END USER LICENSE AGREEMENT

This End User License Agreement, together with any Supplement terms ("**Agreement**"), is a legal agreement between the Company (defined below, or "**We**," "**Us**," or "**Our**") and Customer (as identified in the Grant Letter, or "**You**" or "**Your**"). Company and Customer may each be referred to in this Agreement as a "Party" or together as the "Parties."

By downloading, installing, copying, accessing, or using the Software, You agree to the terms and conditions of this Agreement. If You do not agree to this Agreement, You must:

- Not download, install, copy, access or use the Software; and
- Promptly return the proof of entitlement of the Software to the Party from whom You acquired the Software.

If the Software was delivered to You embedded in Our Hardware, do not download, install, or use the Software if You do not agree to this Agreement.

Capitalized terms used in this Agreement have the meaning assigned to them as provided in Section 16 below, or as may be defined elsewhere in this Agreement.

1. **License Grant.**

1.1 **Right to Use the Software**. Subject to Your compliance with the terms and conditions of this Agreement, and payment of the applicable license fees, We grant You a non-exclusive, non-transferable right to use the Software listed in the Grant Letter solely for Your own internal business operations. Your use of the Software includes the right to download, install, and access the Software. You are not granted rights to Updates and Upgrades unless You have purchased Support (or a service subscription granting rights to Updates and Upgrades).

1.2 Unsupported Software. The Software is designed to function properly with Updates and Upgrades under Support. If you have a perpetual license, you may choose to use the Software without Support ("Unsupported Software"); provided, however, that by doing so, you acknowledge and specifically consent that;

(a) the Unsupported Software may cause significant damage and affect the Software itself, Your connected devices and networks;

(b) You accept that using Unsupported Software is entirely at your own risk and cost; and

(c) You are and will be fully liable and responsible for any damages caused by Your use of Unsupported Software to Yourself, Us, or any third-parties including, but not limited to, the Third-Party Claims.

2. **Usage Rights.**

2.1 **Product Entitlement**. Your entitlement to use the Software is subject to the quantity limits and usage metrics described in the applicable Grant Letter and applicable Product Entitlement Definitions for the type of licenses You have purchased (e.g., nodes).

2.2 **Multiple Platforms/Bundles**. If the Software supports multiple platforms, or if You receive the Software bundled with other Software, the total number of devices on which all versions of the Software are installed may not exceed the Customer Product Entitlement Definitions. Certain Software licensed as part of a suite-based Product may also require the purchase of a separate Company server license to use the Software on certain types of servers, in each case as specified in the applicable Documentation.

2.3 **Term, Renewal of Subscription Licenses**

When your Grant Letter does not specify a term, the license is perpetual; all other licenses are subscription licenses. The term of Your initial subscription license is set forth in the Grant Letter

You receive with Your initial purchase (the "**Initial Term**"). The Initial Term and each Renewal Term are collectively referred to as the "Term."

Upon the expiration of the Initial Term, Your subscription license shall automatically renew for additional, successive terms that are identical in length to the Initial Term ("**Renewal Term**"), unless otherwise specified in the applicable Grant Letter or in a separate written agreement, or either party gives the other written notice of non-renewal for subsequent Renewal Term(s) at least sixty (60) calendar days prior to the end of the relevant Initial or Renewal Term. The auto-renew terms set forth in this Section 2.3 shall not apply to government end user customers.

If You do *not* provide timely ***notice of non-renewal*** either to Us or to an Authorized Partner, We will assume that You have agreed to renew your subscription license and pay the applicable renewal fee (to us or an Authorized Partner, as applicable) for a subsequent Renewal Term and you will be invoiced accordingly. We reserve the right to suspend or terminate Your subscription license in the event of non-payment of the applicable fee.

2.4 **Copies**. You may copy the Software as reasonably necessary for back-up, archival, or disaster recovery purposes.

2.5 **Affiliates, Managing Parties**. You may permit use of the Software in accordance with this Agreement:

(a) by an Affiliate;

(b) by a third-party with which You enter into a contract to manage Your information technology resources ("Managing Party") if:

(i) the Managing Party only uses the Software for Your internal operations and not for the benefit of another third-party or itself;

(ii) the Managing Party agrees to comply with the terms and conditions of this Agreement; and

(iii) You provide Us with written notice that a Managing Party will be using the Software on Your behalf.

You are responsible and fully liable for each Affiliate's and Managing Party's compliance with, or breach of, this Agreement.

2.6 **General Restrictions**. You shall not, and shall not cause or allow any third-party to:

(a) decompile, disassemble, or reverse-engineer the Software, or create or recreate the source code for the Software;

(b) remove, erase, obscure, or tamper with any copyright or any other product identification or proprietary rights notices, seal, or instructional label printed or stamped on, affixed to, or encoded or recorded in or on any Software or Documentation; or fail to preserve all copyright and other proprietary notices in all copies You make of the Software and Documentation;

(c) lease, lend, or use the Software for timesharing or service bureau purposes;

(d) except as expressly permitted in this Agreement, sell, market, license, sublicense, distribute or otherwise grant to any person or entity any right to use the Software; or use the Software to provide, alone or in combination with any other product or service, any product or service to any person or entity, whether on a fee basis or otherwise;

(e) modify, adapt, tamper with, translate or create Derivative Works of the Software or the Documentation; combine or merge any part of the Software or Documentation with or into any other software or documentation; or refer to or otherwise use the Software as part of any effort to develop software (including any routine, script, code, or program) having

any functional attributes, visual expressions, or other features similar to those of the Software to compete with Us;

(f) except with Our prior written permission, publish any performance or benchmark tests or analysis relating to the Software;

(g) attempt to do any of activities in subsections (a) to (f) above; or

(h) run or operate the Software in a cloud, internet-based computing, or similar on-demand computing environment unless Your Grant Letter or the applicable Product Entitlement Definitions specifically allows such use.

