BLACK DUCK SOFTWARE, INC. ("Black Duck")

END USER SOFTWARE LICENSE AND MAINTENANCE AGREEMENT
GSA Schedule

This Agreement covers the Licensed Products, Maintenance Services, and Services that the Ordering Activity under GSA Schedule contracts identified in the Purchase Order, Statement of Work, or similar document ("***You***" or "***Customer***" or "***Ordering Activity***") license (or purchase from Black Duck, or from the GSA Multiple Award Schedule Contractor acting on behalf of Black Duck), unless and until we enter into a new agreement that expressly replaces this one.

This Agreement consists of this signature page, the attached Terms and Conditions, the Maintenance Services Terms Addendum, the Black Duck Onsite Support Services Terms Addendum, the Software Development Kit Addendum (as applicable), the Special Terms and Conditions Addendum (as applicable), the Hosting Services Addendum (as applicable), and one or more Purchasing Agreement(s), Customer Success Packages and/or Statements of Work that You and Black Duck enter into from time to time, which contain (among other things), specific information regarding the Licensed Products, Maintenance Services, Customer Success, and/or Services (all as defined below) You may purchase from Black Duck under this Agreement and the prices of those Licensed Products and Services in accordance with the GSA Schedule Pricelist.

The effective date of this Agreement is the date set forth in the Purchase Order, Statement of Work, or similar document (the "***Effective Date***").

TERMS AND CONDITIONS

1. **SCOPE AND KEY TERMS.** The Licensed Product is the proprietary information of Black Duck or its suppliers who retain exclusive title to their intellectual property rights in the Licensed Product. Customer's rights to the Licensed Product are limited to those expressly granted below and Black Duck reserves all rights not expressly granted in this Agreement.

1.1 ***Purchasing Agreements***. The terms and conditions set forth in this End User Software License and Maintenance Agreement and the Purchasing Agreement(s) accepted by both Customer and Black Duck, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), contain all terms and conditions applicable to Customer's use of the Licensed Product (collectively, the "***Agreement***"). A ***"Purchasing Agreement"*** is a document, including a government purchase order, that references this Agreement and identifies the specific Licensed Product and rights being licensed hereunder, including the applicable License Type, quantity, license term, Territory, Code Base, Team Name or other license constraint, and the fees and payment terms for the Licensed Product licenses (the "***License Transaction***"). An Affiliate of Customer may purchase licenses to the Licensed Product by executing a Purchasing Agreement referencing this Agreement provided that this Agreement governs all such licenses and such Affiliate complies with all Customer obligations referenced in this Agreement and the Purchasing Agreement. Customer agrees that it shall be responsible for the acts and omissions of its Affiliates with respect to any Licensed Product licensed under an applicable Purchasing Agreement. Customer must refer to a copy of the applicable Purchasing Agreement to determine these conditions of the Agreement. If Customer does not receive any other document executed by Black Duck referencing the License Transaction, a Black Duck invoice referencing this Agreement, issued in response to a correct Customer purchase order, shall be Black Duck's acceptance of the License Transaction. Additionally, the license term and/or maintenance and support term for the specific Licensed Product identified in a Purchasing Agreement may be renewed by issuance of a Customer purchase order for such renewal. Customer agrees that Customer purchases under this Agreement and any Purchasing Agreement incorporated herein by reference are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Black Duck regarding future functionality or features.

1.2 "***Affiliate***" of a party to this Agreement means another person or entity that, directly or indirectly, controls, is controlled by or is under common control with such party. For the purposes of this definition, "control" means owning a beneficial interest (either directly or indirectly) in more than 50% of the outstanding shares or securities or other ownership interest entitled to vote for the election of directors or similar managing authority. An entity shall be deemed to be an Affiliate under this Agreement for only so long as such requisite conditions are maintained.

1.3 ***"Authorized User"*** means a party's, and its wholly- owned subsidiaries' or Affiliate's employees or authorized contractors: (a) whose duties require access to or use of the Licensed Product or Confidential Information for the benefit of that party; and (b) whose legal obligations to protect confidential and proprietary information require protection of the Licensed Product and Confidential Information to at least the same extent as set out in this Agreement. For clarity, Customer shall not appoint any third party as an Authorized User that licensed all or any portions of the Code Base identified in an applicable Purchasing Agreement to Customer.

1.4 ***"Code Base"*** means those portions of Customer's software identified in an applicable Purchasing Agreement by reference to the name of the product, project or package and a number of lines of code, if applicable.

1.5 ***"Documentation"*** means the user documentation, in written, electronic or other format, which describes the Licensed Product and its operation and which Black Duck makes generally available to its licensed customers for use with the Licensed Product.

1.6 ***"License Type"*** means the usage rights purchased under the applicable Purchasing Agreement. License Types

offered by Black Duck from time to time can be found at: https://www.synopsys.com/company/legal/software-integrity/license-types-v2015-2.html.

1.7 ***"Licensed Product"*** means the specific products provided by Black Duck and listed in a Purchasing Agreement and (a) all related Documentation, and (b) all updates (including Licensed Product Updates), modifications and maintenance services provided to Customer. An overview of the product packages included in the Licensed Product identified in the applicable Purchase Agreement are posted at: https://www.synopsys.com/company/legal/software-integrity/product-package-overview.html.

1.8 "***Licensed Product Updates***" means features and functionalities of Licensed Products which may be updated from time to time, including but not limited to updated protocols for Defensics; updated checkers for Coverity; updated definitions of, and metadata from open source and vulnerabilities related to Open Source Software for applicable Black Duck labeled products; and updated vulnerability definitions for Seeker.

1.9 "**Plug-In**" means additional functionality or features available to an end user through a standalone component used in conjunction with a Licensed Product subject to the terms and conditions set forth in this Agreement.

1.10 ***"Team Name"*** means the named development team that is licensed to use and operate the Licensed Product pursuant to a Team License granted in an applicable Purchasing Agreement.

1.11 "***Territory***" means the specific country(ies) or geographical areas identified in the applicable Purchasing Agreement to which the Customer's usage of the Licensed Product is limited.

For Black Duck labeled products only:

1.12 "**Application**" means the software code associated with a single software build, including multiple versions thereof.

1.13 "**Code Contributor**" means the individuals within or contracted by the Customer's organization who contribute or work with code for an Application that will be scanned or analyzed by the Licensed Product. The number of Code Contributors includes all developers, engineers, analysts, architects, testers and managers who have written, modified or reviewed code for any scanned or analyzed Application during the License Term, as well as any individuals who interact with the Licensed Product via UI, email/text alerts, API, or third-party integration. Code Contributors do not include, however, those individuals within the Customer's organization who perform only software related documentation or project management tasks.

1.14 "**Hosting Services**" shall have the meaning set forth in the Hosting Services Addendum.

1.15 "**Hosted Software**" shall have the meaning set forth in the Hosting Services Addendum.

2. **LICENSE.**

2.1 ***License Grant and Applicable Fees and Delivery***. Subject to Customer's compliance with the terms and conditions of this Agreement, Black Duck grants Customer a nonexclusive, non-transferable license, solely during the license term and in the Territory set out in the applicable Purchasing Agreement, to (a) use and operate the Licensed Product to the extent permitted by Customer's payment of applicable fees for the License Type purchased, solely for the purpose of developing, analyzing, building or testing the Code Base, Team Name, or other license constraint identified in such Purchasing Agreement, and (b) copy the Licensed Product as reasonably necessary to exercise the license rights granted in subsection (a), including making a reasonable number of copies for backup and archival purposes. All applicable fees are owed within thirty (30) days of the invoice receipt date following the effective date of the applicable Purchasing Agreement, are non-refundable upon such date, except as otherwise specified in the Agreement including Section 4 (**Warranty**) and Section 5 (**Indemnification**), and are payable in accordance with the payment schedule set out in the applicable Purchasing Agreement. All past due amounts will incur interest at a rate indicated by the Prompt Payment Act (31 USC 3901 et seq.) and Treasury regulations at 5 CFR 1315. Vendor shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current purchase price of the Licensed Products) or provide evidence necessary to sustain an exemption, in accordance with FAR 52.229-1 and FAR 52.229-3. Invoices for Licensed Products and / or Services are issued upon Customer execution of the applicable Purchasing Agreement. Where practical, Black Duck will deliver the Licensed Product electronically and delivery will be deemed to occur upon the Licensed Product being available for electronic download. Delivery of any tangible media will be made F.O.B. point of shipment.

