

Carahsoft Rider to Manufacturer Commercial Supplier Agreements
(for U.S. Government End Users)
Revised 20160504

- 1. Scope.** This Carahsoft Rider and the Manufacturer's Commercial Supplier Agreement (CSA) establish the terms and conditions enabling Carahsoft to provide Software and Services to U.S. Government agencies (the "Client" or "Licensee").

- 2. Applicability.** The terms and conditions in the attached Manufacturer's CSA are hereby incorporated by reference to the extent that they are consistent with Federal Law (e.g., the Anti-Deficiency Act (31 U.S.C. § 1341(a)(1)(B)), the Contracts Disputes Act of 1978 (41 U.S.C. § 601-613), the Prompt Payment Act, the Anti-Assignment statutes (31 U.S.C. § 3727 and 41 U.S.C. 15), 28 U.S.C. § 516 (Conduct of Litigation Reserved to Department of Justice (DOJ), and 28 U.S.C. § 1498 (Patent and copyright cases)). To the extent the terms and conditions in the Manufacturer's CSA is inconsistent with the Federal Law (*See* FAR 12.212(a)), they shall be deemed deleted and unenforceable under any resultant orders under Carahsoft's Multiple Award Schedule Contract, GS-35F-0119Y, including, but not limited to the following:
 - (a) Contracting Parties.** The Government customer (Licensee) is the "Ordering Activity", defined as an entity authorized to order under Government contracts as set forth in Government Order 4800.2H ADM, as may be revised from time to time. The Licensee cannot be an individual because any implication of individual licensing triggers the requirements for legal review by Federal Employee unions. Conversely, because of competition rules, the contractor must be defined as a single entity even if the contractor is part of a corporate group. The Government cannot contract with the group, or in the alternative with a set of contracting parties.

 - (b) Changes to Work and Delays.** Subject to General Services Administration Acquisition Regulation (GSAR) 552.238-81 Modifications (Federal Supply Schedule) (APR 2014) (Alternate I – APR 2014) and GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) regarding which of the GSAR and the FAR provisions shall take precedence.

 - (c) Contract Formation.** Subject to FAR Sections 1.601(a) and 43.102, the Government Order must be signed by a duly warranted contracting officer, in writing. The same requirement applies to contract modifications affecting the rights of the parties. All terms and conditions intended to bind the Government must be included within the contract signed by the Government.

- (d) Audit.** During the term of this CSA: (a) If Ordering Activity's security requirements included in the Order are met, Manufacturer or its designated agent may audit Ordering Activity's facilities and records to verify Ordering Activity's compliance with this CSA. Any such audit will take place only during Ordering Activity's normal business hours contingent upon prior written notice and adherence to any security measures the Ordering Activity deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. Carahsoft on behalf of the Manufacturer will give Ordering Activity written notice of any non-compliance, including the number of underreported Units of Software or Services ("Notice"); or (b) If Ordering Activity's security requirements are not met and upon Manufacturer's request, Ordering Activity will run a self-assessment with tools provided by and at the direction of Manufacturer ("Self-Assessment") to verify Ordering Activity's compliance with this CSA.
- (e) Termination.** Clauses in the Manufacturer's CSA referencing termination or cancellation of the Manufacturer's CSA are hereby deemed to be deleted. Termination shall be governed by the GSAR 552.212-4 and the Contract Disputes Act, 41 U.S.C. §§ 601-613, subject to the following exceptions:
- Carahsoft may request cancellation or termination of the CSA on behalf of the Manufacturer if such remedy is granted to it after conclusion of the Contracts Disputes Act dispute resolutions process referenced in Section (q) below or if such remedy is otherwise ordered by a United States Federal Court.
- (f) Consent to Government Law / Consent to Jurisdiction.** Subject to the Contracts Disputes Act of 1978 (41. U.S.C §§ 7101-7109) and Federal Tort Claims Act (28 U.S.C. §1346(b)). The validity, interpretation and enforcement of this Rider and the CSA will be governed by and construed in accordance with the laws of the United States. All clauses in the Manufacturer's CSA referencing equitable remedies are deemed not applicable to the Government order and are therefore deemed to be deleted.
- (g) Force Majeure.** Subject to GSAR 552.212 -4 (f) Contract Terms and Conditions – Commercial Items, Excusable Delays (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). Unilateral Termination by the Contractor does not apply to a Government order and all clauses in the Manufacturer's CSA referencing unilateral termination rights of the Manufacturer's CSA are hereby deemed to be deleted.
- (h) Assignment.** All clauses regarding Assignment are subject to FAR Clause 52.232-23, Assignment of Claims (MAY 2014) and FAR 42.12 Novation and Change-of-Name Agreements, and all clauses governing Assignment in the Manufacturer's CSA are hereby deemed to be deleted.
- (i) Waiver of Jury Trial.** All clauses referencing waiver of Jury Trial are subject to FAR Clause 52.233-1, Disputes (MAY 2014), and all clauses governing waiver of jury trial in the Manufacturer's CSA are hereby deemed to be deleted.

- (j) **Customer Indemnities.** All of the Manufacturer's CSA clauses referencing Customer Indemnities are hereby deemed to be deleted.
- (k) **Contractor Indemnities.** All of the Manufacturer's CSA clauses that (1) violate DOJ's right (28 U.S.C. 516) to represent the Government in any case and/or (2) require that the Government give sole control over the litigation and/or settlement, are hereby deemed to be deleted.
- (l) **Renewals.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11) ban on automatic renewal are hereby deemed to be deleted.
- (m) **Future Fees or Penalties.** All of the Manufacturer's CSA clauses that violate the Anti-Deficiency Act (31 U.S.C. 1341, 41 U.S.C. 11), which prohibits the Government from paying any fees or penalties beyond the Contract amount, unless specifically authorized by existing statutes, such as the Prompt Payment Act, or Equal Access To Justice Act 31 U.S.C. 3901, 5 U.S.C. 504 are hereby deemed to be deleted.
- (n) **Taxes.** Taxes are subject to GSAR 552.212-4(k) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored) and GSAR 552.212-4 (w)(1)(x) Contract Terms and Conditions – Commercial Items, Taxes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored).
- (o) **Third Party Terms.** Subject to the actual language agreed to in the Order by the Contracting Officer. Any third party manufacturer will be brought into the negotiation, or the components acquired separately under Federally-compatible agreements, if any. Contractor indemnities do not constitute effective migration.
- (p) **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer's CSA, unless an Ordering Activity determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid task order placed pursuant to the Government contract.
- (q) **Dispute Resolution and Venue.** Any disputes relating to the Manufacturer's CSA and to this Rider shall be resolved in accordance with the FAR, the GSAR and the Contract Disputes Act, 41 U.S.C. §§ 7101-7109. See GSAR 552.212-4 (w)(1)(iii) Contract Terms and Conditions – Commercial Items, Law and Disputes (MAY 2015) (Alternate II – JUL 2009) (FAR Deviation – JUL 2015) (Tailored). The Ordering Activity expressly acknowledges that Carahsoft, as the vendor selling the Manufacturer's licensed software, shall have standing under the Contract Disputes Act to bring such claims that arise out of licensing terms incorporated into Multiple Award Schedule Contract GS-35F-0119Y.

(r) Limitation of Liability: Subject to the following:

Carahsoft, Manufacturer and Ordering Activity shall not be liable for any indirect, incidental, special, or consequential damages, or any loss of profits, revenue, data, or data use. Further, Carahsoft, Manufacturer and Ordering Activity shall not be liable for punitive damages except to the extent this limitation is prohibited by applicable law. This clause shall not impair the U.S. Government's right to recover for fraud or crimes arising out of or related to this Government Contract under any federal fraud statute, including the False Claims Act, 31 U.S.C. §§ 3729-3733.

(s) Advertisements and Endorsements. Unless specifically authorized by an Ordering Activity in writing, such use of the name or logo of any U.S. Government entity is prohibited.

(t) Public Access to Information. Manufacturer agrees that the CSA and this Rider contain no confidential or proprietary information and acknowledges the CSA and this Rider will be available to the public.

(u) Confidentiality. Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, 5 U.S.C. §552, and any order by a United States Federal Court. The Licensee may provide information to other components of the United States Government pursuant to proper requests for such information as permitted by law, regulation or policy (e.g., disclosures to Congress, auditors, Inspectors General, etc.).