3. TECHNICAL SUPPORT AND MAINTENANCE

Our Technical Support and Maintenance Terms and Conditions apply and are incorporated herein. Support may be included with a subscription license or purchased as a separate entitlement for a perpetual license. After the Support Period or service subscription period specified in a Grant Letter has expired, Your entitlement to Support ends. We may change the Support offered at any time, with such change to become effective as of the commencement of any Support renewal period unless a date of such commencement specified otherwise in Our notices.

4. TERMINATION.

4.1 Without prejudice to Your payment obligations, You may terminate Your license at any time by uninstalling the Software.

4.2 We may terminate Your license if:

- You materially breach this Agreement or Your breach cannot be cured.
- You otherwise breach this Agreement and fail to cure the breach within thirty (30) days of receiving Our notice of the breach.

4.3 Upon termination or expiration of a subscription license, Your right to use the license (and any applicable services in support thereof) shall automatically terminate with immediate effect. You must promptly return, destroy, or permanently delete all copies of the Software and Documentation.

4.4 **End-of-Life**. Your right to use or obtain Support for the Software, and any Software features is subject to Our End-of-Life Policy. Upon the End-of-Life date of a Software Product or any feature of a Software Product (as We determine in accordance with the End-of-Life Policy), Your right to use or obtain Support for the Software or Software feature shall terminate.

5. PAYMENT, TAXES, SOFTWARE DEPLOYMENT VERIFICATION.

5.1 **Payment**. If You purchased Software license(s) through an Authorized Partner, Your payment obligations are exclusively between You and the Authorized Partner. If You have purchased Software license(s) directly from Us, You agree to pay Us the license fees for the Software within thirty (30) days of the invoice date. Late payments are subject to interest of one and one-half percent (1.5%) per month or the highest rate permitted by law, whichever is lower. All payment obligations are non-cancelable and non-refundable. If You consider an invoice to be incorrect, You must contact Us in writing within thirty (30) days of the date of invoice to request an adjustment or credit.

5.2 **Transaction Taxes**. If You purchase Software license(s) directly from Us, You agree to pay all applicable transaction taxes, including sales and use taxes, value added taxes, duties, customs, tariffs, and other government-imposed transactional charges however designated (and any related interest or penalty) on amounts payable by You under this Agreement ("**Transaction Taxes**"). We will separately state on invoices the Transaction Taxes that We are required to collect from You under applicable law. You will provide proof of any exemption from Transaction Taxes to Us at least fifteen (15) Business Days before the due date for paying an invoice. If We do not collect the required Transaction Taxes from You but are subsequently required to remit the Transaction Taxes to any taxing authority, You will promptly reimburse Us for the Transaction Taxes, including any accrued penalty or interest charges if the failure to timely collect and remit was not due to Our fault.

5.3 **Withholding Taxes**. All payments due will be made free and clear and without deduction for any present and future taxes imposed by any taxing authority. If You are required by applicable law to deduct or withhold income taxes from amounts payable to Us under this Agreement ("Withholding Taxes"**)**, You will remit, and provide Us with evidence that You have remitted the Withholding Taxes to the appropriate taxing authority and paid the remaining net amount. You will provide written notice to Us of Your intent to withhold (including details of the amounts and legal basis for Withholding Taxes) at least fifteen (15) Business Days before the due date for any payments under this Agreement and will cooperate with Us to reduce any Withholding Taxes. If We provide You with valid and official documentation issued by the relevant taxing authority for a lower rate of Withholding Taxes, then You will apply the lower rate.

5.4 If You purchase Software license(s) through an Authorized Partner, the obligations regarding Transaction Taxes or Withholding Taxes will be the exclusive responsibility of the Authorized Partner or You, and the terms in Sections 5.2 and 5.3 do not apply as between Us and You.

5.5 **Income Taxes**. Each Party is responsible for its own income taxes or taxes based on gross revenues or gross receipts.

5.6 **Software Deployment Verification**. No more than once per year, We may request that You provide to Us, within thirty (30) days of Our request, either (a) a systems report (if the Software You have enables You to generate such a report) or (b) an accurate Software deployment verification report for the Software (if the Software You have does not contain the technical features to generate a systems report). You acknowledge that the systems report is based on technological features of the Software that provide Software deployment verification. If the systems report or Your prepared Software deployment verification report indicates that You are out of compliance with the license terms of Your Grant Letter and this Agreement, You agree to purchase the additional licenses and pay Us the applicable reinstatement fees associated with the licenses and Support. We may also charge You out-of-compliance fees.

6. CONFIDENTIALITY.

6.1 Each Party acknowledges that it may have access to Confidential Information of the other Party in connection with this Agreement, and that each Party's Confidential Information is of substantial value to the Disclosing Party, which could be impaired if it were improperly disclosed to third parties or used in violation of this Agreement.

6.2 **Confidential Information** as used in this Agreement means any information (regardless of the form of disclosure or the medium used to store or represent it) of a Party ("**Disclosing Party**"), including trade secrets and technical, financial, or business information, data, ideas, concepts, or know-how, that:

(a) is designated as "confidential" or by similar words by the Disclosing Party at the time of disclosure and, if oral or visual, is confirmed as confidential by the Disclosing Party in writing within fifteen (15) days of disclosure; or

(b) the receiving party ("**Recipient**") should reasonably have considered to be confidential under the circumstances surrounding disclosure.

However, Confidential Information does not include any information that:

(a) written records demonstrate was lawfully acquired by or previously known to the Recipient independent of the Disclosing Party;

(b) is received from a third-party rightfully in possession of such information without restrictions on its use or disclosure and not by inadvertence or mistake;

(c) is or has become disseminated to the public through no fault of the Recipient and without violation of the terms of this Agreement or other obligation to maintain confidentiality; or

(d) is created independently by the Recipient without breach of this Agreement, including any obligation of confidentiality owed to the Disclosing Party.