2.2 ***Conditions***. The rights granted to Customer above are conditional upon Customer's compliance with the following obligations:

a. Customer will not copy Black Duck's Licensed Products or Documentation, in whole or in part, except as expressly authorized in this Agreement.

b. Customer will not transfer, assign, lease, lend or rent Black Duck's Licensed Products or Documentation, use them to provide service bureau, time-sharing or other services, or otherwise provide or make the functionality thereof available to third parties except as expressly authorized in this Agreement.

c. Customer will not disassemble, decompile, reverse engineer, modify or create derivative works of Black Duck's Licensed Products or Documentation nor permit any third party to do so, except to the extent such restrictions are prohibited by applicable mandatory local law.

d. Customer will not allow access or use of the Licensed Product by, and will not display the Licensed Product's user interfaces to anyone other than the Authorized Users without Black Duck's prior express written consent.

e. Customer will not disclose to any third party any comparison of the results of operation of Black Duck's Licensed Products with other products.

f. Customer will not delete or in any manner alter the copyright, trademark or other proprietary rights notices appearing on the Licensed Product as delivered by Black Duck. Customer will reproduce such notices on all copies Customer is authorized to make of the Licensed Product.

g. Customer's use of the Licensed Product is time- limited to the licensed term set out in the applicable Purchasing Agreement, and such use and access may be monitored and regulated through a license management tool (the "**License Manager**") and a Licensed Product Updates tool. The License Manager will report such data (collectively, "***Use and Compliance Data***") to Black Duck. Customer will not install or use the Licensed Product in a manner that circumvents or interferes with the operation of the License Manager, the Licensed Product Updates tool or any other technological measure that controls access to the Licensed Product. Some configurations may require the License Manager or the Licensed Product Updates tool to be installed only on designated servers. For those configurations, Black Duck will support two changes to the designated servers during any twelve-month period upon prior written notice.

2.3. ***Offsite Contractors.*** Customer may allow Authorized Users that are offsite contractors to access and use the Licensed Product solely for Customer's benefit in accordance with this Agreement provided that: (a) Customer is responsible for the acts and omissions of its offsite contractors with respect to any Licensed Product licensed under this Agreement; (b) Customer ensures that the Licensed Product is completely and irretrievably uninstalled from any offsite contractor's equipment and premises (except for those modules necessary to view results and other data generated from using the Licensed Product) immediately upon completion of the offsite contractor's services requiring use of the Licensed Product; and (c) Customer has a written agreement in place with the offsite contractor requiring that the offsite contractor protect Black Duck's Licensed Product, Confidential Information and intellectual property at least to the same extent as set forth in this Agreement. Customer acknowledges that Black Duck has no warranty or other obligations to Customer's offsite contractors.

2.4. ***Licensed Product Updates.*** Customers with licenses to Licensed Products are granted the right to use, as part of the Licensed Products, such Licensed Product Updates as and when they are made generally available to Black Duck's end user customers who have purchased such maintenance/support offering and for such period of time as indicated in the applicable Purchasing Agreement. This Agreement does not otherwise permit Customer to obtain and use Licensed Product Updates.

2.5. ***Special Terms for Third Party Software***. The Licensed Product may contain open source or community source software ("***Open Source Software***") provided under separate license terms (the "***Open Source License Terms***"). The applicable Open Source License Terms are identified in a directory named "Licenses" provided with the delivery of the Licensed Product. Customer's use of the Open Source Software in conjunction with the Licensed Product in a manner consistent with the terms of this Agreement is permitted, however, Customer may have broader rights under the applicable Open Source License Terms and nothing in this Agreement is intended to impose further restrictions on Customer's use of the Open Source Software. Open Source Software is provided "AS-IS", WITHOUT ANY WARRANTY OF ANY KIND, AND BLACK DUCK FURTHER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO OPEN SOURCE SOFTWARE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER BLACK DUCK NOR THE LICENSORS OF OPEN SOURCE SOFTWARE SHALL HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OR DISTRIBUTION OF THE OPEN SOURCE SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Copyrights
to Open Source Software are held by the copyright holders indicated in the copyright notices in the corresponding source files.

2.6. ***Feedback and Analytics***. Customer may choose to, but is not required to, provide suggestions, data, feedback and other information to Black Duck, its subcontractors or*)* authorized distributors regarding possible improvements in the operation, functionality or use of Black Duck's Licensed Products ("***Feedback***"). Customer hereby grants to Black Duck, its subcontractors and authorized distributors, a non- exclusive, perpetual, irrevocable, royalty-free and fully paid up license to use, copy, display, modify, create derivative works of and distribute any Feedback, and to make, have made, use, lease, sell, offer for sale, import, export or otherwise transfer any Black Duck product offering covered by any intellectual property rights in such Feedback solely for the purpose of (i) improving the operation, functionality or use of its existing and future product offerings and commercializing such offerings; and (ii) publishing aggregated statistics about software quality, provided that no data in any such publication can be used to specifically identify Customer or Customer's software code. Vendor acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

2.7. ***Keys and Access***. Black Duck agrees to provide Customer those authorization keys and/or passwords, which are necessary to permit Customer to gain access to the Licensed Product made available to Customer for the Licensed Product which has been properly licensed to Customer in accordance with this Agreement. Notwithstanding anything to the contrary in this Agreement, Customer hereby acknowledges that Customer shall have no right or license to any software made available to Customer which has not been properly licensed to Customer pursuant to this Agreement or the applicable Purchasing Agreement, or that has been included therein solely as a matter of convenience, and that Customer agrees not to attempt to gain access to, or permit any third party to attempt to gain access to, such software.

2.8. ***Plug*-Ins**. For Customers with valid licenses to the Licensed Products, including Seeker, Customer is hereby granted the right to use, in conjunction with the Licensed Products licensed to Customer, Plug-Ins made available for use with the Licensed Products by Black Duck from time to time. No additional Purchasing Agreements are required in connection with the use of such Plug-Ins. Customer's right to use such Plug-Ins are provided under the terms of this Agreement, including the license grant set forth in Section 2.1 of this Agreement. Notwithstanding the foregoing, a Plug-In is not "Software" for purposes of this Agreement.

ALL PLUG-INS ARE PROVIDED "AS-IS", WITHOUT ANY WARRANTY OF ANY KIND. BLACK DUCK AND ITS PARTNERS, SUPPLIERS AND DISTRIBUTORS DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO SUCH PLUG-IN, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. BLACK DUCK AND ITS PARTNERS, SUPPLIERS AND DISTRIBUTORS DISCLAIM ALL LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO ANY PLUG-IN.

The indemnification provisions of Section 5 of this Agreement shall not apply to Plug-Ins.

3. **CONFIDENTIALITY.**

3.1. ***Confidential Information. "Confidential Information"*** means: (a) each party's software products, in byte code or source code form; (b) any authorization keys and passwords delivered in order to operate such products; (c) Documentation, product road maps and development plans, and product pricing information (excluding GSA Schedule pricing); and (d) any business, technical or training information of a party that, if disclosed in writing, is marked "confidential" or "proprietary" at the time of disclosure, or, if disclosed orally, is identified as "confidential" or "proprietary" at the time of disclosure, and is summarized in a writing sent by the disclosing party to the other party within thirty (30) days of such disclosure or, without a marking requirement where the receiving party knows or reasonably should understand the disclosure to be confidential or trade secret information; and (e) Customer specific terms set forth in any quotation, Purchasing Agreement or this Agreement.

3.2. ***Exclusions***. Confidential Information does not include information that: (a) is or becomes generally known or available to the public through no act or omission of the party receiving Confidential Information ("***Receiving Party***"); (b) is rightfully known by the Receiving Party prior to receiving such information from the other party ("***Disclosing Party***") and without restriction as to use or disclosure; (c) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information and without breach of this Agreement; or (d) is rightfully received by the Receiving Party from a third party without restriction on use or disclosure. The existence of this Agreement and the nature of the business relationship between the parties are not considered Confidential Information.

3.3. ***Use and Disclosure Restrictions***. Receiving Party will not use the Disclosing Party's Confidential Information except as necessary to exercise the rights granted under this Agreement or to evaluate opportunities to license additional Licensed Products pursuant to this Agreement, and will not disclose such Confidential Information to any person or entity except to its Authorized Users. Without limiting the generality of the foregoing, Customer agrees that it will not post the Licensed Product, the Documentation, or any screenshots of the Licensed Product or results generated by the Licensed Product, on any network that is accessible by anyone other than the Authorized Users. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party: (a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to contest such order or requirement; and (b) on a confidential basis to its legal or financial advisors that need to know in order to provide business advice to such party. In addition, each party may disclose the terms and conditions of this Agreement:

(i) as required under applicable securities regulations; and

(ii) on a confidential basis to present or future providers of venture capital and potential private investors in or acquirers of such party. Black Duck recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

3.4. ***Reserved***.

4. **WARRANTY**.

4.1. ***Limited Licensed Product Warranty***. Subject to the remainder of this Section 4, for a period of forty five (45) days from earlier of the date that the Licensed Product is first made available to Customer for download or Customer's first receipt of the Licensed Product pursuant to an Purchasing Agreement, Black Duck represents and warrants that, (a) the media on which the Licensed Product is delivered will be free of defects in material and workmanship, (b) the Licensed Product will substantially conform to the functional specifications set forth in the applicable Documentation, and

(c) it has used commercially available virus-detection software to scan the Licensed Product, and it has not knowingly introduced into the Licensed Product any virus, Trojan horse, trap door, or other code that is intended to cause harm to the Code Base or other systems.

4.2. ***Sole Remedy***. If, during the warranty period set forth in Section 4.1, Black Duck receives written notice from Customer of non-conformity of the Licensed Product with the warranty set forth in Section 4.1, Black Duck will, as Customer's sole and exclusive remedy and Black Duck's entire liability for such non- conformity: (a) deliver a correction or workaround for the non-conformity; or (b) if Black Duck is unable to deliver such a correction or workaround, provide written notice to Customer and, upon Customer's return or confirmed destruction of all copies of the non-conforming Licensed Product to Synopsys, refund the license fees paid by Customer for such non- conforming Licensed Product. THE FOREGOING STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR WARRANTY CLAIMS RELATED TO THE LICENSED PRODUCT.