Securing Your Journey
to the Cloud

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IMPORTANT: READ CAREFULLY. PURCHASE/LICENSE/USE OF AN ATP APPLIANCE (AS DEFINED BELOW) BY BUSINESS AND GOVERNMENTAL ENTITIES IS ON AND SUBJECT TO THE FOLLOWING TERMS, CONDITIONS, LIMITATIONS, AND EXCLUSIONS

Trend Micro Terms/Conditions of Sale and Software License Agreement

Trial Use and Paid Use – Trend Micro TippingPoint Advanced Threat Protection Hardware-Based Appliance Family of Products

Date: February 2016
English – Enterprise Customers

THE TREND MICRO TIPPINGPOINT ADVANCED THREAT PROTECTION (“ATP”) APPLIANCE INCLUDES AND REQUIRES THE SOFTWARE THAT MUST BE UPDATED ROUTINELY FOR THE ATP APPLIANCE TO OPERATE EFFECTIVELY. TREND MICRO INCORPORATED (INCLUDING ITS TIPPINGPOINT BUSINESS UNIT, COLLECTIVELY (“TREND MICRO”) OFFERS TO LICENSE YOU SOFTWARE (AS DEFINED BELOW) AND DOCUMENTATION ONLY IF YOU AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ACQUIRING THE ATP APPLIANCE ON BEHALF OF A COMPANY OR OTHER ORGANIZATION, YOU REPRESENT TO TREND MICRO THAT YOU ARE DULY AUTHORIZED TO REPRESENT SUCH ORGANIZATION AND YOU ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF SUCH ORGANIZATION.

IF YOU DO NOT WISH TO ACCEPT THIS AGREEMENT OR YOU ARE NOT AN AUTHORIZED REPRESENTATIVE, PLEASE TAKE THE ACTION SET FORTH IN SECTION 5 BELOW AND DO NOT CONNECT OR USE THE ATP APPLIANCE OR ACTIVATE THE SOFTWARE, AND IF YOU HAVE PAID ANY FEES BEFORE RECEIVING NOTICE OF THIS AGREEMENT, CONTACT YOUR SUPPLIER (TREND MICRO OR CHANNEL PARTNER AS THE CASE MAY BE) WITHIN THIRTY (30) DAYS OF YOUR PURCHASE FOR A REFUND AGAINST RETURN OF THE ATP APPLIANCE. THIS RIGHT APPLIES ONLY IF YOU ARE THE ORIGINAL END USER/PURCHASER.

1. **Scope.** This Agreement applies to the ATP Appliance You have acquired the use of or purchased. The Hardware portion of the Appliance is sold to You, whereas, the Software portion of the Appliance is licensed to You in accordance with this Agreement and NOT sold to You.

2. **Applicable Terms; Definitions. Paid Use Licenses:** If You are a Paid User, Sections 1 through 8 and 10 through 31 of this Agreement apply to You. **Trial Use Licenses:** If You are entitled to a Trial Use, Sections 1 through 9, 10(c), 10(d), 11, 13, 14, 18 through 27, and 29 through 31 of this Agreement apply to You.

Definitions. In addition to initially capitalized and underlined definitions, descriptions, agreements, clarifications, and limitations thereto that may be set forth elsewhere in this Agreement, the initially capitalized and underlined definitions, descriptions, agreements, clarifications, and limitations set forth in this Section 2 shall have the meanings specified or referred in this Section 2 (each is an “**Agreed Definition**”) and all Agreed Definitions shall be equally applicable to the singular, plural, and derivative forms.

“**Channel Partner**” means any distributor, reseller, value-added reseller, or system integrator permitted by Trend Micro to resell the ATP Appliance.

“**Cloud Services**” means (only for such time as Maintenance is provided or Renewal Maintenance is purchased by You in support of the Software) the cloud services features/functionality of the Software (such as the Smart Protection Network) that are made available to You by such means as may be designated, enabled, or provided by Trend Micro from data centers/servers hosted by or on behalf of Trend Micro. Even if purchased by You pursuant to Maintenance/Renewal Maintenance, such Cloud Services may nevertheless be deactivated, disabled, or refused at any time at Your sole option/discretion in accordance with the Documentation.

“Confidential Information” shall have the meaning set forth in Section 20.

“Custom Sandbox” means a secured code execution environment of the Software that may be optionally created by You to meet Your specific/unique system/environmental requirements. Each Custom Sandbox requires various virtualized versions of Microsoft Windows and specified versions of Microsoft Office (collectively the **“Microsoft Components”**) that must be licensed, purchased, installed, and configured by You (or on Your behalf by a third party) in order for Custom Sandboxing to be created, deployed, and utilized by You. For the avoidance of doubt, each version of Software has a fixed number of Custom Sandboxes that may be created by You as advised by Trend Micro from time-to-time.

“ATP Appliance” or **“Appliance”** means depending which is acquired/purchased by You: (1) Advanced Threat Protection for Network; (2) Advanced Threat Protection Analyzer; (3) Advanced Threat Protection Email; and/or (4) additional or successor single-purpose, hardware-based appliances that are based on and include the Software. Each ATP Appliance is comprised of Hardware and Software that is installed by Trend Micro prior to delivery of the Appliance to You.

“Dell” means Dell Marketing L.P., or an affiliate.

“Documentation” means the technical documentation and operating instructions made available to You in connection with the Software, including printed updates, “Read Me” files and release notes available on-line.

“Hardware” means the Dell-manufactured/licensed hardware as well as operating system, firmware, and other utilities and routines provided by Dell with the Hardware.

“Internal Use” means Your access to and use of the Software for purposes of supporting Your internal operations or functions.

“License Termination Event” means the occurrence of an event or circumstance by which the license granted to You under this Agreement will terminate immediately and without additional notice, it being understood and agreed that such License Termination Event shall be the earliest to occur of the following: (1) the Software is uninstalled from the ATP Appliance; (2) the ATP Appliance is retired, removed from service, repurposed by adding additional/different software thereto not specifically permitted by the Documentation with respect to Custom Sandboxing, or the Hardware portion of the ATP Appliance is modified by You without permission of Trend Micro; (3) You terminate this Agreement at any time by notifying Trend Micro in writing; (4) either party terminates a Trial Use in accordance with Section 9; or (5) You fail to cure a breach of any of Your material obligations under this Agreement within thirty (30) days of receipt of notice from Trend Micro.

“Limited Warranty” shall, with respect to the Paid Use of the Software, have the meaning set forth in Section 15. With respect to the Paid Use of the Hardware, the term Limited Warranty shall have the meaning set forth in Section 7(B).

“Maintenance” means, with respect to the Software only, Updates plus any other services/support that Trend Micro publishes from time-to-time as being part Maintenance.

“Open Source Software” means: (1) each and every third party software code/component that is licensed/distributed under a license agreement approved by the Open Source Initiative or similar open source or freeware license (and not this Agreement); and (2) is embedded or included in the Software licensed hereunder; including any of the following Open Source Initiative-approved license agreements: (a) GNU’s General Public License (GPL), Lesser/Library GPL (LGPL), and GNU Affero Public License; (b) The Artistic License (i.e., PERL); (c) the Mozilla Public License; (d) the Netscape Public License; (e) the Berkeley Software Distribution (BSD license including Free BSD or BSD-style license; (f) the Sun Community Source License (SCSL); (g) an Open Source Foundation License (e.g., CDE and Motif UNIX user interfaces); (h) the Apache Server license; or (i) the MIT License. For the avoidance of doubt, each individual, third party software code/component of Open Source Software has its own copyright and its own Open Source Software license agreement.

“Paid Use” means that You have access to, or possession/use of, an ATP Appliance for any purpose or reason other than for a Trial Use and You have, among other things, agreed to this Agreement.

“Renewal Maintenance” means the optional one (1) year (or more) renewal of Maintenance that is purchased by You prior to the expiration of the initial one (1) year of Maintenance that is included with each new license of the Software at no additional cost. If you allow Maintenance to lapse, Trend Micro is not obligated to reinstate paid Maintenance that has lapsed for more than one (1) year. If reinstated by You, You will pay current Maintenance charges, retroactive to the date of lapse.

“Representative” shall have the meaning set forth in Section 3.



“Software” means the object code version of the Trend Micro-published ATP applications software (and applicable Documentation) that is typically provided with the Hardware to form the Appliance being provided hereunder to You. You understand that the Software that is licensed by Trend Micro with each Appliance that is sold hereunder for Paid Use DOES NOT contain any Microsoft Components, but rather, it is the Your responsibility to properly purchase and license such Microsoft Components in order to create Custom Sandboxes. The term Software also includes: (a) Updates to the Software purchased by You; and (2) the Cloud Services purchased by You that may be deployed by You in accordance with the Documentation. Software does not include any Microsoft Components that may be installed on the ATP Appliance by You or any third party. The Software is subject to the terms and conditions of this Agreement. The parties agree that neither the Software, nor any component thereof, may be installed, deployed, or used on any device other than the Appliance or used for any other purpose other than set forth herein.