6.3 **Restrictions.** Each Recipient of Confidential Information under this Agreement must:

(a) keep the Disclosing Party's Confidential Information confidential and protect it at least to the same extent it protects its own Confidential Information and to the same extent that a reasonable person would protect such Confidential Information;

(b) not use the Disclosing Party's Confidential Information in any way for its own account or the account of any third-party except to perform its duties, exercise its rights, or is otherwise authorized under this Agreement; and

(c) not disclose the Disclosing Party's Confidential Information except to perform its duties or exercise its rights under this Agreement or as otherwise authorized under this Agreement, provided that:

(i) any disclosure made to the Recipient's employees, contractors, or agents is on a need-to-know basis; and

(ii) the Recipient's employees, contractors, or agents in receipt of the Confidential Information are under an obligation of confidentiality no less stringent than that set forth in this section.

6.4 Notwithstanding the restrictions in Section 6.3, if the Recipient is required to disclose any of the Disclosing Party's Confidential Information by law, such as in response to a subpoena or requirement of any regulator, court, arbitral, administrative, or legislative body, the Recipient must:

(a) where reasonably possible and permitted, immediately provide written notice to the Disclosing Party of the required disclosure to give the Disclosing Party an opportunity to move for a protective order or otherwise prevent the disclosure;

(b) disclose only the minimum amount of Confidential Information required to satisfy the legal obligation; and

(c) assert and take proper steps with the body requiring disclosure to maintain the confidentiality of the Confidential Information to be disclosed.

6.5 You will immediately, and at least within seventy-two (72) hours, notify Us if Confidential Information is used or disclosed in breach of this Agreement. As monetary damages may not be sufficient relief if anyone violates or threatens to violate the terms of this section, We are immediately entitled to enforce Our rights by specific performance or injunction proceedings, in addition to any other rights or remedies We may have.

6.6 Upon the Disclosing Party's request and upon termination of this Agreement (unless agreed otherwise by the Parties at the time), each Party will return, destroy, or delete permanently (at the Disclosing Party's election) the other Party's Confidential Information.

6.7 On termination of this Agreement, the Recipient must continue to keep the Disclosing Party's Confidential Information confidential for five (5) years in accordance with this Section 6.

7. INTELLECTUAL PROPERTY RIGHTS.

7.1 The Software is considered Our Confidential Information**,** and We (or Our licensors) own exclusively and reserve all rights, title, and interest in and to the Software and Documentation, including all Intellectual Property Rights therein, as well as any Derivative Works.

7.2 You may not exercise any right, title, and interest in and to the Software or Documentation, or any related Intellectual Property Rights, except for the limited usage rights granted to You in this Agreement. You agree, on behalf of Yourself and Your Affiliates, that You and Your Affiliates will take no action inconsistent with Our Intellectual Property Rights.

7.3 This Agreement is not an agreement of sale, and does not transfer any title, Intellectual Property Rights or ownership rights to Software or Documentation to You. All Software is licensed to You and is not sold. You acknowledge and agree that the Software, Documentation and all ideas, methods, algorithms, formula, processes and concepts used in developing or incorporated into Software or Documentation, all future Updates and Upgrades, and all other improvements, revisions, corrections, bug-fixes, hot-fixes, patches, modifications, enhancements, releases, DATs, signature sets, upgrades, and policy and database updates and other updates in, of, or to Software or Documentation, as applicable, all Derivative Works based on any of the foregoing, and all copies of the foregoing are Our trade secrets and proprietary property, having great commercial value to Us.

8. LIMITED SOFTWARE WARRANTY AND DISCLAIMER.

8.1 We warrant that, for a period of ninety (90) days from the purchase date (the "**Warranty Period**"), the Software licensed under this Agreement will perform substantially in accordance with the Documentation.

8.2 **Exclusive Remedy.** If the Software does not operate as warranted, at Our option and expense, We shall repair or replace the Software or refund You the price paid for the Software if a repair or replacement of the Software would, in Our opinion, be unreasonable. This limited warranty is conditioned upon You providing Us prompt written notice of the Software's failure to perform substantially in accordance with the Documentation. Any replacement Software will substantially conform to the accompanying Documentation and be warranted for the remainder of the original Warranty Period. The remedy set forth in this Section 8.2 is Your exclusive remedy.

8.3 **Exclusions**. Sections 8.1 and 8.2 do not apply if:

(a) the Software is not used in accordance with this Agreement or the Documentation;

(b) the Software, or any part of the Software, has been modified by any entity other than Us or Our authorized representative;

(c) a malfunction in the Software has been caused by any equipment or software not supplied by Us;

(d) the Software was not provided by an Authorized Partner; or

(e) the Software is provided under an evaluation license for beta, evaluation, test, or demonstration purposes, and in all such cases, to the fullest extent not prohibited by law, the Software is furnished "AS IS" with all faults, and without express or implied warranties, conditions, or remedies (as addressed in Section 11).

Additionally, the Software may contain independent third-party software to perform certain functionality, including malware definitions or URL filters and algorithms. We make no warranty as to the operation of any third-party software or the accuracy of any third-party information.

8.4 **DISCLAIMER OF WARRANTIES.** EXCEPT AS SPECIFIED IN THIS SECTION 8, AND TO THE EXTENT PERMITTED BY LAW, WE PROVIDE THE SOFTWARE AND SUPPORT "AS IS", AND MAKE NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND REGARDING THE SOFTWARE AND SUPPORT, AND EXPRESSLY DISCLAIM ALL OTHER OBLIGATIONS AND LIABILITIES AND EXPRESS OR IMPLIED WARRANTIES REGARDING THE SOFTWARE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR MEETING CUSTOMER'S REQUIREMENTS OR USAGE OF TRADE, NON-INFRINGEMENT, OR SYSTEMS INTEGRATION. WE MAKE NO WARRANTY, REPRESENTATION OR GUARANTEE AS TO THE SOFTWARE'S USE OR PERFORMANCE, OR THAT THE OPERATION OF THE SOFTWARE WILL BE FAIL-SAFE, UNINTERRUPTED OR FREE FROM ERRORS OR DEFECTS, OR THAT THE SOFTWARE WILL PROTECT AGAINST ALL POSSIBLE THREATS.