4.3. ***Disclaimer***. Black Duck does not warrant that the Licensed Product will meet Customer's requirements, that the Licensed Product will operate in combinations with equipment, devices, software or systems provided by persons other than Synopsys, that the operation of the Licensed Product will be error-free or uninterrupted, or that the Licensed Product will discover all open source or third-party code, potential license conflicts, errors and vulnerabilities that may reside in the Code Base. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BLACK DUCK AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, CONDITIONS AND REPRESENTATIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THOSE RELATED TO MERCHANTABILITY, FITNESS FOR A

PARTICULAR PURPOSE, SATISFACTORY QUALITY, ACCURACY OR COMPLETENESS OF RESULTS, CONFORMANCE WITH DESCRIPTION, AND NON-INFRINGEMENT. BLACK DUCK AND ITS SUPPLIERS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, CONDITIONS AND REPRESENTATIONS ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE.

5. **INDEMNIFICATION**.

5.1. ***Infringement Indemnity***. Black Duck will have the right to intervene to defend or settle any action brought against Customer by paying all costs, damages and reasonable attorneys' fees that are finally awarded against Customer to the extent those amounts are based upon a third party claim that the Licensed Product, as provided by Black Duck to Customer under this Agreement and used in accordance with this Agreement, directly infringes any U.S. patent, or copyright or misappropriates any U.S. trade secret. However, Black Duck's obligations under this Section 5 are subject to the following conditions: (a) Customer must promptly notify Black Duck in writing of the action; (b) Customer grants Black Duck control of the defense and settlement of the action; and (c) Customer must provide Black Duck, at Black Duck's expense, with all assistance, information and authority reasonably requested for the defense and settlement of the action. Black Duck will not be responsible for any compromise made or expense incurred without its consent. If use of any of the Licensed Product is, or in Black Duck's reasonable opinion is likely to be, the subject of an action specified in this Section 5.1, Black Duck may, at its sole option and at no additional charge: (i) procure for Customer the right to continue using such Licensed Product; (ii) replace or modify such Licensed Product so that it is non-infringing and substantially equivalent in function to the original Licensed Product; or (iii) if options (i) and (ii) above are not accomplished despite Black Duck's reasonable efforts, terminate Customer's rights and Black Duck 's obligations hereunder with respect to such Licensed Product and refund the unamortized portion of the license fees paid for such Licensed Product, based upon a straight-line depreciation over the term of the license commencing as of the date Customer received such Licensed Product. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

5.2. ***Exclusions***. Notwithstanding the terms of Section 5.1, Black Duck will have no liability for any infringement or misappropriation action or claim of any kind to the extent that it results from: (a) modifications to the Licensed Product made by a party other than Black Duck, if the infringement or misappropriation would not have occurred but for such modifications; (b) the combination, operation or use of the Licensed Product with equipment, devices, software, systems or data not supplied by Black Duck, if the infringement or misappropriation would not have occurred but for such combination, operation or use; (c) Customer's failure to use the updated or modified Licensed Product provided by Black Duck to avoid infringement or misappropriation; (d) Black Duck's compliance with any designs or specifications provided by Customer; and/or (e) Customer's use of the Licensed Product other than as authorized by this Agreement.

5.3. ***Sole Remedy***. THE PROVISIONS OF THIS SECTION 5 SET FORTH BLACK DUCK'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND. EXCEPT AS SET FORTH ABOVE, BLACK DUCK AND ITS SUPPLIERS DISCLAIM ALL IMPLIED OBLIGATIONS WITH RESPECT TO INTELLECTUAL PROPERTY INDEMNIFICATION.

6. **LIMITATION OF LIABILITY.**

6.1. ***Exclusion of Damages***. Notwithstanding anything to the contrary, this Agreement does not limit liability due to death or personal injury caused by gross negligence, or liability due to fraudulent misrepresentations or willful misconduct, or liability arising from breaches of confidentiality obligations or license grants or conditions hereunder. SUBJECT TO THE FOREGOING SENTENCE, IN NO EVENT WILL EITHER PARTY, OR ITS SUPPLIERS, BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, BUSINESS OR PROFITS, REVENUE, GOODWILL, ANTICIPATED SAVINGS) OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF THIS AGREEMENT, WHETHER BASED UPON CONTRACT, WARRANTY, TORT (INCLUDING GROSS NEGLIGENCE) , FAILURE OF A REMEDY TO ACCOMPLISH ITS PURPOSE, STRICT LIABILITY OR OTHERWISE, AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW. Customer acknowledges that Black Duck would not be able to provide the Licensed Product without the limitations set forth in this Section 6. Customer may have other rights under applicable mandatory local laws. This Agreement does not change Customer's rights under applicable mandatory local laws if such laws do not permit it to do so.

6.2. ***Cap on Liability***. IN NO EVENT WILL BLACK DUCK, ITS AFFILIATES OR ITS SUBSIDIAIRIES, OR ITS SUPPLIERS' AGGREGATE LIABILITY UNDER THIS AGREEMENT, OR RELATING TO ITS SUBJECT MATTER, EXCEED WITH RESPECT TO ANY LICENSED PRODUCT, THE AMOUNT PAID BY CUSTOMER FOR THE LICENSED PRODUCT GIVING RISE TO THE CLAIM, AND WITH RESPECT TO SERVICES, THE AMOUNT PAID BY CUSTOMER FOR THE SERVICES GIVING RISE TO THE CLAIM.

7. **EXPIRATION AND TERMINATION.**

7.1. ***Term of Agreement***. The term of this Agreement shall begin on the Effective Date of this Agreement and will end when the underlying Purchasing Agreement expires, or if the Agreement is otherwise terminated by either party in accordance with this Section 7.

7.2. ***Term of Purchasing Agreement***. Each Purchasing Agreement will have its own term, as indicated by the License Term applicable to the Licensed Product licensed under such Purchasing Agreement.

7.3. ***Termination for Breach.*** When the End User is an instrumentality of the U.S., recourse against the United States for any

alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Black Duck shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer. Termination of this Agreement under this Section 7 terminates all Purchasing Agreements and Licensed Product licenses granted hereunder.

7.4. ***Effect of Termination or Expiration***. Upon termination or expiration of this Agreement or a Purchasing Agreement, all Licensed Product licenses and rights to use Confidential Information that are granted thereunder shall terminate. Upon termination of this Agreement or expiration of the license term in any Purchasing Agreement, Customer will: (a) promptly return to Black Duck or destroy the applicable Licensed Product and Confidential Information and all copies and portions thereof, in all forms and types of media; and (b) promptly pay all fees owing up to the date of termination.

7.5. ***Survival***. Sections 1, 2.2, 2.4, 2.5, 3, 4.3, 5.3, 6, 7.2, 7.3 and 8 of the Agreement, Section 6 of the SDK Addendum, and the Special Terms Addendum and the Hosting Services Addendum, will survive the termination or expiration of this Agreement or of any Purchasing Agreement.

8. **GENERAL**.

8.1. ***Promotion.*** Unless otherwise provided in the Purchasing Agreement, Customer agrees that Black Duck may use Customer's name to identify Customer as a customer on Black Duck's website or in marketing or publicity materials to the extent permitted by the General Services Acquisition Regulation (GSAR) 552.203-71 or in any filings made in connection with state or federal securities laws. Additionally, upon execution of this Agreement, the parties will use commercially reasonable efforts to issue mutually agreed upon joint press releases or other public communications announcing Customer's entry into this Agreement.

8.2. ***"Maintenance Services"*** means any standard Black Duck maintenance and support services (excluding onsite support or consulting services referenced in Section 8.3 below) related to the Licensed Product licensed hereunder pursuant to a Purchasing Agreement, where such services shall be governed by the applicable Black Duck Maintenance Services terms attached to this Agreement, including the Black Duck Customer Support Plans Addendum for Black Duck labeled products. Except as indicated on an applicable Purchasing Agreement, fees for Licensed Products include Black Duck Standard Maintenance Services for the duration of the license term applicable to such Licensed Products.

8.3. ***Onsite Support Services; Customer Success; Training; Hosting Services*.** If Black Duck provides any Services (as defined in the attached Onsite Support Services Terms Addendum, and excluding Maintenance Services referenced in Section 8.2 above) to Customer, the Services shall be governed by the attached Black Duck Onsite Support Services Terms attached to this Agreement. Black Duck shall not be obligated to perform any On-Site Support Services, excluding Training, until the parties enter into a written Statement of Work describing the scope of such Services to be performed and such Statement of Work shall be governed by the terms of this Agreement and the applicable Purchasing Agreement. Ordering Activity agrees to pay any travel expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document Such expenses shall be capped at $3,000 per each five (5) consecutive consulting days. For clarity, payment for Onsite Support Services or Maintenance Services does not entitle Customer to Customer Success program services or training services. Onsite Support Services, Customer Success program services or training services that remain unused at the end of the license term referenced in the applicable Purchasing Agreement will be forfeited and Customer will not be entitled to any refund for unused portions. If Black Duck provides any Hosting Services (as defined in the attached Hosting Services Addendum) to Customer, the Hosting Services shall be governed by the attached Hosting Services Addendum.