“Territory” means worldwide.

“Trial Use” means that You have access to the Software as part of an unpaid trial, evaluation, or proof-of-concept with respect to an ATP Appliance that is not in Your production environment/systems. Any other access to, or use of, the Software is a Paid Use.

“Updates” means: (1) updates to the Software that contains error corrections, updates, modifications, new features/functionality/versions, and patches for security vulnerabilities; (2) new versions of the Software's content security component(s) known as pattern files or definitions; and (3) all bug fixes for the Software. For the avoidance of doubt, Updates are only available to You pursuant to Maintenance or paid Renewal Maintenance. Updates made available to You will be subject to the terms of this Agreement. Updates will replace previously licensed parts of the Software.

3. **Binding Contract.** This Trend Micro Terms of Sale and Software License Agreement (this **“Agreement”**) is a binding contract between the Trend Micro entity that is designated as the **Licensor** in Section 31 below (herein **“Trend Micro,” “Licensor,” “Us,” “We,”** or **“Our”**) and the legal entity that is using/acquiring/purchasing the Hardware portion of the ATP Appliance and licensing the installed Software on a Paid Use or Trial Use basis. Your employee or Your agent, including a Channel Partner or contractor that installs or registers the Software for or on behalf of Your entity (each a **“Representative”**) must accept this Agreement on behalf of Your entity before the Software may be activated, deployed, or used. An entity whose Representative has validly accepted this Agreement are referred to as **“You”** or **“Your.”** Please print this Agreement and save a copy electronically.

NOTE: SECTION 19 OF THIS AGREEMENT LIMITS TREND MICRO'S OBLIGATIONS FOR ACTUAL DIRECT DAMAGES AND EXCLUDES TREND MICRO'S LIABILITY FOR CERTAIN DAMAGES AND YOUR REMEDIES WITH RESPECT THERETO. SECTIONS 9, 15, 16, AND 19 LIMIT OUR WARRANTY/GUARANTY OBLIGATIONS AND YOUR REMEDIES. SECTIONS 9 THROUGH 14, 18, 27, 28, 29 AND 31 SETS FORTH IMPORTANT CONDITIONS OF USE FOR THE SOFTWARE.

4. **Agreement Acceptance.** This Agreement will be accepted by You and a contract formed when Your Representative selects an **“I Accept,” “OK”** or **“Yes”** button or box on a window presented to You and/or You enter the product registration key or activation code (whichever is first) made available to You by any means.

5. **Agreement Rejection.** If a Representative is not authorized to accept this Agreement on Your behalf, or if Your Representative does not agree with any term or condition of this Agreement, select the **“I Do Not Accept”** or **“No”** button and do not input the registration key or activation code or otherwise use the Appliance. IF ANY ENTITY DOES NOT AGREE WITH ANY TERM OF THIS AGREEMENT AND HAS PAID FEES BEFORE RECEIVING NOTICE OF THIS AGREEMENT, IT MAY CONTACT THE SELLER OF THE ATP APPLIANCE WITHIN 30 DAYS OF RECEIPT OF THE ORDER CONFIRMATION FOR A REFUND.

6. **Applicable Agreement.** When installing/activating the Software, this Agreement shall take precedence notwithstanding the terms contained in any other end user license agreement You may have been prompted to accept; *provided, however,* if the Software and the ATP Appliance are subject to an existing written “wet/manual signature” contract or agreement signed by You and Trend Micro that specifically references the Software AND the Appliance, then and ONLY in such event, the wet/manual signature contract shall take precedence. Some Updates may also require You to accept additional or different license terms as a condition of use, which subsequent agreement will govern and control only to the extent it modifies this Agreement. Otherwise, this Agreement and Software's written Documentation will supersede any prior or contemporaneous written or oral agreements, representations or understandings and You represent to Trend Micro that You are not relying on any representations or warranties, express or implied, regarding the Software or the subject matter of this Agreement. Modifications to this Agreement must be agreed in a written amendment hereto signed by You and Trend Micro.

7. Additional Hardware Specific Terms.

(A) No Trend Micro Hardware Warranty. Notwithstanding anything to the contrary in this Agreement, since the Hardware is manufactured and warranted by Dell and Trend Micro is only acting as a OEM reseller thereof, Trend Micro makes no representation, warranty, or guaranty of any kind or nature with respect to Hardware, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR OR SPECIFIC PURPOSE, TITLE, OR NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED BY TREND MICRO.

(B) Dell Warranty; On-Site Support; Assignment. At no additional cost to You, with respect to Paid Use (but not Trial Use) all Hardware forming a part of each unit of the Appliance purchased by You hereunder is provided with the following services/programs: (1) Dell's Limited Hardware Warranty (which is available at <http://www.dell.com/learn/us/en/vn/solutions/limited-hardware-warranties> or from Trend Micro) for a period of thirty-six (36) months from date the Appliance is shipped to You by Trend Micro; and (2) Dell's on-site (four hour response in the limited geographical areas designated by Dell and such longer period of time in other areas as specified by Dell) support contract for a period of thirty-six (36) months from the shipped to date. You understand that Dell may modify terms applicable to the forgoing services/programs from time-to-time. After the expiration of the thirty-six (36) month period set forth above, extended warranty or on-site support agreements may be available from Trend Micro or directly from Dell. If You are purchasing the Hardware from Trend Micro in North America or Canada, You agree to initially contact Trend Micro (and not Dell) with respect to any Hardware support/warranty service requests as well as Software Maintenance requirements related to Your Appliance either via email to tippingpoint.support@trendmicro.com or toll-free at 866-681-8324. For local numbers in other countries or regions, please visit <https://tmc.tippingpoint.com/TMC/> and select "Support" and "Support Contacts".

(C) Paid Use Title; Hardware Ownership. Risk of loss for the Hardware component of an Appliance that sold to You for Paid Use is transferred to You, CIP (Incoterms 2010), Trend Micro's (or its manufacturer's or distributor's) dock when loaded onto the first carrier for shipment to You. For the avoidance of doubt, You are not leasing, licensing, or renting the Hardware, but rather, You are purchasing the Hardware component of the Appliance from Trend Micro. Once title passes to You with respect to the Hardware, You may repurpose the Hardware at any time at your discretion by adding additional or different software to the Hardware or uninstalling the Software from the Appliance, but in the event You do so, You agree that such action may be a License Termination Event hereunder.

8. Software Ownership. The Software and Documentation are the property of Trend Micro or its licensors, and are protected by copyright, trade secret, U.S.A. or other patent laws, and international treaty provisions. By accepting this Agreement and payment of royalties and fees to Trend Micro or its Channel Partner in accordance with agreed payment terms, You acquire only the limited rights to the Software and Documentation as set forth in the Agreement. All other rights and privileges in or to the Software are reserved by Trend Micro.

9. Trial License; Trial Use.

(A) Trial Use. If You have a Trial Use of the ATP Appliance, You may use the Software forming a part of the ATP Appliance in the Territory for Trial Use purposes for no more than thirty (30) days after shipment of the Appliance (unless You are allowed a longer time by Trend Micro in writing) to You on the condition precedent that You have accepted and agreed to this Agreement. Notwithstanding anything contained in this Agreement to the contrary, any Trial Use may be terminated by either party hereto without cause or reason at any time by giving the other party at least five (5) days written notice. You understand and agree that if, after the completion of Trial Use, you decide to acquire the Appliance for Paid Use that is being used for Trial Use by You, You WILL BE required to uninstall the Software and all Microsoft Components and enter into this Agreement anew with respect to such Paid Use before the Software can be reinstalled in the Appliance. You may use the Appliance and its Software for comparison with or benchmarking against third party products or services being evaluated by You; *provided, however*, You agree that You and Your Representatives will not publish or provide the results of any comparison/benchmarking or any analysis thereof to any third party without the written permission of Trend Micro.