8.5 **HIGH-RISK SYSTEMS TERMS**. THE SOFTWARE MAY FAIL AND IS NOT DESIGNED, DEVELOPED, TESTED, OR INTENDED TO BE RELIABLE IN THE CONTEXT OF HIGH-RISK SYSTEMS. WE HAVE NO RESPONSIBILITY FOR, AND YOU WILL INDEMNIFY AND HOLD US HARMLESS FROM, ALL CLAIMS, SUITS, DEMANDS AND PROCEEDINGS ALLEGING, CLAIMING, SEEKING, OR ASSERTING ANY LIABILITY, LOSS, OBLIGATION, RISK, COST, DAMAGE, AWARD, PENALTY, SETTLEMENT, JUDGMENT, FINE OR EXPENSES (INCLUDING ATTORNEY FEES) ARISING FROM OR IN CONNECTION WITH YOUR USE OF THE SOFTWARE ON OR IN A HIGH-RISK SYSTEM, INCLUDING THOSE THAT COULD HAVE BEEN PREVENTED BY DEPLOYMENT OF FAIL-SAFE OR FAULT TOLERANT FEATURES TO THE HIGH-RISK SYSTEM, OR ARE BASED ON A CLAIM, ALLEGATION, OR ASSERTION THAT THE FUNCTIONING OF HIGH-RISK SYSTEM DEPENDS OR DEPENDED ON THE FUNCTIONING OF THE SOFTWARE, OR THAT THE FAILURE OF THE SOFTWARE CAUSED A HIGH-RISK SYSTEM TO FAIL.

9. LIMITED HARDWARE WARRANTY. The limited Hardware warranty posted on the Trellix Legal Notices website (https://www.trellix.com/about/legal/) is incorporated into this Agreement and shall apply to Hardware.

10. LIMITATION OF LIABILITY.

10.1 EACH PARTY'S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY FOR CLAIMS UNDER OR RELATED TO THE SUBJECT-MATTER OF THIS AGREEMENT WILL NOT EXCEED THE TOTAL FEES RECEIVED BY US FOR THE APPLICABLE SOFTWARE AND SUPPORT PURCHASED UNDER THE TERMS OF THIS AGREEMENT AND ATTRIBUTABLE TO THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH LIABILITY.

10.2 NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSS OR CORRUPTION OF DATA OR INTERRUPTION OR LOSS OF BUSINESS, LOSS OF REVENUES, LOST PROFITS, GOODWILL OR ANTICIPATED SALES OR SAVINGS, EVEN IF THE DAMAGES WERE FORESEEABLE OR A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

10.3 THESE LIMITATIONS OF LIABILITY DO NOT APPLY TO LIABILITY ARISING FROM (A) YOUR FAILURE TO PAY ALL AMOUNTS DUE, OR (B) YOUR BREACH OF SECTIONS 2 (USAGE RIGHTS), 6 (CONFIDENTIALITY) 7 (INTELLECTUAL PROPERTY RIGHTS) OR 14.2 AND 14.3 (COMPLIANCE WITH LAWS). THESE LIMITATIONS OF LIABILITY APPLY WHETHER SUCH CLAIMS ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY, INFRINGEMENT, STATUTE OR OTHERWISE. NOTHING IN THIS AGREEMENT LIMITS OR EXCLUDES ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW. ALL THESE LIMITATIONS OF LIABILITY ARE CUMULATIVE AND NOT PER INCIDENT.

11. **INDEMNIFICATION.**

11.1 **Customer Indemnification Obligations**. You shall indemnify and defend Us, Our Affiliates, and Our officers, directors, employees, contractors, and agents (each an "**Indemnified Party**") against any claims, liabilities, and expenses (including court costs and reasonable attorney fees) that an Indemnified Party incurs as a result of, or in connection with:

(a) any third-party claims ("**Third-Party Claims**") arising from:

(i) Your failure to obtain any consent, authorization, or license required for Our use of data, software, materials, systems, networks, or other technology You provide to Us under this Agreement;

(ii) Your use of the Software in a manner not expressly permitted by this Agreement;

(iii) Our compliance with any technology, designs, instructions, or requirements provided by You or a third-party on Your behalf;

(iv) any claims, costs, damages, and liabilities whatsoever asserted by any of Your Representatives; or

(v) any violation by You of applicable laws; and

(b) any reasonable costs and attorneys' fees required for Us to respond to a subpoena, court order or other official government inquiry regarding Your use of the Software.

11.2 **Company Indemnification Obligations**.

(a) We will defend You against an unaffiliated, third-party claim that Your valid use of Our Software in accordance with this Agreement infringes a third-party's patent, copyright, or registered trademark, when such claim is asserted in a Covered Country against the Software alone, and not in combination with non-Company product or service, or solely a combination of Our Software ("**Third-Party Claim**"). We will indemnify You against any final judgement entered by a court of competent jurisdiction or any settlements arising out of the Third-Party Claim, subject to Section 11.2 (b) below.

(b) **Exclusions**. We have no obligation with respect to any Third-Party Claim(s) based on:

(i) compliance with technology, designs, instructions, or requirements that You, or a third-party acting on Your behalf, provided to Us;

(ii) modifications or programming to the Software that were made by anyone other than Us;

(iii) use of the Software outside the scope of the applicable Documentation or outside the entitlements granted under this Agreement or the applicable Grant Letter;

(iv) Your continued use of the Software that is the subject of a Third-Party Claim, after We have provided You with a modified or new version of the Software at no additional cost that is intended to rectify the alleged infringing Software; and

(v) any Software provided on a no charge, beta, or evaluation basis.

(c) **Remedies**. We may, at Our sole discretion and at Our own expense, with respect to any Software that is subject to a Third-Party Claim:

(i) procure for You the right to continue using the Software;

(ii) replace the Software with a non-infringing Software;

(iii) modify the Software so that it becomes non-infringing; or

(iv) upon Your return of a proof of entitlement of the Software to Us and removal of the Software permanently from Your systems, refund the residual value of the purchase price You paid for the infringing Software, depreciated using a straight-line method of depreciation over a three (3) year period from the date of delivery of the Software to You.