8.4. ***Software Development Kit*.** For some Licensed Products, Black Duck provides a software development kit ("***SDK***") to Customer with the Licensed Product. Use of the SDK shall be governed by the Black Duck SDK terms included in the addendum attached to this Agreement.

8.5. ***Export Control***. Customer agrees that the Licensed Product, Services and Technical Support subject to this Agreement are subject to the export control laws and regulations of the United States, including but not limited to the Export Administration Regulations ("***EAR***"), and sanctions regulations of the U.S. Department of the Treasury, Office of Foreign Assets Control and that Customer will comply with these laws and regulations. Without limiting the foregoing, if any of the Licensed Products, Services and Technical Support governed by this Agreement, or the direct product of any such Licensed Product, Services and Technical Support (each, a "***Controlled Product***"), is subject to the national security controls as identified on the Commerce Control List (the "***Controlled Products***"), Customer will not, without a U.S. Bureau of Industry and Security license or license exception, export, re-export, or transfer a Controlled Product, either directly or indirectly, to any national of any country identified in Country Groups D:1 or E:1 as defined in the EARs. In addition, the Licensed Product, Services and Technical Support subject to this Agreement may not be exported, re- exported, or transferred to (a) any person or entity listed on the "Entity List", "Denied Persons List" or the list of "Specifically Designated Nationals and Blocked Persons" as such lists are maintained by the U.S. Government, or (b) an end-user engaged in activities related to weapons of mass destruction. Such activities include but are not necessarily limited to activities related to: (i) the design, development, production, or use of nuclear materials, nuclear facilities, or nuclear weapons; (ii) the design, development, production, or use of missiles or support of missiles projects; and (iii) the design, development, production, or use of chemical or biological weapons. Customer will, at Black Duck's request, demonstrate compliance with all such applicable export laws, restrictions, and regulations.

8.6. ***Assignment***. The parties may not assign this Agreement, or any licenses granted hereunder, in whole or in part, by

operation of law or otherwise, without consent of the other party. Any attempt to so assign without such consent will be void and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

8.7. ***Governing Law and Jurisdiction***. This Agreement will be governed by and construed in accordance with the Federal laws of the United States, or if no applicable Federal law exists, by the laws of the State of California. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Customer agrees that the Uniform Computer Information Transactions Act or any version thereof, adopted by any state, in any form ("***UCITA***"), shall not apply to this Agreement. To the extent that UCITA is applicable, the parties agree to opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.

8.8. ***Verification and Audit***. In addition to the Use and Compliance Data collected by the License Manager, Customer will monitor and track access to and use of the Licensed Product. At Black Duck's written request, Customer will furnish Black Duck with (a) a certification signed by an authorized representative of Customer providing user or access information that identifies whether the Licensed Product is being used in accordance with the terms of this Agreement, and (b) log files from any License Manager that regulates access to the Licensed Product. Upon at least thirty (30) days prior written notice, Black Duck may engage, at its expense, an independent auditor to audit Customer's use of the Licensed Product to ensure that Customer is in compliance with the terms of this Agreement and the applicable Purchasing Agreements. Any such audit will be conducted during regular business hours at Customer's facilities, shall be subject to Government security requirements, and will not unreasonably interfere with Customer's business activities. Customer will provide the auditor with access to the relevant records and facilities. If an audit reveals that Customer has underpaid fees to Black Duck during the period audited, then Black Duck will invoice Customer, and Customer will promptly pay Black Duck for such underpaid fees based on Black Duck's price list in effect at the time the audit is completed in accordance with the GSA Schedule Pricelist.

8.9. ***Nonexclusive Remedy***. Except as expressly set forth in this Agreement, the exercise by either party of any of its remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.

8.10. ***Force Majeure***. Excusable delays shall be governed by FAR 52.212-4(f). To the extent that FAR 52.232-4(f) does not apply, neither party will be responsible for any failure or delay in its performance under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, raw materials or supplies, war, terrorism, riot, natural disasters or governmental action.

8.11. ***Notices***. All notices required or permitted under this Agreement will be in writing. Notices will be effective upon delivery if delivered in person and upon mailing if delivered by courier service, overnight delivery services or by a form of certified or express mail. Notices affecting this Agreement as a whole will be sent to the address set forth above, if any, or to such other address of a party as such party may identify in writing; notices related to a particular transaction will be sent to the primary corporate addresses set forth in the Purchasing Agreement or to such other address as Customer or Black Duck may notify the other party in writing.

8.12. ***Entire Agreement; Modification; Interpretation***. This Agreement, including any Addenda hereto and any Statements of Work attached thereto, together with the underlying GSA Schedule Contract, Schedule Pricelist, and all accepted Purchasing Agreements referencing this Agreement, constitute the complete and exclusive understanding and agreement between the parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter. A negotiated Government Purchase Order, signed by both parties, shall supersede the terms of the Agreement. Failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. Any waiver, modification or amendment of this Agreement will be effective only if in writing and signed by Customer and an authorized representative of Black Duck. If for any reason a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect. The word "including" when used in this Agreement will mean including without limitation of the generality of any description, definition, term or phrase preceding that word.

8.13. ***U.S. Government Restricted Rights.*** All Licensed Products are "Commercial Computer Software" as defined under FAR 252.227-7014 and 52.227-14, as applicable. use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth in the Clause Rights in Data 48 CFR 52.227-14, as applicable.

8.14. ***Black Duck Entities.*** Black Duck Software, Inc. and its wholly- owned subsidiaries, have agreed to their respective rights and obligations regarding the distribution of the Licensed Products and the performance of obligations related to the Licensed Products. You acknowledge that: (a) Black Duck Software, Inc. or any directly or indirectly wholly-owned subsidiary or branch of Black Duck Software, Inc. may treat a purchase order addressed to that entity, representative office or branch as having been addressed to the appropriate entity or entities or branch with distribution rights for the geographic region in which the Licensed Products will be used; and (b) delivery will be completed by the Black Duck entity or branch with distribution rights for the geographic region in which the Licensed Products will be used or service will be provided.

8.15. ***Counterparts and Execution***. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. An originally executed version of this Agreement or any Exhibit, attachment and subsequent Purchasing Agreement (including, where applicable, a Customer purchase order issued in response to a Purchasing Agreement where such issuance constitutes execution), that is delivered by one party to the other party, as evidence of signature, by facsimile, or by electronic mail after having been scanned as an image file (including, Adobe PDF, TIF, etc.) shall, for all purposes hereof, be deemed an original signature and neither party shall have the right to object to the manner in which the Agreement was executed as a defense to the enforcement of the Agreement.

8.16. ***Controlling Language.*** This Agreement has been prepared, negotiated and signed in English, and English is the controlling language of this Agreement. Even if any other language version is prepared, including the Japanese version of this document, such version is for convenience purposes only and the English version shall prevail if there is any difference between such version and English version.

END OF TERMS AND CONDITIONS

MAINTENANCE SERVICES TERMS ADDENDUM

1. **MAINTENANCE SERVICES**. "***Maintenance Services***" means the standard Maintenance and Support provided by Black Duck to Customer as further described below. Subject to Customer's payment of applicable fees, Black Duck will provide the following standard Maintenance Services to Customer for the period agreed by the parties in the order documentation:

1.1 ***Maintenance and Support***.

(a) ***Maintenance***. "***Maintenance***" means the provision by Black Duck to Customer of any Releases or Workarounds that are made generally available by Black Duck to customers who subscribe for Black Duck's Maintenance Services offering.

(i) A Release will be one of the following: A "***Major Release***" means a specific edition of the Licensed Product that contains major functionality changes. The content and timing of all Major Releases will be determined by Black Duck in its sole discretion. Major Releases are signified by version changes to the left of the decimal point (e.g. 2.0 -> 3.0) following the product name. A "***Minor Release***" means a specific edition of the Licensed Product that contains minor, but significant functionality changes and could include Licensed Product Updates. The content and timing of all Minor Releases will be determined by Black Duck in its sole discretion. Minor Releases are signified by version changes to the right of the decimal point (e.g. 2.5 -> 2.6) following the product name.

(ii) "***Workaround***" means a Licensed Product patch, error correction, or feasible change in operating procedures whereby the Licensed Product is made sufficiently functional so that Customer can continue to use the Licensed Product. Black Duck may provide Workarounds for a release to resolve a Service Issue for up to twelve (12) months after the earlier of (i) the date the subsequent Release is first made commercially available, and (ii) the date the current Release is no longer made available as a commercial offering by Black Duck. After such twelve (12) month period, Black Duck is not obligated to provide Workarounds but will support Customer's update of the Licensed Product to the latest Release. Where Workarounds are to be delivered to resolve a Service Issue, Black Duck will provide Customer with a single copy of a Workaround on suitable media or shall make available the applicable Workaround for download by Customer from Black Duck's web site.