(B) Trial Use – Microsoft Components. If You are provided any Microsoft Components that are installed on (or otherwise made available to You by a third party such as a Channel Partner or Microsoft in connection with Custom Sandboxing) the ATP Appliance that is the subject matter of a Trial Use, You understand and agree that: (1) any such Microsoft software is NOT part of the Software licensed by Trend Micro hereunder; (2) is NOT licensed or made available to You by Trend Micro; and (3) Trend Micro shall have no responsibility or liability in connection therewith. Notwithstanding the foregoing, if You are nevertheless provided the ATP Appliance with Microsoft Components that are trial/test (*i.e.*, a not “for sale/production use” version/license) software installed by Trend Micro (or a Channel Partner) for Trial Use, You agree that: (a) Your use thereof is subject to this Agreement even though it is not Software; and (b) Your Trial Use license and Your use and possession of the Software and any Microsoft Components supplied by Trend Micro will terminate immediately and without notice on termination or expiration of the Trial Use even if You subsequently purchase an Appliance for Paid Use.

(C) No Warranty. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND RELATED DOCUMENTATION USED FOR TRIAL, PROOF-OF-CONCEPT, OR EVALUATION PURPOSES ARE PROVIDED TO YOU “**AS IS**” WITH ALL **FAULTS** AND WITHOUT WARRANTIES OF ANY KIND AND TREND MICRO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.

(D) Trial Use License - Termination. Your possession and use of the Software and the ATP Appliance will terminate on the occurrence of the following events: (a) Your rights to Trial Use terminate in accordance with Section 9(A); or (b) a License Termination Event occurs. On termination of Trial Use, You covenant and agree that You will, UNLESS YOU ARE OTHERWISE SPECIFICALLY INSTRUCTED BY TREND MICRO IN WRITING, immediately uninstall and destroy the Software and Microsoft Components (without retention of any copies thereof) provided by Trend Micro or a Channel Partner even if you are permitted to retain the hard drive of the Appliance. In addition, You agree to ship the Appliance to Trend Micro within seven (7) days of such termination, freight prepaid and fully insured. You covenant that You will provide to Trend Micro if requested, an unqualified certification of destruction and/or shipment of the Software and Microsoft Components in accordance with the this Section. Your obligations under Sections 8, 9, 10(c), 10(d), 11, 14, 16, 17, and 19 through 31 will continue to apply after termination under this Section.

10. Paid Use License.

(A) For Software: On the terms and subject to Your continuous compliance with the conditions set forth in this Agreement and on the condition precedent of You making payment in accordance with Your purchase order therefor as accepted by Trend Micro or its Channel Partner, Trend Micro grants to You only, and You accept, a non-exclusive, non-transferable, non-assignable/non-assumable (by operation of law or otherwise), and revocable (as permitted in and in accordance with this Agreement) license in the Territory for Your Internal Use until the occurrence of a License Termination Event: (1) to activate, execute, deploy, and use (only in accordance with the Documentation) the object code portion of the Software and Updates thereto purchased by You solely on the unit of ATP Appliance originally shipped to You by or through Trend Micro or its Channel Partner; and (2) only if provided as Maintenance or purchased as part of Renewal Maintenance, to enable, access, and/or utilize (all at Your option) only as described in the Documentation, the Cloud Services portion (if any) of such Software.

(B) Documentation: You are granted a license to reproduce a commercially reasonable number of copies of the Documentation and training materials (if any) for Software for Your Internal Use only while You have a valid license to the Software under this Agreement, provided that all such copies contain the same copyright and proprietary rights notices which appear on the original material provided to You by Trend Micro and no modifications, deletions, additions or supplements are made to or included with such Documentation and/or training materials except and to the extent as may be authorized in writing by Trend Micro.

(C) Custom Sandboxing. You understand and agree that while the Software/ATP Appliance gives You the option to create Custom Sandboxes that meet Your specific system requirements, the Software when shipped to You as part of the ATP Appliance, does NOT include any Microsoft Components that are licensed to You under this Agreement by Trend Micro; *provided, however*, if the ATP Appliance is delivered to You by any third party (such as a Channel Partner) with any Microsoft Components installed, then You understand and agree that such

components are NOT licensed hereunder or otherwise/provided to You by or on behalf of Trend Micro and are not part of the Software. While Trend Micro may provide information (including the number and types/versions/editions of Microsoft software components necessary to create the Custom Sandboxes) and instructions to You in the Documentation regarding the creation of Custom Sandboxes in Your ATP Appliance, You acknowledge and agree that it is solely Your responsibility to purchase and compliantly license (based on such things as Your intended use and deployment) all Microsoft Components necessary for Your creation/deployment of Custom Sandboxing. Further to the foregoing, You agree that no Trend Micro employee (such as a sales engineer or sales executive) is trained or authorized to provide You any information or guidance on any Microsoft licensing policies/rules/requirements for Microsoft Components and, You further agree that, You will not rely on any information on Microsoft Components that may nevertheless be gratuitously provided to You by any such individual. Except for the Software licensed under this Agreement, You covenant that You will separately obtain and maintain all rights and licenses necessary for each third party software component (whether published by Microsoft or other publisher) You install or access in connection with Custom Sandboxing.

(D) Additional License Rights/Limitations. The license in this Section 10 does not grant You the right to, and You agree that You will not: (1) remove, add, or substitute any third party software to the ATP Appliance except and only to the extent permitted in the Documentation with respect to Custom Sandboxing; (2) separately sell, lease, rent, license, sublicense or otherwise transfer in whole or in part, the Software or related Documentation to any third party; (3) make/create a copy of the Software for backup or failover purposes when the ATP Appliance is inoperative/unavailable; or (4) use Software to provide services of any kind to third party. You acknowledge that the Software is not licensed to You under a perpetual license model and that You are not permitted to move or relocate Software to any other hardware/device in any event or circumstance.

11. **License Restrictions.** Under this Agreement, You are not granted a license to and You may not: (i) install the Software on any hardware or device other than the Hardware on which it is originally shipped to You by Trend Micro; (ii) modify or create derivative works of the Software or Documentation; (iii) reverse engineer, de-compile, decrypt, or disassemble the Software, in whole or in part, or otherwise attempt to reconstruct or discover the source or object code or underlying ideas, algorithms, file formats, programming or interoperability interfaces (except in any instance where the law permits any such action, You agree to provide Trend Micro with at least 90 days advance written notice if You believe that such action is warranted and permitted under applicable law and provide Trend Micro with an opportunity to evaluate if the law's requirements necessitate such action); (iv) use the Software other than as specifically described in and in accordance with the Documentation; (v) use the Software in a region other than the region for which the Software is authorized to be used by Trend Micro; (vi) copy the Software except as may be specifically permitted herein or in the Documentation; or (vii) authorize others to do any of the foregoing. Trend Micro reserves the right to take reasonable steps to prevent unauthorized access to, or use of, the Software. The Software is not designed nor intended for use in (a) the design, construction, operation or maintenance of any nuclear facility; (b) navigational or operating aircraft; (c) operating life-support or life critical medical equipment, or (d) other such similar purposes and Trend Micro disclaims any license right as well as any express or implied warranty of fitness for such uses.

12. **Maintenance/Renewal for Paid Use Licenses.** All Renewal Maintenance, Updates, technical support, or services for the Software will be sold and provided to You solely and exclusive by Trend Micro and/or its Channel Partners pursuant to this Agreement and policies and procedures published by Trend Micro from time-to-time.

13. **Product Registration/Service Acknowledgments.** In order to receive maintenance, Updates, technical support, or services, Your Representative must register with Trend Micro. In addition to product registration information, by using the Software, You will cause certain information about You and Your system(s) to be sent to Trend Micro-owned/controlled servers for security scanning and malware identification and threat protection. All such information shall be maintained in accordance with the attached Trend Micro Privacy Policy.

14. **Data Protection Regulations.** The use of certain Software may be subject to data protection laws or regulations in various jurisdictions. You are responsible for determining how and if You need to comply with those laws or regulations.

15. **Paid Use License Warranty.** For Paid Use licenses, Trend Micro warrants only to You that for one (1) year following Your first use of a registration key or activation code (whichever comes first) for the Software, the Software will materially conform with the applicable Documentation, as updated from time to time, including "ReadMe" files and release notes available online (the "**Limited Warranty**").

16. **Your Remedies.** If the Software does not conform to the Limited Warranty above, Trend Micro's (and its suppliers/Channel Partners) entire liability and Your sole and exclusive right and remedy shall be, at Trend Micro's option, for Trend Micro to: (a) use commercially reasonable efforts to correct the error in the Software so that it complies with the Limited Warranty; (b) help You work around or avoid the Software error; or (c) refund to You, the cost to You of the Software. THE LIMITED WARRANTY DOES NOT APPLY TO (A) ANY ERROR CAUSED BY



ACCIDENT, ABUSE, ALTERATION, MISUSE, OR MISAPPLICATION; OR (B) ANY PROBLEM OR ERROR RESULTING FROM THE USE OF THE SOFTWARE IN A MANNER NOT SET FORTH IN THE DOCUMENTATION. ANY REPLACEMENT SOFTWARE WILL BE WARRANTED FOR THE REMAINDER OF THE ORIGINAL LIMITED WARRANTY PERIOD.