11.3 **Indemnification Procedure**. The indemnified party ("**Indemnitee**") will: (a) provide prompt written notice to the indemnifying party ("**Indemnitor**") of the claim (provided that the failure to provide timely notice that prejudices the Indemnitor will relieve the Indemnitor of its obligations under this section to the extent the Indemnitor has been prejudiced and the failure to provide timely notice will relieve the Indemnitor of any obligation to reimburse the Indemnitee for its attorney's fees incurred prior to notification); (b) reasonably cooperate in connection with the defense or settlement of the claim; and (c) give the Indemnitor sole control over the defense and settlement of the claim, provided that any settlement of a claim will not include a specific performance obligation or admission of liability by the Indemnitee.

11.4 **Personal and Exclusive Remedy.** The foregoing indemnities are personal to the Parties and may not be transferred. THIS SECTION 11 STATES EACH PARTY'S ENTIRE INDEMNIFICATION OBLIGATIONS, AND THE EXCLUSIVE REMEDY REGARDING THIRD-PARTY CLAIMS.

12. ADDITIONAL TERMS.

12.1 **Evaluation, Beta and Malware Software**. If We identify the Software licensed to You as Evaluation, Beta or Malware Software (collectively, "Evaluation Software"), this Section 12.1, Sections 12.2 and 12.3 shall apply and supersede any conflicting terms in this Agreement. Your royalty-free, non-transferable, limited license to use any Evaluation Software is for Your internal evaluation purposes only, and is limited to thirty (30) days, unless agreed otherwise in writing by Us. Evaluation Software may contain errors or other problems that could cause system or other failures and data loss. You have a limited license to use information You receive from Evaluation Software solely for Your internal evaluation purposes and You must not provide that information to any third parties without Our prior written consent. The General Restrictions in Section 2.6 above apply. If You fail to destroy Evaluation Software after the evaluation period has expired, We may, at Our discretion, invoice You in an amount equal to the then-current list price for the Software (excluding Beta Software) and You agree to pay such invoice upon receipt. Support is not available for Evaluation Software. For Beta Software, we have no obligation to You to further develop or publicly release any Beta Software.

12.2 **Feedback**. We welcome any comments, suggestions for improvements, and feedback regarding Our Software (including Evaluation Software), Products and Services ("**Feedback**"). You hereby agree that We own all right, title, and interest in and to the Feedback, including any and all associated Intellectual Property Rights, and that We may use, copy, modify, create Derivative Works based upon, and otherwise exploit the Feedback for any purpose, without notice or attribution to, payment to or consent from You, and You acknowledge that such Feedback will be solely Our Confidential Information.

12.3 **Disclaimer of Warranties**. Our indemnification obligations in Section 11 above do not apply to Evaluation, Beta or Malware Software. Evaluation, Beta, and Malware Software are provided to You solely on an "*AS IS*" basis; You assume all risk of use of such Software. Your access to, and use of any Evaluation, Beta and Malware Software is strictly limited for Your internal use and evaluation purposes, and shall not be subject to resale, distribution or for any other use or purposes whatsoever. If the laws in Your jurisdiction do not allow the exclusion of express or implied warranties, the disclaimer in this section may not apply and the express or implied warranties will be limited in duration to any minimum period required by applicable law, and Our aggregate liability and that of Our licensors will be limited to the sum of fifty (50) United States dollars (or the then current value in the relevant local currency) in total.

12.4 **"Free" or Open-Source Software**. The Software may include components (including programs, applications, tools, utilities, libraries, and other programming code) that are made available from third parties under a free or open-source software licensing model (FOSS Code). FOSS Code components included with the Software are redistributed by Us under the terms of the applicable FOSS Code license for such component. Your receipt of FOSS Code components from Us under this Agreement neither enlarges nor curtails Your rights or obligations defined by the FOSS Code license applicable to the FOSS Code component. Copies of the FOSS Code licenses for FOSS Code components included with Software are included with or referenced in the Software's Documentation.

12.5 **Artificial Intelligence.** Our Software, Support, Products and Cloud Services may use and incorporate artificial intelligence and machine learning ("AI"). Unless a separate AI use agreement has been executed between the Parties, Your use of such Software, Support, Products and Cloud Services shall be deemed Your agreement to the AI Addendum.

13. DATA.

13.1 The Software or Support may employ applications and tools to collect Data. Our collection of Data may be necessary to provide You and End Users with the relevant Software or Support functionalities as ordered (including detecting and reporting threats and vulnerabilities on Your and End Users' computer network), to enable Us to improve Software or Support (including content synchronization, device tracking, troubleshooting, etc.), to manage licenses to Software or Support, and to further or improve overall security. You may be required to uninstall the Software or disable Support to stop further Data collection that supports these functions.

13.2 In connection with your use of the Software, Support, Products, or Cloud Services, You and Your End Users agree to Our Privacy Policy and to the collection, processing, copying, backup, storage, transfer and use of the Data by Us and Our service providers, in, from and to the United States, Europe, or other countries or jurisdictions potentially outside of Your or End Users' own jurisdiction as part of the Software, Support or service subscription. In addition, unless a separate data processing agreement (or similar agreement) has been executed between the parties, Your use of the Software or Support shall be deemed to be Your agreement to the Data Processing Agreement.

13.3 You grant Us a non-exclusive, irrevocable, worldwide, perpetual right and license to use, reproduce and disclose Threat Data for our business purposes including provisioning and improvement of Products and Services, and for threat identification and research purposes (e.g., to enhance the understanding of Malware, threats, and vulnerabilities). This includes without limitation compiling statistical and performance information and making such anonymized information publicly available.

13.4 You will secure all privacy-related rights and permissions from individual persons as may be required by regulation, statute, or other law or Your internal policies or guidelines to disclose Your Data, to use the Software, and/or in connection with Our performance of Support or otherwise under this Agreement.

14. COMPLIANCE WITH LAWS.

14.1 Each Party will comply with the applicable national, state, and local laws with respect to its rights and obligations under this Agreement, including applicable privacy and export control laws and regulations, and the U.S. Foreign Corrupt Practices Act (FCPA), and other applicable anti-bribery and anti-corruption laws.