(b) ***Support***. "***Support***" means the e-mail and telephone technical services that Black Duck offers regarding the use and function of the Licensed Product. Black Duck will provide Support and respond to Service Issues as further described below. A "***Service Issue***" is a Customer inquiry regarding the functionality or use of the Licensed Product. Customer agrees that Black Duck's Support obligations concerning the Licensed Product's use with third party products, including compilers, operating systems and other Licensed Product, shall be limited to those items set forth in the Documentation. Service Issues are assigned a classification at the time of Customer's initial contact with Black Duck, and are classified according to the severity levels set forth below. Black Duck will initially respond in accordance with the response times applicable to Service Issues reported by telephone or e-mail during Black Duck's regular service hours for the applicable region as set forth below. Failure to contact Customer within the response time period because Customer is unavailable (*e.g.,* phone busy, no answer, in a meeting, or out of the office) does not constitute Black Duck's noncompliance with the response commitment. Customer shall cooperate with Black Duck to provide reproducible results for any errors reported. Black Duck's ability to provide Support will depend, in some cases, on the ability of Customer's representatives to provide accurate and detailed information and to aid Black Duck in handling a Service Issue. Customer shall provide Black Duck with reasonable access to Customer systems, premises and staff as needed to provide Support. Black Duck will provide Support for each Release for at least eighteen (18) months after the subsequent Release is first made commercially available. After such period, Black Duck will provide Support, as needed, to Customer to update its use of the Licensed Product to the latest Release of the Licensed Product.

Service Issue Classification	Response Time	Next Steps
Severity P1—Critical Business Impact: Licensed Product is not functioning or is stopped or severely impacted so that Customer cannot reasonably continue use of Licensed Product and no Workaround is available.	One business day	Once the Service Issue is verified, Black Duck will engage development staff during Black Duck's business hours (but in no event later than 12 hours after the Service Issue is verified) until a Workaround is achieved.
Severity P2—Major Business Impact: Licensed Product is functioning inconsistently causing significantly impaired Customer usage and productivity, such as periodic work stoppages and feature crashes.	One business day	Once the Service Issue is verified, Black Duck will engage development staff during Black Duck's business hours (but in no event later than 24 hours after the Service Issue is verified) until a Workaround is achieved.
Severity P3—Minor Business Impact: Licensed Product is functioning inconsistently causing slightly impaired Customer usage and productivity but Customer can work around such inconsistency or impairment.	Two business days	Once the Service Issue is verified, Black Duck's will consider a Workaround, if appropriate in Black Duck's sole discretion, and Licensed Product enhancements for such Service Issue for inclusion in a subsequent Release.
Severity P4—No Business Impact: Licensed Product is functioning consistently but Customer requests minor changes in Licensed Product such as Documentation updates, cosmetic defects or enhancements.	Three business days	Once contact has been made with Customer, Black Duck will consider Licensed Product enhancements for inclusion in a subsequent Release.

(c) ***Customer Point of Contact***. Customer will designate a specific individual to be the primary point of contact for Maintenance Service communications with Black Duck and will deliver contact information for such individual to Black Duck's support team.

1.2 ***On-Site Support.*** Customer may elect to purchase specific on-site support packages, details of which can be found on Black Duck's website: https://www.synopsys.com/company/legal/software- integrity/onsite-support-services-terms-v2015.1-1.html. The purpose of on-site support is to help customers optimize deployment of the Licensed Product, including installation, setup, configuration, and additional support offerings.

1.3 ***Exclusions to Maintenance Services***. Maintenance Services do not include the right to access new or bundled product offerings made available by Black Duck, unless licenses for such offerings are separately purchased. Black Duck will not have any obligation to provide Maintenance Services for problems in the operation or performance of the Licensed Product to the extent caused by any of the following: (a) modifications to the Licensed Product made by a party other than Black Duck; (b) Customer's use of the Licensed Product other than as authorized by the applicable agreement licensing the Licensed Product to Customer or as provided in the Documentation; or (c) Customer's use of releases other than those releases of the Licensed Product covered by Maintenance Services, (d) Customer's failure to use any error corrections or updates thereto provided by Black Duck to address such problem, or (e) use of scripts or other deliverables provided to Customer under On-Site Support services (as described in Section 1.2 above). If, in its sole discretion, Black Duck determines that a problem in the operation or performance of the Licensed Product is caused by the foregoing, then Black Duck will notify Customer promptly and have no further Maintenance Service obligations related to such problem. If Customer requests services beyond standard Maintenance Services in writing, Black Duck will have the right to invoice Customer at Black Duck's then-current published time and materials rates for the provision of such services in accordance with the GSA Schedule Pricelist.

For Customers located in Europe:

Contact us by:	At	During
Email	software-integrity-support@synopsys.com	9:00 – 17:00 UK time
Phone	**+44 (0) 1276 400352**	9:00 – 17:00 UK time

For Japanese-language support:

Contact us by:	At	During
Email	software-integrity-support-japan@synopsys.com	9am – 5pm JST
Phone	**+81-03-6746-3666**	9am – 5pm JST

For Korean-language support:

Contact us by:	At	During
Email	software-integrity-support-korea@synopsys.com	9am – 5pm KST
Phone	**+82-2-3404-9332**	9am – 5pm KST

For Mandarin-language support:

Contact us by:	At	During
Email	software-integrity-support-china@synopsys.com	9am – 5pm CST
Phone	**+86-4006-966-606**	9am – 5pm CST

For Customers located in India:

Contact us by:	At	During
Email	software-integrity-support@synopsys.com	9:00 – 17:00 IST
Phone	**+91-(0)80 6751 1888 or 1(800) 419-4311**	9:00 – 17:00 IST

For all other Customers:

Contact us by:	At	During
Email	software-integrity-support@synopsys.com	7am – 6pm Pacific Time
Phone	**+1 800-873-7793 or +1 415.321.5239**	7am – 6pm Pacific Time

All contact information is subject to change upon notice from Black Duck. Closed on public holidays.

2. **GENERAL.** These terms and conditions contain the parties' entire agreement concerning Maintenance Services. Customer agrees that additional or different terms on Customer's purchase order shall not apply. Any waiver, modification or amendment of these terms and conditions will be effective only if in writing and signed by an authorized representative of Customer and Black Duck.

END OF MAINTENANCE SERVICES TERMS ADDENDUM

Black Duck Customer Support Plans Addendum

Our Customer Support Plans ensure the optimum performance of your Black Duck solutions.

Section 1: Customer Support Process

When a customer contacts Black Duck online or by email or phone, a customer support engineer will address their request. The engineer will open a case in Black Duck's case management system. A unique number is assigned to the case and provided to the customer. The customer support engineer will then perform the Tier 1 support activities for the customer case.
Support Request Status: The following table describes the possible status assigned to a case at any given time.

Table 1 - Support Request Status Definition	
Status	**Criteria**
New	A support request has just been submitted. It may be assigned to an individual or a queue. A Black Duck support representative has not responded yet to customer.
In Process	The support representative has responded to customer regarding the receipt of the support request and is actively pursuing a resolution.
Pending	The support representative is not actively working on the resolution of the support request. Generally, this is due to information pending from the submitter of the case or a pending Program fix. However, support requests may be put on hold for other reasons as well.
Escalated	A support request set to an escalated status means the support request has not been resolved within the target resolution time, the customer has asked for it to be escalated to the next level of support or the customer support manager has asked for an expedited program fix.
Closed	A case is "closed" if: - The customer and the support representative agree that a satisfactory resolution has been provided, or - The customer understands that the problem is not a result of a program defect, or - The support representative has made multiple attempts to contact the customer and the customer has not responded. Electronic support requests (online, email) may be closed when a support representative has provided an electronic reply with a high degree of confidence that his/her reply will resolve the issue or answer the question.

Section 2: Definition of Tier 1, 2 and 3 Support

Black Duck offers three tiers of Customer Support. Standard Support is available Monday to Friday, 8:00 AM to 6:00 PM local time. For customers on the Enhanced Support Plan, Tier 1 Support is available 24 hours, 7 days a week. For customers on the Premium Plan, Tier 2 support is available 24 hours, 7 days a week.

Tier 1 Support
The Tier 1 customer support team will:

- Enter data into the case log describing the problem and assign a severity to the case (please refer to "Assignment of Severity Levels" section below).

- Provide the customer with a resolution and, based on the customer's feedback, "close" the case. A resolution is generally one of the following: an answer to a customer question, a suggestion of how to accomplish a particular task or a workaround to a program issue.

For those problems not solved during the first contact with the customer, the customer support engineer will provide an estimated time-frame for follow up and will escalate the case to Tier 2 support.

Tier 2 Support
The Tier 2 customer support team will:

- Follow up with customers: answer questions, report the status of a pending issue, update customer expectations, or get more information about a pending issue.

- Attempt to provide workarounds to address the problem within the time limits set forth in the section "Response and Resolution Targets" below.

- In situations where a program is not operating as documented or a new feature or functionality has been requested, the customer support engineer will report the problem through Black Duck's bug tracking database for investigation and release targeting based on the request severity.

- Escalate unresolved support requests to Tier 3. Work closely with Tier 3 engineers to analyze, understand, and resolve difficult issues.

- Verify that a pending issue can be 'closed' when a satisfactory resolution has been provided to customer.

Tier 3 Support
If a support request is still not resolved by Tier 2 support, the support request is then escalated to a team of Black Duck engineers for resolution.

In extreme cases where no workaround is available, the pending support request is a mission-critical problem for the customer, and the problem results from a defect in the program, Tier 3 support will provide a program patch to resolve the problem. This level of support is provided at the discretion of the customer support manager overseeing the particular program.