17. **No Other Warranties.** GIVEN THE NATURE AND VOLUME OF MALICIOUS AND UNWANTED ELECTRONIC CONTENT, TREND MICRO DOES NOT WARRANT THAT THE SOFTWARE IS ERROR FREE OR WILL DETECT ANY OR ALL SECURITY OR MALICIOUS CODE THREATS OR THAT USE OF THE SOFTWARE (AS UPDATED FROM TIME-TO-TIME) WILL KEEP YOUR NETWORK OR COMPUTER SYSTEMS FREE FROM ALL VIRUSES OR OTHER MALICIOUS OR UNWANTED CONTENT OR SAFE FROM INTRUSIONS OR OTHER SECURITY BREACHES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES/GUARANTY AND REMEDIES IN SECTIONS 15, 16, AND 17, TREND MICRO MAKES NO PROMISES, REPRESENTATIONS, GUARANTEES, OR WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE RELATING TO THE APPLIANCE, SOFTWARE, DOCUMENTATION OR CONFIDENTIAL INFORMATION UNDER THIS AGREEMENT, AND TREND MICRO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES/GUARANTEES RELATING TO THE APPLIANCE/SOFTWARE THAT CANNOT BE EFFECTIVELY DISCLAIMED UNDER APPLICABLE LAW SHALL BE LIMITED TO THIRTY (30) DAYS FROM THE DATE YOU ACQUIRE THE APPLIANCE/SOFTWARE.

18. **Back-Up.** While using any Software, You must regularly back-up Your data and computer system(s) on separate media. You acknowledge that any failure to back-up data and systems may cause You to lose data in the event of an error in the Software or Updates. Since only You, and not Trend Micro, can know the value of Your computer systems and data, only You can implement back-up plans and safeguards appropriate to Your needs in the event that an error in the Software or Updates causes computer problems or data loss.

19. **Limitation of Liability; Exclusions of Certain Damages.**

(A) TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW BY WRITTEN WAIVER, IN NO EVENT SHALL TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS BE LIABLE TO YOU: (i) FOR ANY DAMAGES/LOSSES WHICH WERE NOT REASONABLY FORSEEABLE AT THE TIME OF ENTERING INTO THIS AGREEMENT; OR (ii) FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY KIND OR FOR LOST OR CORRUPTED DATA OR MEMORY, SYSTEM CRASH, DISK/SYSTEM DAMAGE, LOST PROFITS OR SAVINGS, OR LOSS OF BUSINESS, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SOFTWARE. THESE LIMITATIONS APPLY EVEN IF TREND MICRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY. NOTWITHSTANDING THE FOREGOING, THIS SECTION DOES NOT SEEK TO LIMIT OR EXCLUDE THE LIABILITY OF TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE.

(b) SUBJECT TO SECTION 19(A) ABOVE, IN NO EVENT WILL THE AGGREGATE LIABILITY OF TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS FOR ANY CLAIM FOR ACTUAL DIRECT DAMAGES, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY, EXCEED THE AMOUNT RECEIVED BY TREND MICRO WITH RESPECT TO THE UNIT OF APPLIANCE CAUSING SUCH ACTUAL DIRECT DAMAGES. YOU AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS SECTION AND ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THESE LIMITATIONS, THE FEES CHARGED FOR THE APPLIANCE, SOFTWARE, AND MAINTENANCE WOULD BE HIGHER OR IN THE CASE OF TRIAL USE, TREND MICRO WOULD NOT BE ABLE TO OFFER YOU THE RIGHT TO TRIAL USE AT NO CHARGE.

20. **Confidentiality/Nondisclosure.** During the term of this Agreement, You may be exposed to certain information not generally known to the public that Trend Micro considers and treats as confidential and proprietary ("**Confidential Information**"), including but not limited to product serial numbers, registration keys or activation codes, and information that, due to its character or nature, a reasonable person in a like position and under like circumstances would treat as secret and confidential. During the term of this Agreement and at all times after its termination, You agree (i) to hold the Confidential Information in confidence; (ii) not to disclose Confidential Information to any third parties, except for employees and independent contractors who have a "need to know" and who have signed agreements containing disclosure and use restrictions no less stringent than those in this Section; and (iii) not to use Confidential Information for any purpose except as required to perform under this Agreement.

21. **Assignability/Severability.** You may not assign this Agreement or any right under this Agreement to any third party, including any of Your affiliates, without written approval from Trend Micro. Any purported assignment by You shall be void. Trend Micro may assign this Agreement, in whole or part, and delegate its obligations to qualified third parties or Trend Micro affiliates and/or subsidiaries, provided that no delegation of its obligations shall relieve Trend Micro of its obligations under this Agreement. You agree that if a court or other competent tribunal in any jurisdiction finds any provision of this Agreement invalid, such finding shall not affect any other provisions of this Agreement, which shall remain in full force and effect.
22. **Export Control.** The Software is subject to export controls under the U.S. Export Administration Regulations. You shall not export or re-export the Software to entities within, or residents or citizens of, embargoed countries or countries subject to applicable trade sanctions, nor to prohibited or denied persons or entities without proper government licenses. Information about such restrictions can be found at the following websites: <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx> and <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>. You are responsible for any violation of the US export control laws by You related to the Software. By accepting this Agreement, You confirm that You are not a resident or citizen of any country currently embargoed by the U.S. and that You are not otherwise prohibited from receiving the Software.
23. **Compliance with Import Regulations.** Without prejudice to the generality of Section 22 above, the Software may also be subject in certain jurisdictions to import laws or regulations including but not limited to those relating to encryption use. You are responsible for determining how and if You need to comply with any such applicable import laws or regulations.
24. **U.S. Government Restricted Rights.** The Software is “Commercial Computer Software” as defined under FAR 252.227-7014. If You are subject to the Defense Federal Acquisition Regulations (DFAR), the Commercial Computer Software and associated documentation are sold pursuant to Trend Micro’s standard commercial license pursuant to DFARS 227.7202-1, Commercial Products. For all other government customers, use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth in subparagraph (b)(2) of Commercial Computer Software License 48 CFR 52.227-19, as applicable.
25. **WEEE Directive.** Trend Micro complies with the WEEE regulations. For information on the disposal of electronic waste, visit <http://uk.trendmicro-europe.com/recycle>.
26. **Force Majeure.** Neither party will be liable to the other party for any alleged or actual loss or damages resulting from delays or failures in performance caused by acts of the other party, acts of civil or military authority, governmental priorities, earthquake, fire, flood, epidemic, quarantine, energy crisis, strike, labor trouble, war, riot, terrorism, accident, shortage, delay in transportation, or any other cause beyond the reasonable control of the party whose performance is so delayed. Any party whose obligations have been suspended under the terms of this Section shall resume the performance of those obligations as soon as reasonably possible; *provided, however*, the terms and conditions of this Section shall NOT apply to monies due a party by the other party.
27. **Third Party and Open Source Technology.** You acknowledge that the Software contains and is delivered to You with one or more third party components, some of which may be Open Source Software or licensed under other similar license agreements identified by Trend Micro in the Documentation or license file for the Software (the “**Identified Components**”) and be subject to different license agreement terms, conditions, limitations, and disclaimers (collectively “**Different Terms**”) than those set forth herein. Company agrees that those Different Terms apply to and govern the license, possession, reproduction, use, distribution, and modification of such Identified Components by You rather than this Agreement except that this Section and Sections 9(C), 17, and 19 of this Agreement also govern Your license and use of the Identified Components.
28. **Termination – Paid Use.** With respect to Paid Use, this Agreement is effective until the occurrence of a License Termination Event. Upon on the occurrence of a License Termination Event, You must uninstall and destroy all copies of the Software and related Documentation. **For the avoidance of doubt, there is no perpetual license model that permits the Software to be moved from hardware-to-hardware in any event or circumstance.** Your obligations under Sections 8, 10, 11, 14, 15, 16, 17, and 19 through 31 will continue to apply after termination under this Section.
29. **Language.** It is the express wish of the Parties that this Agreement and all related documents be drawn up in English.
30. **Websites/Questions.** Trend Micro Websites may be accessed via www.trendmicro.com. Direct questions about this Agreement to: legal_notice@trendmicro.com.
31. **Governing Law/Trend Micro Licensing Entity.** If you are located in the United States or Canada or anywhere else in the world, the Licensor is: Trend Micro Incorporated, 225 East John Carpenter Freeway, Suite 1500, Irving, Texas 75062. Fax: (408) 257-2003 and this Agreement is governed by the laws of the State of Texas, USA.