14.2 You will not, directly or indirectly, export, transmit, permit access or use any of the Software or technical data (or any part of Software or technical data) or system or service incorporating any of the Software to or in any country to which export, transmission or access is restricted by regulation, statute or other law, without the authorization, if required, of the Bureau of Industry and Security of the U.S. Department of Commerce or any other competent governmental entity that may have jurisdiction over export or transmission. You will not use, transfer, or access any Software for end use relating to any nuclear, chemical, or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license.

14.3 You acknowledge and agree that certain Software containing encryption may require authorization from the U.S. Government and other competent authorities including the European Union, prior to export. You also acknowledge and agree that certain Software containing encryption may be subject to import or use restrictions in other countries. Additional information regarding exporting and importing Software may be found on Our Export Compliance webpage.

15. GENERAL PROVISIONS.

15.1 **Relationship**. The Parties are independent contractors under this Agreement and expressly disclaim any partnership, franchise, joint venture, agency, employer/employee, fiduciary, or other special relationship. Neither Party intends this Agreement to benefit or create any right or cause of action in

or on behalf of, any person or entity other than the Parties and listed Affiliates. This Agreement is not intended to create a third-party beneficiary of any kind.

15.2 **Severability**. If a court holds that any provision of this Agreement is invalid or unenforceable under applicable law, the court will modify the provision to the minimum extent necessary to make it valid and enforceable or, if it cannot be made valid and enforceable, the court will sever and delete the provision from this Agreement. The change will affect neither the validity of the amended provision nor the validity of any other provision of this Agreement, which will continue in full force and effect.

15.3 **No Waiver**. A Party's failure or delay in enforcing any provision of this Agreement will not operate as a waiver of the right to enforce that provision or any other provision of this Agreement at any time. A waiver of any provision of this Agreement must be in writing, specify the provision to be waived and signed by the Party agreeing to the waiver.

15.4 **Force Majeure; Other Excusable Failures Or Delays In Performance**

(a) Neither Party is liable for delays or failures to perform any of its obligations under this Agreement to the extent caused by a Force Majeure Event.

(b) Failures or delays in Our performance are excused to the extent they result from:

(i) Your acts or omissions, or those of Your employees, agents, users, affiliates, or contractors;

(ii) notwithstanding the generality of Section 15.4(b)(i), Your failure or delay in the performance of a specific task, obligation or responsibility under this Agreement or a Schedule, which task, obligation, or responsibility is a condition or requirement for a task, obligation, or responsibility;

(iii) reliance on instructions, authorizations, approvals, or other information from You; or

(iv) acts or omissions of third parties (unless directed by Us).

15.5 **Governing Law and Venue**. All disputes arising out of or relating to this Agreement, or its subject matter will be governed by the substantive laws as set forth in the table below based on Your primary place of business and regardless of and excluding rules relating to conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply to this Agreement.

The courts listed below shall have exclusive jurisdiction to hear any dispute arising out of, or related to, this Agreement. Each Party agrees to the exclusive jurisdiction of such courts. Notwithstanding the foregoing, either Party may seek interim injunctive relief in any court of applicable jurisdiction with respect to any alleged breach of Intellectual Property Rights or the confidentiality terms herein.

Customer Primary Place of Business	Governing Law	Venue
United States, Mexico, Central America, Canada, South America or the Caribbean and any other location not listed in this table.	Laws of the State of Texas, U.S.	State courts in Dallas County, Texas, and the Federal Courts of the Northern District of Texas
Europe, Middle East, and Africa	Laws of the Republic of Ireland	Irish courts
Asia Pacific, excluding Australia, Japan	Laws of the Republic of Singapore	Singapore courts

Customer Primary Place of Business	Governing Law	Venue
Australia	Laws of New South Wales, Australia	Courts of New South Wales, Australia
Japan	Laws of Japan	Tokyo District Court of Japan

If You are a public sector government entity in the United States (excluding the U.S. Government), the laws of the state or territory where You are primarily located shall govern any dispute arising under this Agreement. If You are the U.S. Government, the laws of the United States shall govern any dispute arising under this Agreement.

15.6 **Entire Agreement, Order of Precedence and Amendments.**

This Agreement constitutes the entire understanding between the Parties relating to its subject-matter and supersedes all prior or contemporaneous oral or written communications between the Parties relating to its subject-matter.

(a) This Agreement, including all documents incorporated by reference, as well as the Grant Letter, will prevail, notwithstanding any variance with any purchase order or other written instrument submitted by You, and whether or not expressly rejected by Us.

(b) We reserve the right to amend any terms of this Agreement, including all documents incorporated by reference, at any time at Our own discretion without prior notice to You. Any amendment will be effective on the posting of an updated version on the Trellix Legal Notices website or by otherwise publicly notifying You.

15.7 **Notices**. Notices and consents required or permitted to be given under this Agreement must be in writing. Notices will be considered delivered upon the earliest of (a) when received, (b) the next business day after being sent to a domestic address by pre-paid, nationally recognized, overnight air courier with tracking capabilities, or (c) 5 business days after being sent by registered or certified airmail, domestically or internationally, return receipt required, postage prepaid. Notices to Us shall be made to the applicable address for Us provided in the "Definitions" Section16 below. Notices to You shall be made to Your designated point of contact and address, as provided to Us in connection with this Agreement.

15.8 **Assignment**. You may not sublicense, assign, or transfer Your rights under this Agreement without Our prior written consent. Any attempt by You to sublicense, assign, or transfer any of Your rights, duties, or obligations under this Agreement, whether directly, or indirectly by merger, acquisition or change of control, will be null and void.

15.9 **Notice to U.S. Government End Users**. The Software and accompanying Documentation are considered "*commercial computer software*" and "*commercial computer software documentation,*" respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display, or disclosure of the Software and accompanying Documentation by the United States Government will be governed solely by this Agreement and will be prohibited except to the extent expressly permitted by this Agreement.