Section 3: Assignment of Support Request Severity

When a customer opens a support request, a customer support engineer will assess the severity of the request based on the customer's description of the problem. The severity of the support request will be recorded in the Case Management System which can be accessed in the Customer Success Community.

Table 2 below provides the definitions used in identifying and assigning a severity level to the customer's reported problem.

Table 2 - Severity Definitions	
Severity	**Criteria**
Critical	**Customer's production system is down** The Program is unusable resulting in total disruption of work or other critical business impact. No workaround is available
High	**Major feature/function failure** Operations are severely restricted, there is a major disruption of work, there is not an acceptable workaround available
Medium	**Minor feature/function failure** Program does not operate as designed, minor impact on usage, acceptable workaround deployed
Low	**Minor problem** Documentation, general information, enhancement request, etc.

Section 4: Response and Resolution Targets

Black Duck will use reasonable efforts to meet the following resolution targets:

Table 3 - Response and Resolution Targets				
Severity	**Standard Target Response**	**Premium Target Response**	**Target Resolution**	**Solution (1 or more of the following)**
Critical	2 Business Hours	1 Business Hour	Within 2 Business Days	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into future release. Fix or workaround incorporated into Software Solution Library.
High	1 Business Day	2 Business Hours	Within 5 Business Days	- Satisfactory workaround is provided. - Program patch is provided. - Fix incorporated into a future release. Fix or workaround incorporated into the Software Solution Library.
Medium	2 Business Days	4 Business Hours	Within 10 Business Days	- Answer to question is provided. - Satisfactory workaround is provided. - Fix incorporated into future release. Fix or workaround incorporated into Software Solution Library.
Low	3 Business Days	1 Business Day	Within 15 Business Days	- Answer to question is provided. Fix or workaround incorporated into Software Solution Library.

Section 5: Customer Escalation Procedures

At Black Duck, we have internal escalation procedures as well as Customer Escalation Procedures. Our internal escalation procedures help us detect case irregularities based upon age, activity and other characteristics. If problems, or a lack of progress is detected, internal escalation procedures are invoked. Black Duck has also implemented a Customer Escalation Process for those situations where the impact and severity of an issue significantly change or if the resolution progress does not meet your expectations. This process can be initiated using any of the following methods, in recommended order:

1. Speak with, or email directly your case owner
2. Using the Customer Success Community, add a case comment with the escalation reason and increase the priority of your case
3. Speak with, or email directly your Customer Success Manager (CSM)
4. Contact support

Once a case is escalated, a broader technical audience is engaged along with Support and Engineering management. All escalated issues are subject to internal reviews multiple times a week. In extreme cases, Support, Customer Success, and Engineering leadership will become directly involved. If you would like to learn more about the Black Duck Escalation process, speak directly to the Technical Support Engineer you are working with, or your Customer Success Manager.

END OF BLACK DUCK CUSTOMER SUPPORT PLANS ADDENDUM

ONSITE SUPPORT SERVICES TERMS ADDENDUM

1. **SERVICES**

1.1. ***Services.*** Customer has entered into an Agreement for a license to the Licensed Product as set forth therein. In connection with Customer's use of the Licensed Product, Customer may contract to retain Black Duck to provide Customer with the services set out in the applicable Addendum, Purchasing Agreement, Customer Success Package and/or Statement of Work to the Agreement (collectively the "***Services***"). The delivery of the Services is expressly conditioned on Customer's acceptance of the terms and conditions of this Addendum.

1.2. ***Purchasing Agreements***; ***Statements of Work***. Customer will order Services by executing one or more written Statements of Work or Purchasing Agreements as applicable. Black Duck shall not be obligated to deliver such Services until Customer and Black Duck enter into one or more (a) written statements of work (each a "***Statement of Work***") specifically identifying the Services to be delivered by Black Duck in connection with the applicable Purchasing Agreement, unless otherwise agreed to by the parties in the applicable Addendum or (b) Purchasing Agreements identifying the applicable Services to be performed. If applicable, a Statement of Work shall identify the Services that Customer requests Black Duck to provide, the duration of the Services, the fees payable by Customer for the Services, and the payment structure. To be effective, each Addendum, Purchasing Agreement and/or Statement of Work (as applicable) must reference this Addendum, and be agreed to in writing by an authorized representative of Black Duck and Customer, and once so agreed upon will be incorporated herein by reference.

1.3. ***Performance of Services***. Black Duck will perform the Services using such resources as Black Duck deems necessary in accordance with the terms and conditions of this Addendum and of each applicable Purchasing Agreement and Statement of Work. The Services shall be performed solely in relation to the licenses to the Licensed Product granted by Black Duck to Customer under the Agreement. All terms of the Agreement and Purchasing Agreement that are not specifically amended herein will remain in full effect. Nothing in this Agreement grants Customer any rights to the Licensed Product other than as explicitly stated herein. If Black Duck personnel are working on Customer's premises: (a) Customer will provide a safe and secure working environment for such personnel; and

(b) Black Duck will comply with all reasonable workplace safety and security standards and policies that are applicable to Customer's employees and of which Customer notifies Black Duck in writing and in advance of the commencement of any Services.

1.4. ***Customer Responsibilities.*** Customer will, subject to Government security requirements, provide Black Duck with access to Customer's sites and facilities during Customer's normal business hours as reasonably required by Black Duck to perform the Services. Customer will also make available to Black Duck any data, information and any other materials reasonably required by Black Duck to perform the Services, including, but not limited to, any data, information or materials specifically identified in the Statement of Work (collectively, "***Customer Materials***").

1.5. ***Relationship of the Parties***. Black Duck is performing the Services as an independent contractor, not as an employee, agent, joint venturer or partner of Customer. Black Duck acknowledges and agrees that its personnel are not eligible for or entitled to receive any compensation, benefits or other incidents of employment that Customer makes available to its employees. Accordingly, for a period of twelve (12) months following the completion of the Services, Customer agrees not to directly or indirectly solicit for employment any Black Duck employees or contractors, provided that a job posting available to the general public shall not be deemed such a solicitation.

2. **FEES AND EXPENSES.** As consideration for the Services, Customer will pay Black Duck fees in accordance with the terms set forth in the applicable Purchasing Agreement in accordance with the GSA Schedule Pricelist. Unless otherwise stated in the applicable Purchasing Agreement, or GSA Schedule Pricelist, Customer Success Package or Statement of Work, all Services are provided on a time and materials basis. Ordering Activity agrees to pay any travel expenses incurred by Black Duck or its personnel in connection with the performance of the Services in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, Ordering Activity shall only be liable for such travel expenses as approved by Ordering Activity and funded under the applicable ordering document.

3. **OWNERSHIP.** Material and associated intellectual property rights developed by a party prior to or outside of the scope of a Customer Success Package or Statement of Work ("***Pre-Existing Material***") shall be, as between the parties, owned by the developing party. Black Duck shall own all rights, title and interest in all scripts, methodologies, processes, and documentation, and all intellectual property rights therein, developed during the provision of the Services involving (i) implementation or installation of Licensed Products into Customer's environment, (ii) configuration of workflow or reporting capabilities of the Licensed Product, and (iii) optimization of the use of the Licensed Product in Customer's environment (collectively, the "***Black Duck -Owned Work Product***"). Black Duck hereby grants to Customer, for the license term applicable to the Licensed Product licensed to Customer under the applicable Purchasing Agreement, a nonexclusive, worldwide, right to use, reproduce and create derivative works of any Pre- Existing Material owned by Black Duck and incorporated into deliverables of the Services, and the Black Duck -Owned Work product, for Customer's internal business purposes to aid in Customer's use of Licensed Product licensed by it.

4. **SERVICES WARRANTY**. Black Duck warrants that, for a period of ninety (90) days from the completion of the Services (the "***Services Warranty Period***") the Services will be performed in a professional and workmanlike manner consistent with applicable industry standards. If during the Services Warranty Period, Black Duck receives from Customer a written notice of the Service's non- conformance with the provisions set forth in this Section 4, Black Duck will, as Customer's sole and exclusive remedy

and Black Duck's entire liability for any breach of the foregoing warranty, at Black Duck's sole option and expense, promptly re-perform the non-conforming Services or refund to Customer the fees paid for the non-conforming Services. THE FOREGOING STATES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR WARRANTY CLAIMS RELATED TO THE SERVICES.

5. **ENTIRE ADDENDUM.** The parties acknowledge that they have had previous discussions related to Black Duck's performance of the Services for Customer. This Addendum, together with the underlying GSA Schedule Contract, Schedule Pricelist any Statements of Work or Customer Success Packages incorporated into the Agreement by reference and the Agreement, constitutes the complete and exclusive understanding and agreement between the parties on the subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to the Agreement, this Addendum, any Customer Success Packages or any Statements of Work.

END OF ONSITE SUPPORT SERVICES ADDENDUM

SOFTWARE DEVELOPMENT KIT ADDENDUM

IMPORTANT INFORMATION – READ CAREFULLY UNLESS YOU HAVE OBTAINED PERMISSION TO USE THE LICENSED PRODUCT UNDER A SEPARATE, DULY SIGNED LICENSE AGREEMENT OR AN EVALUATION LICENSE WITH BLACK DUCK OR AN AUTHORIZED DISTRIBUTOR, THE ACCOMPANYING SOFTWARE IS PROVIDED UNDER THE FOLLOWING TERMS AND CONDITIONS AND ANY SUPPLEMENTAL TERMS REFERENCED BELOW AND YOUR RIGHT TO USE THE SOFTWARE IS CONDITIONED UPON YOUR ACCEPTANCE OF THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS AND YOU DO NOT HAVE A SEPARATE LICENSE AGREEMENT AS REFERENCED ABOVE, YOU MAY NOT USE OR COPY THE SOFTWARE AND YOU MUST DELETE ANY COPIES OF IT FROM YOUR SYSTEMS.