IMPORTANT: READ CAREFULLY. PURCHASE/LICENSE/USE OF A DEEP DISCOVERY APPLIANCE (AS DEFINED BELOW) BY BUSINESS AND GOVERNMENTAL ENTITIES IS ON AND SUBJECT TO THE FOLLOWING TERMS, CONDITIONS, LIMITATIONS, AND EXCLUSIONS

Trend Micro Terms/Conditions of Sale and Software License Agreement

Trial Use and Paid Use – Deep Discovery Hardware-Based Appliance Family of Products

Date: February 2016

English – Enterprise Customers

THE DEEP DISCOVERY APPLIANCE INCLUDES AND REQUIRES THE SOFTWARE THAT MUST BE UPDATED ROUTINELY FOR THE DEEP DISCOVERY APPLIANCE TO OPERATE EFFECTIVELY. TREND MICRO OFFERS TO LICENSE YOU SOFTWARE (AS DEFINED BELOW) AND DOCUMENTATION ONLY IF YOU AGREE TO ALL TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ACQUIRING THE DEEP DISCOVERY APPLIANCE ON BEHALF OF A COMPANY OR OTHER ORGANIZATION, YOU REPRESENT TO TREND MICRO THAT YOU ARE DULY AUTHORIZED TO REPRESENT SUCH ORGANIZATION AND YOU ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF SUCH ORGANIZATION.

IF YOU DO NOT WISH TO ACCEPT THIS AGREEMENT OR YOU ARE NOT AN AUTHORIZED REPRESENTATIVE, PLEASE TAKE THE ACTION SET FORTH IN SECTION 5 BELOW AND DO NOT CONNECT OR USE THE DEEP DISCOVERY APPLIANCE OR ACTIVATE THE SOFTWARE, AND IF YOU HAVE PAID ANY FEES BEFORE RECEIVING NOTICE OF THIS AGREEMENT, CONTACT YOUR SUPPLIER (TREND MICRO OR CHANNEL PARTNER AS THE CASE MAY BE) WITHIN THIRTY (30) DAYS OF YOUR PURCHASE FOR A REFUND AGAINST RETURN OF THE DEEP DISCOVERY APPLIANCE. THIS RIGHT APPLIES ONLY IF YOU ARE THE ORIGINAL END USER/PURCHASER.

32. **Scope.** This Agreement applies to the Deep Discovery Appliance You have acquired the use of or purchased. The Hardware portion of the Appliance is sold to You, whereas, the Software portion of the Appliance is licensed to You in accordance with this Agreement and NOT sold to You.

33. **Applicable Terms; Definitions. Paid Use Licenses:** If You are a Paid User, Sections 1 through 8 and 10 through 31 of this Agreement apply to You. **Trial Use Licenses:** If You are entitled to a Trial Use, Sections 1 through 9, 10(c), 10(d), 11, 13, 14, 18 through 27, and 29 through 31 of this Agreement apply to You.

Definitions. In addition to initially capitalized and underlined definitions, descriptions, agreements, clarifications, and limitations thereto that may be set forth elsewhere in this Agreement, the initially capitalized and underlined definitions, descriptions, agreements, clarifications, and limitations set forth in this Section 2 shall have the meanings specified or referred in this Section 2 (each is an **“Agreed Definition”**) and all Agreed Definitions shall be equally applicable to the singular, plural, and derivative forms.

“Channel Partner” means any distributor, reseller, value-added reseller, or system integrator permitted by Trend Micro to resell the Deep Discovery Appliance.

“Cloud Services” means (only for such time as Maintenance is provided or Renewal Maintenance is purchased by You in support of the Software) the cloud services features/functionality of the Software (such as the Smart Protection Network) that are made available to You by such means as may be designated, enabled, or provided by Trend Micro from data centers/servers hosted by or on behalf of Trend Micro. Even if purchased by You pursuant to Maintenance/Renewal Maintenance, such Cloud Services may nevertheless be deactivated, disabled, or refused at any time at Your sole option/discretion in accordance with the Documentation.

“Confidential Information” shall have the meaning set forth in Section 20.

“Custom Sandbox” means a secured code execution environment of the Software that may be optionally created by You to meet Your specific/unique system/environmental requirements. Each Custom Sandbox requires various virtualized versions of Microsoft Windows and specified versions of Microsoft Office (collectively the **“Microsoft Components”**) that must be licensed, purchased, installed, and configured by You (or on Your behalf by a third party) in order for Custom Sandboxing to be created, deployed, and utilized by You. For the avoidance of doubt, each version of Software has a fixed number of Custom Sandboxes that may be created by You as advised by Trend Micro from time-to-time.



“Deep Discovery Appliance” or **“Appliance”** means depending which is acquired/purchased by You: (1) Deep Discovery Inspector; (2) Deep Discovery Analyzer; (3) Deep Discovery Email Inspector; and/or (4) additional or successor single-purpose, hardware-based appliances that are based on and include the Software. Each Deep Discovery Appliance is comprised of Hardware and Software that is installed by Trend Micro prior to delivery of the Appliance to You.

“Dell” means Dell Marketing L.P., or an affiliate.

“Documentation” means the technical documentation and operating instructions made available to You in connection with the Software, including printed updates, “Read Me” files and release notes available on-line.

“Hardware” means the Dell-manufactured/licensed hardware as well as operating system, firmware, and other utilities and routines provided by Dell with the Hardware.

“Internal Use” means Your access to and use of the Software for purposes of supporting Your internal operations or functions.

“License Termination Event” means the occurrence of an event or circumstance by which the license granted to You under this Agreement will terminate immediately and without additional notice, it being understood and agreed that such License Termination Event shall be the earliest to occur of the following: (1) the Software is uninstalled from the Deep Discovery Appliance; (2) the Deep Discovery Appliance is retired, removed from service, repurposed by adding additional/different software thereto not specifically permitted by the Documentation with respect to Custom Sandboxing, or the Hardware portion of the Deep Discovery Appliance is modified by You without permission of Trend Micro; (3) You terminate this Agreement at any time by notifying Trend Micro in writing; (4) either party terminates a Trial Use in accordance with [Section 9](#); or (5) You fail to cure a breach of any of Your material obligations under this Agreement within thirty (30) days of receipt of notice from Trend Micro.

“Limited Warranty” shall, with respect to the Paid Use of the Software, have the meaning set forth in [Section 15](#). With respect to the Paid Use of the Hardware, the term Limited Warranty shall have the meaning set forth in [Section 7\(B\)](#).

“Maintenance” means, with respect to the Software only, Updates plus any other services/support that Trend Micro publishes from time-to-time as being part Maintenance.

“Open Source Software” means: (1) each and every third party software code/component that is licensed/distributed under a license agreement approved by the Open Source Initiative or similar open source or freeware license (and not this Agreement); and (2) is embedded or included in the Software licensed hereunder; including any of the following Open Source Initiative-approved license agreements: (a) GNU’s General Public License (GPL), Lesser/Library GPL (LGPL), and GNU Affero Public License; (b) The Artistic License (i.e., PERL); (c) the Mozilla Public License; (d) the Netscape Public License; (e) the Berkeley Software Distribution (BSD license including Free BSD or BSD-style license; (f) the Sun Community Source License (SCSL); (g) an Open Source Foundation License (e.g., CDE and Motif UNIX user interfaces); (h) the Apache Server license; or (i) the MIT License. For the avoidance of doubt, each individual, third party software code/component of Open Source Software has its own copyright and its own Open Source Software license agreement.

“Paid Use” means that You have access to, or possession/use of, a Deep Discovery Appliance for any purpose or reason other than for a Trial Use and You have, among other things, agreed to this Agreement.

“Renewal Maintenance” means the optional one (1) year (or more) renewal of Maintenance that is purchased by You prior to the expiration of the initial one (1) year of Maintenance that is included with each new license of the Software at no additional cost. If you allow Maintenance to lapse, Trend Micro is not obligated to reinstate paid Maintenance that has lapsed for more than one (1) year. If reinstated by You, You will pay current Maintenance charges, retroactive to the date of lapse.