15.10 **Survival**. The following sections, together with any other terms necessary for the interpretation or enforcement of this Agreement, will survive termination of this Agreement: 6 (Confidentiality), 7 (Intellectual Property Rights), 8 (Limited Software Warranty and Disclaimer), 9 (Limited Hardware Warranty), 10 (Limitation of Liability), 11 (Indemnification), 12.3 (Disclaimer of Warranties regarding Evaluation Software and Beta Software), 13 (Data), 15.5 (Governing Law and Venue), this Section 15.10 (Survival), and 16 (Definitions).

15.11 **Third-Party Software Licenses.** Use of Our Products or some features thereof may require that Customer have licenses for third-party software that has or has not been distributed with Our Products; in either case, the Customer is responsible for purchasing such third-party software licenses.

15.12 **Digital Operational Resilience Act (DORA) Compliance.** If You are a Financial Entity as defined by DORA, the Trellix DORA Addendum is hereby incorporated into this Agreement.

16. DEFINITIONS.

Capitalized terms used in this Agreement have the following meanings:

AI Addendum means Our "Artificial Intelligence Use Addendum" made available on the Trellix Legal Notices website located at https://www.trellix.com/assets/legal/artificial-intelligence-use-addendum.pdf.

Authorized Partner means any of Our Affiliates, Distributors, Resellers, or other business partners.

Affiliate(s) as used herein, means any entity that Controls, is Controlled by, is under common Control with a Party, or is Controlled by the same parent entity as a Party, where "Control" or "Controlled" means direct or indirect ownership, through one or more intermediaries of greater than 50% of an entity's voting capital or other voting rights.

Beta Software means pre-general release of Software that We make available to customers for evaluation and Feedback.

Business Day means any day other than a Saturday, Sunday, statutory or public holiday in the place where Our Software is provided.

Cloud Services means the hosted services that We provide to You as specified in one or more Grant Letters and that are subject to the applicable Service Schedule(s).

Company or "**We**," "**Our**," "**Us**" means:

(i) **Musarubra US LLC**, with offices located at 2611 Internet Blvd, Suite 200, Frisco, Texas 75034, USA, (1) if the Software license is purchased in the United States, Canada, Mexico, Central America, South America, or the Caribbean, or (2) solely as the licensor of the Software if the Software license is purchased in Japan or in Asia Pacific (but excluding Australia and China (in RMB));

(ii) **Musarubra Australia Pty Ltd.**, with offices at Level 19, 181 William Street, Melbourne, Vic 3000, Australia, if the Software license is purchased in Australia;

(iii) **Musarubra Ireland Limited**, with its office at Building 2000, City Gate, Mahon, Cork, Ireland, if the Software license is purchased in Europe, the Middle East or Africa;

(iv) **Musarubra Japan KK**, with its registered office at Shibuya Mark City West, 1-12- 1 Dogenzaka, Shibuya-ku, Tokyo 150-0043, Japan, with respect to the distribution of the Software license purchased in Japan;

(v) **Musarubra Singapore Pte Ltd.**, with a registered address at 38 Beach Road, #23-11, South Beach Tower, Singapore, 189767, with copy to legal@trellix.com and with respect to the distribution of Software license purchased in Asia Pacific (but excluding China (in RMB) or Australia);

(vi) **Trellix (Beijing) Security Software Co.** Ltd, with a trading address at Regus, No. 19 Dongfangdong Road, Tower D1, DRC Diplomatic Office Building, Chaoyang District, Beijing, China 100016, if the Software license is purchased in China (RMB); or

(vii) **Trellix Public Sector LLC**, with offices at 1640 Boro Place, 3rd Floor, McLean, Virginia 22102, USA, if the Software license is purchased by the U.S. Government, or state or local governments, government healthcare organizations or educational institutions within the United States.

Covered Country means any country that is a member of the Berne Convention where the Company (as defined in this Section 16) is incorporated.

"**Data**" means Personal Data, sensitive data or other information about You and End Users (including End Users' name, address, e-mail address and payment details), their computers, files stored on their computers, or their computers' interactions with other computers (including information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, 32 or 64 bit architecture, operating system types, versions, locale, BIOS version, BIOS model, total scanners deployed, database size, system telemetry, device ID, IP address, location, content, Software installed, Our components, processes and services information, frequency and details of update of Our components, information about third-party products installed, extracts of logs created by Us, usage patterns of Software and specific features, etc.).

Data Processing Agreement means Our "Customer Data Processing Agreement" made available on the Trellix Legal Notices website located at: https://www.trellix.com/en-us/assets/legal/customer-data-processing-agreement.pdf.

DATs means detection definition files (also referred to as signature files) that contain the codes anti-malware software uses to detect and repair viruses, Trojan horses, and potentially unwanted programs.

Derivative Work means a work that is based on one or more preexisting works (such as a revision, translation, dramatization, motion picture version, abridgment, condensation, enhancement, modification, or any other form in which preexisting work may be recast, transformed, or adapted) which, if created without the authorization of the copyright owner of the preexisting work, would constitute copyright infringement.

Documentation means any explanatory materials, such as user manuals, training materials, product descriptions, regarding the implementation and use of the Software that We make available to You. Documentation is provided in printed, electronic, or online form.

Distributor means any independent entity authorized by Us to distribute the Software and Support to Resellers or End Users.

DORA means Regulation (EU) 2022/2554 of the European Parliament and of the Council of 14 December 2022 on digital operational resilience for the financial sector and amending Regulations (EC) No 1060/2009, (EU) No 648/2012, (EU) No 600/2014, (EU) No 909/2014 and (EU) 2016/1011.

DORA Addendum means the EU Digital Operational Resilience Act (DORA) Addendum located at: https://www.trellix.com/assets/legal/eu-digital-operational-resilience-act-addendum.pdf.

End-of-Life Policy means Our end-of-life policies located at:

https://trellix.com/en-us/assets/docs/legal/support-policy-product-support-eol.pdf and

https://www.skyhighsecurity.com/wp-content/themes/skyhigh-security/public/EOL_Policy-Skyhigh%20Security_051123.pdf.

End User means the end user customer organization which is licensed and authorized to use the Software under this Agreement.

Export Compliance webpage means Our webpage located at: https://www.trellix.com/assets/legal/us-export-compliance.pdf.