1. SCOPE AND KEY TERMS.

This is an addendum (this "***SDK Addendum***") to the Agreement concerning Customer's use of the Licensed Product described below. The rights granted to the Licensed Product are expressly conditioned upon acceptance of the additional terms and conditions stated in this SDK Addendum by Customer. If an Authorized User of Customer is using the Licensed Product, Customer is the licensee of the Licensed Product. Customer may have already accepted a version of the terms and conditions of this SDK Addendum by signing a Purchasing Agreement referencing them. In all other circumstances, use by an Authorized User binds such user and Customer to these Terms and Conditions by using the Licensed Product.

The Licensed Product is the proprietary information of Black Duck or its suppliers who retain exclusive title to their intellectual property rights in the Software. Customer's rights to the Licensed Product are limited to those expressly granted below, and Black Duck reserves all rights not expressly granted in this SDK Addendum.

2. ***Definitions***. Capitalized terms in this Addendum have the meanings given them in the Agreement and/or applicable Purchasing Agreement. Whenever capitalized in this SDK Addendum:

2.1 "***SDK Addendum"*** means this Black Duck SDK Addendum.

2.2 ***"Agreement"*** means the applicable Black Duck End User Software License and Maintenance Agreement pursuant to which a license to the Licensed Product was granted to Customer in accordance with the terms and conditions therein. This SDK Addendum is hereby incorporated by reference into the Agreement.

2.3 ***"Checker"*** means one or more bug checkers developed by Customer or its Authorized Users in compliance with the Documentation for specific use with the Licensed Product.

2.4 "***Documentation***" means, for purposes of this SDK Addendum, the Documentation (as defined in the Agreement) that is specific to the Licensed Product licensed pursuant to this SDK Addendum.

2.5 "***SDK***" or "***Software Development Kit***" means the Documentation and the Licensed Product (source code and object code) provided or made available by Black Duck for use by Customer in connection with Customer's use of the Licensed Product in accordance with the terms of the Agreement.

2.6 "***Licensed Product***" means, for purposes of this SDK Addendum, the Black Duck Analysis Integration Toolkit (including without limitation any applications, sample code, simulator, tools, libraries, APIs, data, files, and materials).

2.7 "***Licensed Term***" means the period described in the applicable Purchasing Agreement for the Licensed Product.

3. SDK INTERNAL USE LICENSE AND RESTRICTIONS.

3.1 ***Permitted Uses and Restrictions.*** Subject to Customer's compliance with the terms and conditions of the Agreement and this SDK Addendum, Black Duck hereby grants Customer during the Licensed Term, a limited, non- exclusive, personal, revocable, non-sub-licensable and non- transferable license to:

3.1.1 Install up to the licensed number of copies of the SDK on computers owned or controlled by Customer, to be used internally by Customer or Customer's Authorized Users for the sole purpose of developing or testing Checkers; and

3.1.2 Make and distribute a reasonable number of copies of the Documentation to Authorized Users for Customer's internal use only and for the sole purpose of developing or testing Checkers. Customer understands that Checkers developed using the SDK can only be installed or used in conjunction with the Licensed Product. Black Duck shall not be responsible for any costs, expenses or other liabilities Customer may incur as a result of Customer's Checker development or use of this SDK.

3.2 ***Copies.*** Customer agrees to retain and reproduce in full the Black Duck copyright, disclaimers and other proprietary notices (as they appear in the SDK and Documentation provided) in any Checker created by Customer and/or its Authorized Users and in all copies of the SDK and Documentation that Customer is permitted to make under this Addendum.

4. OWNERSHIP.

4.1 Black Duck retains all rights, title, and interest in and to the SDK it may make available to Customer under this Addendum. Customer agrees to cooperate with Black Duck to maintain Black Duck's ownership of the SDK (including all Black Duck SDK materials incorporated into the Checkers that are created in connection therewith), and Customer agrees to promptly provide notice of any claims relating to the SDK (and any SDK materials incorporated into such Checkers).

4.2 Except with respect to the SDK materials that are permitted to be incorporated into a Checker pursuant to the terms of this Addendum, Customer shall retain all rights, title and interest in and to the Checkers, subject to the use limitations stated

herein.

4.3 Customer hereby grants to Black Duck, its subcontractors and authorized distributors, without charge, the right to use, copy, modify and create derivative works of any such Checkers solely for the purpose of (i) improving the operation, functionality or use of Black Duck's existing and future product offerings and commercializing such offerings; and (ii) publishing aggregated statistics about software quality, provided that no data in any such publication can be used to specifically identify Customer or Customer's Checkers or software code.

4.4 ***No Other Permitted Uses.*** Customer agrees not to rent, lease, lend, upload to or host on any website or server, sell, redistribute, or sublicense the SDK or any Checker, in whole or in part, or to enable others to do so. Customer shall not use the SDK or any Checker for any purpose not expressly permitted by this Addendum. Customer may not and Customer agrees not to, or to enable others to, copy (except as expressly permitted under this Addendum), decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, decrypt, or create derivative works of the SDK or any services provided by the SDK, or any part thereof (except as and only to the extent any foregoing restriction is prohibited by applicable law, or to the extent as may be permitted by licensing terms governing use of open-sourced components or sample code included with the SDK). Customer agrees not to exploit any services provided by the SDK in any unauthorized way whatsoever. Any attempt to do so is a violation of the rights of Black Duck and its licensors of the SDK. If Customer breaches any of the foregoing restrictions, Customer may be subject to damages. All licenses not expressly granted in this Agreement are reserved and no other licenses, immunity or rights, express or implied are granted by Black Duck, by implication, estoppel, or otherwise. This Addendum does not grant Customer any rights to use any trademarks, logos or service marks belonging to Black Duck.

4.5 ***Releases and Workarounds; No Support or Maintenance.*** Black Duck may extend, enhance, or otherwise modify the SDK at any time without notice, but Black Duck shall not be obligated to provide Customer with any Releases or Workarounds to the SDK. If Releases or Workarounds are made available by Black Duck, the terms of this Addendum will govern such Releases and Workarounds. Black Duck is not obligated to provide any Maintenance or other support for the SDK. Customer acknowledges that Black Duck has no express or implied obligation to announce or make available any Releases or Workarounds of the SDK to anyone in the future. Should a Release or Workaround be made available, it may have APIs, features, services or functionality that are different from those found in the SDK licensed hereunder.

5. CUSTOMER OBLIGATIONS.

5.1 ***Use of the SDK***. As a condition to using the SDK, Customer agrees that:

5.1.1 Customer will only use the SDK for the purposes and in the manner expressly permitted by this Addendum and in accordance with all applicable laws and regulations;

5.1.2 Customer will not use the SDK for any unlawful or illegal activity, nor to develop any Checker which would commit or facilitate the commission of a crime, or other tortious, unlawful, or illegal act;

5.1.3 To the best of Customer's knowledge and belief, Customer Checkers do not and will not violate, misappropriate, or infringe any copyright, patent, trademark, trade secret, rights of privacy and publicity, or other proprietary or legal right of any third party or of Black Duck.

5.2 ***Requirements for Checkers.*** Any Checker developed using this SDK must comply with these criteria and requirements, as they may be modified by Black Duck from time to time:

5.2.1 Checkers may only use SDK materials in the manner prescribed by Black Duck and must not use or call any materials not published or authorized by Black Duck.

5.2.2 A Checker may not itself install or launch other executable code by any means, including without limitation through the use of a plug-in architecture, calling other frameworks, other APIs or otherwise. No interpreted code may be downloaded and used in a Checker except for code that is interpreted and run by the Licensed Product.

5.2.3 Checkers must comply with the Documentation provided by Black Duck.

5.2.4 If Customer's Checker includes any Open Source Licensed Product, Customer agrees to comply with all applicable Open Source Licensed Product licensing terms. Customer also agrees not to use any Open Source Licensed Product in the development of Customer's Checker in such a way that would cause the non-Open Source Licensed Product portions of the SDK to be subject to any Open Source Licensed Product licensing terms or obligations, including, without limitation, any condition of use, copying, modification or redistribution, which would require such Checker or the Licensed Product and derivative works thereof to be disclosed or distributed in source code form, to be licensed for the purpose of making derivative works, or to be redistributed free of charge (including without limitation as software distributed under the GNU General Public License or GNU Lesser/Library GPL).