“Representative” shall have the meaning set forth in [Section 3](#).

“Software” means the object code version of the Trend Micro-published Deep Discovery applications software (and applicable Documentation) that is typically provided with the Hardware to form the Appliance being provided hereunder to You. You understand that the Software that is licensed by Trend Micro with each Appliance that is sold hereunder for Paid Use DOES NOT contain any Microsoft Components, but rather, it is the Your responsibility to properly purchase and license such Microsoft Components in order to create Custom Sandboxes. The term Software also includes: (a) Updates to the Software purchased by You; and (2) the Cloud Services purchased by You that may be deployed by You in accordance with the Documentation.



Software does not include any Microsoft Components that may be installed on the Deep Discovery Appliance by You or any third party. The Software is subject to the terms and conditions of this Agreement. The parties agree that neither the Software, nor any component thereof, may be installed, deployed, or used on any device other than the Appliance or used for any other purpose other than set forth herein.

“Territory” worldwide other than Central America; South America; The People’s Republic of China; and Japan.

“Trial Use” means that You have access to the Software as part of an unpaid trial, evaluation, or proof-of-concept with respect to a Deep Discovery Appliance that is not in Your production environment/systems. Any other access to, or use of, the Software is a Paid Use.

“Updates” means: (1) updates to the Software that contains error corrections, updates, modifications, new features/functionality/versions, and patches for security vulnerabilities; (2) new versions of the Software’s content security component(s) known as pattern files or definitions; and (3) all bug fixes for the Software. For the avoidance of doubt, Updates are only available to You pursuant to Maintenance or paid Renewal Maintenance. Updates made available to You will be subject to the terms of this Agreement. Updates will replace previously licensed parts of the Software.

34. **Binding Contract.** This Trend Micro Terms of Sale and Software License Agreement (this **“Agreement”**) is a binding contract between the Trend Micro entity that is designated as the **Licensor** in Section 31 below (herein **“Trend Micro,” “Licensor,” “Us,” “We,”** or **“Our”**) and the legal entity that is using/acquiring/purchasing the Hardware portion of the Deep Discovery Appliance and licensing the installed Software on a Paid Use or Trial Use basis. Your employee or Your agent, including a Channel Partner or contractor that installs or registers the Software for or on behalf of Your entity (each a **“Representative”**) must accept this Agreement on behalf of Your entity before the Software may be activated, deployed, or used. An entity whose Representative has validly accepted this Agreement are referred to as **“You”** or **“Your.”** Please print this Agreement and save a copy electronically.

NOTE: SECTION 19 OF THIS AGREEMENT LIMITS TREND MICRO’S OBLIGATIONS FOR ACTUAL DIRECT DAMAGES AND EXCLUDES TREND MICRO’S LIABILITY FOR CERTAIN DAMAGES AND YOUR REMEDIES WITH RESPECT THERETO. SECTIONS 9, 15, 16, AND 19 LIMIT OUR WARRANTY/GUARANTY OBLIGATIONS AND YOUR REMEDIES. SECTIONS 9 THROUGH 14, 18, 27, 28, 29 AND 31 SETS FORTH IMPORTANT CONDITIONS OF USE FOR THE SOFTWARE.

35. **Agreement Acceptance.** This Agreement will be accepted by You and a contract formed when Your Representative selects an **“I Accept,” “OK”** or **“Yes”** button or box on a window presented to You and/or You enter the product registration key or activation code (whichever is first) made available to You by any means.

36. **Agreement Rejection.** If a Representative is not authorized to accept this Agreement on Your behalf, or if Your Representative does not agree with any term or condition of this Agreement, select the **“I Do Not Accept”** or **“No”** button and do not input the registration key or activation code or otherwise use the Appliance. IF ANY ENTITY DOES NOT AGREE WITH ANY TERM OF THIS AGREEMENT AND HAS PAID FEES BEFORE RECEIVING NOTICE OF THIS AGREEMENT, IT MAY CONTACT THE SELLER OF THE DEEP DISCOVERY APPLIANCE WITHIN 30 DAYS OF RECEIPT OF THE ORDER CONFIRMATION FOR A REFUND.

37. **Applicable Agreement.** When installing/activating the Software, this Agreement shall take precedence notwithstanding the terms contained in any other end user license agreement You may have been prompted to accept; *provided, however,* if the Software and the Deep Discovery Appliance are subject to an existing written “wet/manual signature” contract or agreement signed by You and Trend Micro that specifically references the Software AND the Appliance, then and ONLY in such event, the wet/manual signature contract shall take precedence. Some Updates may also require You to accept additional or different license terms as a condition of use, which subsequent agreement will govern and control only to the extent it modifies this Agreement. Otherwise, this Agreement and Software’s written Documentation will supersede any prior or contemporaneous written or oral agreements, representations or understandings and You represent to Trend Micro that You are not relying on any representations or warranties, express or implied, regarding the Software or the subject matter of this Agreement. Modifications to this Agreement must be agreed in a written amendment hereto signed by You and Trend Micro.

38. **Additional Hardware Specific Terms.**

(A) No Trend Micro Hardware Warranty. Notwithstanding anything to the contrary in this Agreement, since the Hardware is manufactured and warranted by Dell and Trend Micro is only acting as a OEM reseller thereof, Trend Micro makes no representation, warranty, or guaranty of any kind or nature with respect to Hardware, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR OR SPECIFIC

PURPOSE, TITLE, OR NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED BY TREND MICRO.

(B) Dell Warranty; On-Site Support; Assignment. At no additional cost to You, with respect to Paid Use (but not Trial Use) all Hardware forming a part of each unit of the Appliance purchased by You hereunder is provided with the following services/programs: (1) Dell's Limited Hardware Warranty (which is available at <http://www.dell.com/learn/us/en/vn/solutions/limited-hardware-warranties> or from Trend Micro) for a period of thirty-six (36) months from date the Appliance is shipped to You by Trend Micro; and (2) Dell's on-site (four hour response in the limited geographical areas designated by Dell and such longer period of time in other areas as specified by Dell) support contract for a period of thirty-six (36) months from the shipped to date. You understand that Dell may modify terms applicable to the forgoing services/programs from time-to-time. After the expiration of the thirty-six (36) month period set forth above, extended warranty or on-site support agreements may be available from Trend Micro or directly from Dell. **Since You are purchasing the Hardware from Trend Micro in North America or Canada, You agree to initially contact Trend Micro (and not Dell) with respect to any Hardware support/warranty service requests as well as Software Maintenance requirements related to Your Appliance at 866-787-8677. In other regions of the Territory, please contact Trend Micro support for assistance or please visit <http://esupport.trendmicro.com/en-us/business/pages/contact-support.aspx>.**

(C) Paid Use Title; Hardware Ownership. Risk of loss for the Hardware component of an Appliance that sold to You for Paid Use is transferred to You, CIP (Incoterms 2010), Trend Micro's (or its manufacturer's or distributor's) dock when loaded onto the first carrier for shipment to You. For the avoidance of doubt, You are not leasing, licensing, or renting the Hardware, but rather, You are purchasing the Hardware component of the Appliance from Trend Micro. Once title passes to You with respect to the Hardware, You may repurpose the Hardware at any time at your discretion by adding additional or different software to the Hardware or uninstalling the Software from the Appliance, but in the event You do so, You agree that such action may be a License Termination Event hereunder.

39. **Software Ownership.** The Software and Documentation are the property of Trend Micro or its licensors, and are protected by copyright, trade secret, U.S.A. or other patent laws, and international treaty provisions. By accepting this Agreement and payment of royalties and fees to Trend Micro or its Channel Partner in accordance with agreed payment terms, You acquire only the limited rights to the Software and Documentation as set forth in the Agreement. All other rights and privileges in or to the Software are reserved by Trend Micro.

40. **Trial License; Trial Use.**

(A) Trial Use. If You have a Trial Use of the Deep Discovery Appliance, You may use the Software forming a part of the Deep Discovery Appliance in the Territory for Trial Use purposes for no more than thirty (30) days after shipment of the Appliance (unless You are allowed a longer time by Trend Micro in writing) to You on the condition precedent that You have accepted and agreed to this Agreement. Notwithstanding anything contained in this Agreement to the contrary, any Trial Use may be terminated by either party hereto without cause or reason at any time by giving the other party at least five (5) days written notice. You understand and agree that if, after the completion of Trial Use, you decide to acquire the Appliance for Paid Use that is being used for Trial Use by You, You WILL BE required to uninstall the Software and all Microsoft Components and enter into this Agreement anew with respect to such Paid Use before the Software can be reinstalled in the Appliance. You may use the Appliance and its Software for comparison with or benchmarking against third party products or services being evaluated by You; *provided, however*, You agree that You and Your Representatives will not publish or provide the results of any comparison/benchmarking or any analysis thereof to any third party without the written permission of Trend Micro.