Feedback means any suggestion, or idea for modifying or improving any of Our Products or Services, including without limitation, all intellectual property rights in any such suggestion or idea.

Force Majeure Event means any event beyond a Party's reasonable control that, by its nature, could not have been foreseen or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third parties), acts of God, war, riot, embargoes, acts of civil or military authorities, acts of terrorism or sabotage, shortage of supply or delay in delivery by Our vendors, fire, flood, earthquake, accident, radiation, inability to secure transportation, failure of communications or energy sources, malicious damage, breakdown of plant or machinery, or default of suppliers or sub-contractors.

Grant Letter means any written (electronic or otherwise) confirmation notice that We issue to You confirming the Software license(s) purchased and applicable Product Entitlement Definitions. The Grant Letter identifies the SKU number, quantity, Subscription Period or Support Period, and other access and use details.

Hardware means hardware equipment (together with all parts, elements, or accessories, and any combination of them) purchased during the Term from Us or an Authorized Partner, and identified in an applicable Grant Letter, excluding any Software or other intangible items (whether or not pre-loaded on hardware or subsequently loaded on hardware by You, Us, or any other person or entity).

High-Risk System means a device or system that requires extra safety functionalities such as fail-safe or fault-tolerant performance features to maintain a safe state where it is reasonably foreseeable that failure of the device or system could lead directly to death, personal injury, or catastrophic property damage. A device or system with a fail-safe feature in the event of failure may revert to a safe condition rather than break down, may include a secondary system that comes into operation to prevent a malfunction, or may operate as a backup in the event of a malfunction. A device or system with a fault-tolerant feature in the event of failure may continue its intended operation, possibly at a reduced level, rather than failing completely. Without limitation, High-Risk Systems may be required in critical infrastructure, industrial plants, manufacturing facilities, direct life support devices, aircraft, train, boat or vehicle navigation or communication systems, air traffic control, weapons systems, nuclear facilities, power plants, medical systems and facilities, and transportation facilities.

Intellectual Property Rights means all intellectual property or other proprietary rights throughout the world, whether existing under statute, at common law or in equity, now existing or created in the future, including: (i) copyright, trademark and patent rights, trade secrets, moral rights, right of publicity; (ii) authors' rights; and (iii) any application or right to apply for any of the rights referred to in (i) above.

Malware means applications, executable code, or malicious content that We consider to be harmful.

Malware Software or Malware means harmful software code, including, but not limited to, live computer viruses, Trojan horses, and worms, that can invade and/or corrupt a computer system.

Open-Source Software means any royalty-free software that requires, as a condition of use, modification or distribution of the software or any other software incorporated into, derived from, or distributed with the software ("Derivative Software"), any of the following:

(i) The source code of the software or any Derivative Software must be released or otherwise made available to third parties;

(ii) Permission for creating derivative works of the software or any Derivative Software must be granted to third parties; and

(iii) Changes made to the software must be documented and disclosed when the software or any Derivative Software is being distributed.

Open-Source Software includes any software that is subject to: the GNU General Public License, GNU Library General Public License, Artistic License, BSD license, Mozilla Public License, Affero GNU General Public Licenses, or any license listed on www.opensource.org/licenses.

Personal Data or **Personal Information** means any information relating to an identified or identifiable individual or is otherwise defined as '*Personal Data*' under the General Data Protection Regulation or other applicable data protection laws. to the extent that the definition of '*Personal Data*' under the applicable data protection laws is broader than the preceding definitions.

Privacy Policy means Our published privacy policy located at: https://www.trellix.com/en-us/about/legal/privacy.html.

Product means Trellix-branded and Skyhigh Security-branded Software, Cloud Services, and Hardware.

Product Entitlement Definitions means the license or subscription types set forth in the Grant Letter and which are defined in the document entitled "Product Entitlement Definitions" or in the Supplement posted on the Trellix Legal Notices website.

Representatives means a Party's Affiliates, permitted resellers, subcontractors, or authorized agents.

Reseller means an Authorized Partner who is authorized by Us to market and resell Software licenses and Support.

Software means any software program owned or licensed by Us, as the context require, in object code format and applicable Documentation: (i) licensed from Us and purchased directly from Us or Our Authorized Partners: or (ii) embedded in or pre-loaded on Our branded hardware equipment purchased from Us or one of our Authorized Partners, in each case including Upgrades and Updates that the End User installs during the applicable Support Period. Software may also include additional features or functionality that can be accessed with either a subscription or Support agreement to certain cloud Services as required by the specific offering and subject to the Cloud Services Agreement made available on the Trellix Legal Notices website located at: https://www.trellix.com/en-us/about/legal/cloud-terms-of-service.html.

Supplement means the Supplement terms posted on the Trellix Legal Notices website that pertain to specific Products identified in each Supplement.

Support or Technical Support means the services that We (or an Authorized Partner) provide for the support and maintenance of the Software, as specified in the Technical Support and Maintenance Terms and Conditions. You can receive proactive Support notification by subscribing to Our Support Notification Service (SNS) available at: https://supportm.trellix.com/webcenter/portal/supportportal/pages_tools.

Support Period means the period for which the End User is entitled to Support, as specified in a Grant Letter.

Technical Support and Maintenance Terms and Conditions means Our Technical Support and Maintenance for Hardware and Software terms and conditions, available on the Trellix Legal Notices website.

Threat Data means non-personally identifying and non-Customer identifying information about Malware, threats, actual or attempted security events, including but not limited to their frequency, source, associated code, general identifiers, attacked sectors and geographies.

Trellix Legal Notices website means the Legal Notices web page located at: https://trellix.com/en-us/about/legal.html.

Updates means any update to the content of the Software or Cloud Services, and includes all DATs, signature sets, policy updates, database updates for the Software or Cloud Services, and updates to the related Documentation that are made generally available to End Users after the date of purchase of the Software or the subscription to the Cloud Services as a part of purchased Support. Updates are not separately priced or marketed by Us.

Upgrade means all improvements in the Software or Cloud Services that are generally made available to End Users as a part of purchased Support. Upgrades are not separately priced or marketed by Us.

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