6. **RESERVED.**

LIMITED WARRANTY. BLACK DUCK WARRANTS THAT THE SDK WILL, FOR A PERIOD OF THIRTY (30) DAYS FROM THE DATE OF YOUR RECEIPT, PERFORM SUBSTANTIALLY IN ACCORDANCE WITH SDK WRITTEN MATERIALS ACCOMPANYING IT. EXCEPT AS EXPRESSLY SET FORTH IN THE FOREGOING, CUSTOMER EXPRESSLY ACKNOWLEDGES AND AGREES THAT USE OF THE SDK IS AT CUSTOMER'S SOLE RISK AND THAT THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH CUSTOMER. THE SDK IS PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND BLACK DUCK

AND BLACK DUCK'S LICENSORS HEREBY DISCLAIM ALL WARRANTIES AND CONDITIONS WITH RESPECT TO THE SDK, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, TIMELINESS, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. BLACK DUCK DOES NOT WARRANT AGAINST INTERFERENCE WITH CUSTOMER'S ENJOYMENT OF THE SDK, THAT THE SDK WILL MEET CUSTOMER'S REQUIREMENTS, THAT THE OPERATION OF THE SDK WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS IN THE SDK WILL BE CORRECTED, OR THAT THE SDK WILL BE COMPATIBLE WITH FUTURE BLACK DUCK PRODUCTS OR SOFTWARE.

7. **ENTIRE ADDENDUM.** This Addendum, together with the underlying GSA Schedule Contract, Schedule Pricelist, Purchase Order(s), constitutes the complete and exclusive understanding and agreement between the parties on the subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to this Addendum. Parties specifically agree that Sections 1.5 (Documentation), 1.7 (Licensed Product), 2 (License), 4 (Warranty) and 5 (Indemnity) of the Agreement are not applicable to the SDK and that the SDK shall not be eligible for maintenance services.

END OF SOFTWARE DEVELOPMENT KIT ADDENDUM

SPECIAL TERMS AND CONDITIONS ADDENDUM

1. **SEEKER; DEFENSICS.** If Customer has purchased a license to the Licensed Products known as either Seeker ("***Seeker***") or Defensics ("***Defensics***"), the following additional terms apply:

1.1. ***Seeker***

1.1.1. ***Use in Test Environment Only***. SEEKER IS AN AUTOMATED TESTING SOLUTION DESIGNED TO BE USED IN NON-PRODUCTION ENVIRONMENTS ONLY. As part of the
processes completed by Seeker, Seeker will automatically generate requests to the applicable Customer website, thus activating various website and associated database operations. Such processes may add to, modify, tamper with, and /or delete any persistent data contained in such site or in such database. CUSTOMER IS HEREBY ADVISED TO EXCLUDE ALL WEBSITES FOR WHICH CUSTOMER DOES NOT WANT SEEKER TO PERFORM SUCH OPERATIONS. SUCH OPERATIONS MAY ALSO BE DISABLED FROM THE SETTINGS-
>TEST/GENERAL SCREEN.

1.1.2. ***Purpose; Data Modification; Data Collection.*** Customer understands that Seeker is software that conducts certain tests by (i) gathering data and information from the environments, websites, software products, databases, and servers in which it operates and potentially saving such data and information in the database of Seeker, and (ii) potentially changing, deleting, or otherwise altering such data and information. Customer further understands that Seeker is designed to be used solely as part of a development and test environments, which are not production environments.

1.1.3. ***Use of Customer End User Information.*** Seeker uses sample end user data (including names, passwords, addresses, account numbers, credit card numbers and other data) that has been created for use in the operations performed by Seeker ("**Test/Form Data**"). Customer end user data used in Customer's production website, database and server environment may contain Personally Identifiable Information (as defined under U.S. law), Personal Data (as defined under European Union law and the implementing regulations of its member states) and other data regulated by U.S. and international law (collectively, "***Regulated Data***"). In the event that Customer provides Black Duck access to such Regulated Data for purposes of the performance of Black Duck Maintenance Services or otherwise, as between Black Duck and Customer, Black Duck shall be deemed a data processor and Customer shall be deemed the data controller with respect to such Regulated Data. CUSTOMER IS HEREBY ADVISED TO USE THE SUPPLIED TEST/FORM DATA ONLY IN THE OPERATION OF SEEKER. CUSTOMER IS HEREBY FURTHER ADVISED THAT THE USE OF REGULATED DATA IN SEEKER OPERATIONS IS A VIOLATION OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IN THE EVENT THAT CUSTOMER USES REGULATED DATA IN SEEKER OPERATIONS, CUSTOMER SHALL HOLD BLACK DUCK HARMLESS FROM ANY LIABLITY RESULTING FROM SUCH USE.

1.1.4. ***Credit Card Usage***. As part of Seeker's operations, Seeker will automatically test credit card forms, creating credit card transactions using such credit card forms using Test/Form Data. CUSTOMER SHALL BE SOLELY RESONSIBLE TO ENSURE THAT ANY ALL TESTED ENVIRONMENTS, APPLICATIONS, DATABASES, AND SERVERS CONTAIN TEST/FORM DATA ONLY. CUSTOMER IS HEREBY ADVISED TO USE TEST CREDIT CARD FORMS ONLY, AND TO DISCONNECT TESTED WEBSITES FROM PRODUCTION TRANSACTION SERVERS PRIOR TO TESTING. SUCH OPERATIONS MAY ALSO BE DISABLED FROM THE SETTINGS-
>TEST/GENERAL SCREEN. BLACK DUCK SHALL BEAR NO LIABILITY FOR AND CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR AND SHALL HOLD BLACK DUCK HARMLESS IN CONNECTION WITH ANY CUSTOMER-INITIATED CREDIT CARD TRANSACTIONS RESULTING FROM THE USE OF ANY DATA OTHER THAN TEST/FORM DATA IN THE OPERATION OF SEEKER.

1.2. ***Defensics***

1.2.1. ***Use in Test Environment Only***. DEFENSICS IS AN automated TESTING SOLUTION DESIGNED TO BE USED IN NON-PRODUCTION ENVIRONMENTS ONLY. As part of the
processes completed by Defensics, Defensics will automatically test specific protocols of Customer software identified by Customer. Such protocols may add to, modify, tamper with, and /or delete portions of the software under test, and may disable software functionality in production environments. CUSTOMER IS HEREBY ADVISED NOT TO USE DEFENSICS IN ANY PRODUCTION ENVIRONMENT.

2. **DISCLAIMER.** CUSTOMER IS NOT LICENSED TO USE SEEKER OR DEFENSICS IN PRODUCTION ENVIRONMENTS; IN THE EVENT THAT CUSTOMER USES EITHER SEEKER OR DEFENSICS IN PRODUCTION ENVIRONMENTS, BLACK DUCK SHALL BEAR NO RESPONSIBILITY FOR SUCH USES AND CUSTOMER SHALL BEAR ALL LIABILITY FOR SUCH USES AND SHALL HOLD BLACK DUCK HARMLESS IN CONNECTION WITH ANY LIABILITY RESULTING FROM SUCH CUSTOMER USES.

END OF SPECIAL TERMS AND CONDITIONS ADDENDUM

OSTING SERVICES ADDENDUM

1. **DEFINITIONS.**

1.1 **"Hosted Software**" means the software described in the applicable Purchasing Agreement that Black Duck will provision hosting services for on behalf of Customer under the terms of this Hosting Services Addendum.

1.2 **"Hosting Services**" means the services related to the Hosted Software described in this Hosting Services Addendum.

2. **Hosting Services Description**. During the term set forth in Section 3 below, Black Duck shall provision Hosting Services on behalf of Customer as follows:

Black Duck will be responsible for managing the set-up, configuration and hosting of the Hosted Software including, but not limited to, managing the installation of all revisions, new versions, and updates to the Hosted Software.

3. **POST-TERMINATION HOSTING.**

Black Duck will permit Customer to access the Hosted Software for a maximum of thirty (30) days post termination of the Agreement or the applicable Purchasing Agreement, as applicable, for the limited purpose of accessing and downloading any Customer data retained therein.

4. **HOSTING SERVICES PERFORMANCE WARRANTY**.

4.1 Uptime. Black Duck will (a) have at least 99.5% uptime ("**Service Availability**"), as measured monthly, excluding planned downtime and any time necessary to implement updates, upgrades or modification to the Hosted Software, and (b) not experience more than two (2) instances of unscheduled downtime of more than one (1) hour each in any rolling thirty (30) day period. Routine updates to the Hosted Software are scheduled once per month on a Sunday, typically between the hours of 4 am and 8 am (Eastern US time zone).

4.2 Exclusions. This Service Availability warranty shall not apply in the event of any interruption or failure of telecommunication or digital transmission links outside of Black Duck's network, Internet network congestion outside of Black Duck's network or other failures outside of Black Duck's network.

5. Limitation of Liability. EXCEPT FOR THE EXPRESS SERVICE AVAILABILITY WARRANTY STATED IN SECTION 4, THIS HOSTING SERVICES ADDENDUM DOES NOT CREATE ANY OTHER REPRESENTATION OR WARRANTY RELATED TO THE AVAILABILITY, ACCESSIBILITY, OR USEABILITY OF THE HOSTED SOFTWARE. THE REMEDIES STATED IN THE AGREEMENT ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BLACK DUCK'S FAILURE TO MEET THE WARRANTIES SET FORTH HEREIN.

6. ENTIRE ADDENDUM. The parties acknowledge that they have had previous discussions related to Black Duck's performance of the Hosting Services for Customer. This Addendum constitutes the complete and exclusive understanding and agreement between the parties on the subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to the Agreement or this Addendum.

END OF HOSTING SERVICES ADDENDUM