the license to use the database, operating system, network and similar software belonging to Third Parties on which the Software operates.

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**4.3.** The license and warranty conditions of the Third Party Software included in the Software are governed by the original license agreements/ conditions for such software.

**4.4.** The User does not acquire any rights or licenses on the Third Party Software other than the limited use rights specified in the original license agreements/ terms of such software.

**4.5.** Licensor makes no warranty of any kind, express or implied, for including, but not limited to, performance, merchantability, fitness for a particular purpose, non-infringement, and reliability of Third Party Software. The User agrees and undertakes to comply with the

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- 5.1.** The Licensor holds no legal liabilities in regard to: (I) the process of transitioning to another release or version of the software, (II) the process of back-ups and restoring back-ups and/or any data losses or errors that might occur despite the execution of such processes, (III) Software usage education, support and on-site services, (IV) Design of forms and reports, (V) Misuse of the Software or use of the Software in violation of Documentation and legislation, (VI) The design of hardware, operating system and networks that belong and/or being used by the User and any failures and connection errors for such equipment, (VII) Database software and other software errors for softwares that do not belong to the Licensor including Third Party Software, (VIII) Errors that occur due to voltage fluctuations, power outages, virus infections and other similar environmental factors, (IX) Results of User errors including the loss of information, data, and software, (X) Any data losses that may occur within the User's system during the usage of the Software or during its integration to other software, and the lack of necessary precautions in this regard.
- 5.2.** The User may not (I) provide the Software to the benefit of third parties with or without pay through lending or leasing and it may not sub-license or resell the Software, (II) transfer, in whole or in part, this Agreement or the related rights to any Third Parties, (III) exceed the number of users stated in the license or create user's copies, (IV) use the Software in an illegal manner or outside of its intended purpose or allow a third party to carry out such actions or become a party to any such actions. The User is responsible for regularly backing up the information and data generated by the use of the Software, taking necessary security and protective measures and checking them. The User is responsible for the accuracy, security, storage and non-disclosure of any username,

password and similar data necessary for the User to use the Software. The User is responsible with the inaccuracies in such data and/or seizing/discovery of such data by another party or any accesses to the locations that are accessed through the Software made in the name of the User.

- 5.3.** In regard to the use of the Software, the User is obliged to act in accordance to including, but not limited to export laws, regulations, and principles of the Republic of Turkey and any other national legislation, rules, and laws regarding the use of Internet and it may not have countries or institutions prohibited by these legislations use the Software, or export them to such countries or institutions. The User is obliged to comply with the obligations of the relevant Third Party software agreements regarding the use and export of Third Party Software. The User accepts and undertakes to indemnify the Licensor for damages that may arise from the acts contrary to this article.
- 5.4.** Except in the case of a gross negligence on the behalf of the Licensor (*including negligence, misleading statement or other breach of contract or claim of tort*) , any liability of the Licensor for any material or immaterial damages, losses or demands that may arise due to the usage of the Software shall be limited to the cost of the Software. The Licensor is not liable in any way for financial outcomes and indirect damages such as data loss, loss of profit or gain, specific damages and/ or consequential damages.

## **6. MISCELLANEOUS PROVISIONS**

- 6.1.** In the event of User acting in violation of this Agreement, the Licensor reserves the right to suspend the Agreement, to stop the service, to carry out a rightful termination or to take legal action.
- 6.2.** For the purposes of ensuring the safety of the User, carrying out its own obligations and for some statistical analyses, the Licensor may record, process, benefit from indefinitely in any manner it deems necessary, use the User information of the authorized person such as name and surname, address, taxpayer ID number, and e-mail and classify and store this information on a database indefinitely and transfer such information to domestic or foreign bodies or to its partners, provided the provisions of the related legislation are met. The User grants permission to the recording, processing and use of its information by the Licensor as specified by the above clause. Additionally, the User has granted the Licensor the permission to use the User's trade name, brand, logo and the information of the software which it has licensed for promotional and marketing purposes over any medium, including the Internet or printed or visual media.
- 6.3. Force Majeure:** The Licensor shall not be liable for any losses or damages resulting from the failure of the Internet and infrastructure, service provider services or any delays

or any inability to carry out its obligations that may arise or occur due to force majeure conditions defined by the law. In the event of such a force majeure which directly affects the Licensor's obligations in this Agreement, Licensor reserves the right to terminate the Agreement unilaterally and without compensation.

- 6.4. Final Evidence Agreement:** In case of any disputes, all records, reports, documents, files and computer records held by the Licensor shall constitute definitive evidence for the settlement of such disputes.
- 6.5. Exercise of Rights:** Failure to exercise any right arising from this Agreement within the term does not constitute a waiver of that right.
- 6.6. Transfer:** The User may not assign or assign any rights or obligations arising from the Agreement to Third Parties in whole or in part without the prior written consent of the Licensor. Such transfers shall not prevail against the Licensor. The Licensor shall have the right to transfer its rights and obligations arising from the Agreement to Third Parties who are the partners of its own capital or partners of its shareholders.
- 6.7. Authority:** Istanbul Central (Caglayan) Enforcement Offices and Courts are authorized for disputes arising from this Agreement. Turkish Law shall apply to any dispute.
- 6.8. Notification:** All notices and notifications relating to this Agreement shall be made to the User's e-mail address, entered during activation or communicated in any manner to the Licensor. The User cannot claim that the notifications made to this address are served by unauthorized persons. These notifications made to bear the consequences of legally valid electronic mail address notifications. The parties agree that even if the notifications made to this address are returned, they shall have the same result as any legally valid notification.
- 6.9.** In the interpretation of the definitions and expressions mentioned in this document, the licensing instructions published on the Licensor's website and the Law on Intellectual and Artistic Works are taken into consideration.