(B) Trial Use – Microsoft Components. If You are provided any Microsoft Components that are installed on (or otherwise made available to You by a third party such as a Channel Partner or Microsoft in connection with Custom Sandboxing) the Deep Discovery Appliance that is the subject matter of a Trial Use, You understand and agree that: (1) any such Microsoft software is NOT part of the Software licensed by Trend Micro hereunder; (2) is NOT licensed or made available to You by Trend Micro; and (3) Trend Micro shall have no responsibility or liability in connection therewith. Notwithstanding the foregoing, if You are nevertheless provided



the Deep Discovery Appliance with Microsoft Components that are trial/test (*i.e.*, a not “for sale/production use” version/license) software installed by Trend Micro (or a Channel Partner) for Trial Use, You agree that: (a) Your use thereof is subject to this Agreement even though it is not Software; and (b) Your Trial Use license and Your use and possession of the Software and any Microsoft Components supplied by Trend Micro will terminate immediately and without notice on termination or expiration of the Trial Use even if You subsequently purchase an Appliance for Paid Use.

(C) No Warranty. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE AND RELATED DOCUMENTATION USED FOR TRIAL, PROOF-OF-CONCEPT, OR EVALUATION PURPOSES ARE PROVIDED TO YOU “**AS IS**” WITH ALL FAULTS AND WITHOUT WARRANTIES OF ANY KIND AND TREND MICRO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE.

(D) Trial Use License - Termination. Your possession and use of the Software and the Deep Discovery Appliance will terminate on the occurrence of the following events: (a) Your rights to Trial Use terminate in accordance with Section 9(A); or (b) a License Termination Event occurs. On termination of Trial Use, You covenant and agree that You will, UNLESS YOU ARE OTHERWISE SPECIFICALLY INSTRUCTED BY TREND MICRO IN WRITING, immediately uninstall and destroy the Software and Microsoft Components (without retention of any copies thereof) provided by Trend Micro or a Channel Partner even if you are permitted to retain the hard drive of the Appliance. In addition, You agree to ship the Appliance to Trend Micro within seven (7) days of such termination, freight prepaid and fully insured. You covenant that You will provide to Trend Micro if requested, an unqualified certification of destruction and/or shipment of the Software and Microsoft Components in accordance with this Section. Your obligations under Sections 8, 9, 10(c), 10(d), 11, 14, 16, 17, and 19 through 31 will continue to apply after termination under this Section.

41. Paid Use License.

(A) For Software: On the terms and subject to Your continuous compliance with the conditions set forth in this Agreement and on the condition precedent of You making payment in accordance with Your purchase order therefor as accepted by Trend Micro or its Channel Partner, Trend Micro grants to You only, and You accept, a non-exclusive, non-transferable, non-assignable/non-assumable (by operation of law or otherwise), and revocable (as permitted in and in accordance with this Agreement) license in the Territory for Your Internal Use until the occurrence of a License Termination Event: (1) to activate, execute, deploy, and use (only in accordance with the Documentation) the object code portion of the Software and Updates thereto purchased by You solely on the unit of Deep Discovery Appliance originally shipped to You by or through Trend Micro or its Channel Partner; and (2) only if provided as Maintenance or purchased as part of Renewal Maintenance, to enable, access, and/or utilize (all at Your option) only as described in the Documentation, the Cloud Services portion (if any) of such Software.

(B) Documentation: You are granted a license to reproduce a commercially reasonable number of copies of the Documentation and training materials (if any) for Software for Your Internal Use only while You have a valid license to the Software under this Agreement, provided that all such copies contain the same copyright and proprietary rights notices which appear on the original material provided to You by Trend Micro and no modifications, deletions, additions or supplements are made to or included with such Documentation and/or training materials except and to the extent as may be authorized in writing by Trend Micro.

(C) Custom Sandboxing. You understand and agree that while the Software/Deep Discovery Appliance gives You the option to create Custom Sandboxes that meet Your specific system requirements, the Software when shipped to You as part of the Deep Discovery Appliance, does NOT include any Microsoft Components that are licensed to You under this Agreement by Trend Micro; *provided, however*, if the Deep Discovery Appliance is delivered to You by any third party (such as a Channel Partner) with any Microsoft Components installed, then You understand and agree that such components are NOT licensed hereunder or otherwise/provided to You by or on behalf of Trend Micro and are not part of the Software. While Trend Micro may provide information (including the number and types/versions/editions of Microsoft software components necessary to create the Custom Sandboxes) and instructions to You in the Documentation regarding the creation of Custom Sandboxes in Your Deep Discovery Appliance, You acknowledge and agree that it is solely Your responsibility to purchase and compliantly license (based on such things as Your intended use and deployment) all Microsoft

Components necessary for Your creation/deployment of Custom Sandboxing. Further to the foregoing, You agree that no Trend Micro employee (such as a sales engineer or sales executive) is trained or authorized to provide You any information or guidance on any Microsoft licensing policies/rules/requirements for Microsoft Components and, You further agree that, You will not rely on any information on Microsoft Components that may nevertheless be gratuitously provided to You by any such individual. Except for the Software licensed under this Agreement, You covenant that You will separately obtain and maintain all rights and licenses necessary for each third party software component (whether published by Microsoft or other publisher) You install or access in connection with Custom Sandboxing.

(D) Additional License Rights/Limitations. The license in this Section 10 does not grant You the right to, and You agree that You will not: (1) remove, add, or substitute any third party software to the Deep Discovery Appliance except and only to the extent permitted in the Documentation with respect to Custom Sandboxing; (2) separately sell, lease, rent, license, sublicense or otherwise transfer in whole or in part, the Software or related Documentation to any third party; (3) make/create a copy of the Software for backup or failover purposes when the Deep Discovery Appliance is inoperative/unavailable; or (4) use Software to provide services of any kind to third party. You acknowledge that the Software is not licensed to You under a perpetual license model and that You are not permitted to move or relocate Software to any other hardware/device in any event or circumstance.

42. **License Restrictions.** Under this Agreement, You are not granted a license to and You may not: (i) install the Software on any hardware or device other than the Hardware on which it is originally shipped to You by Trend Micro; (ii) modify or create derivative works of the Software or Documentation; (iii) reverse engineer, de-compile, decrypt, or disassemble the Software, in whole or in part, or otherwise attempt to reconstruct or discover the source or object code or underlying ideas, algorithms, file formats, programming or interoperability interfaces (except in any instance where the law permits any such action, You agree to provide Trend Micro with at least 90 days advance written notice if You believe that such action is warranted and permitted under applicable law and provide Trend Micro with an opportunity to evaluate if the law's requirements necessitate such action); (iv) use the Software other than as specifically described in and in accordance with the Documentation; (v) use the Software in a region other than the region for which the Software is authorized to be used by Trend Micro; (vi) copy the Software except as may be specifically permitted herein or in the Documentation; or (vii) authorize others to do any of the foregoing. Trend Micro reserves the right to take reasonable steps to prevent unauthorized access to, or use of, the Software. The Software is not designed nor intended for use in (a) the design, construction, operation or maintenance of any nuclear facility; (b) navigational or operating aircraft; (c) operating life-support or life critical medical equipment, or (d) other such similar purposes and Trend Micro disclaims any license right as well as any express or implied warranty of fitness for such uses.

43. **Maintenance/Renewal for Paid Use Licenses.** All Renewal Maintenance, Updates, technical support, or services for the Software will be sold and provided to You solely and exclusive by Trend Micro and/or its Channel Partners pursuant to this Agreement and policies and procedures published by Trend Micro from time-to-time.

44. **Product Registration/Service Acknowledgments.** In order to receive maintenance, Updates, technical support, or services, Your Representative must register with Trend Micro. In addition to product registration information, by using the Software, You will cause certain information about You and Your system(s) to be sent to Trend Micro-owned/controlled servers for security scanning and malware identification and threat protection. All such information shall be maintained in accordance with the attached Trend Micro Privacy Policy.

45. **Data Protection Regulations.** The use of certain Software may be subject to data protection laws or regulations in various jurisdictions. You are responsible for determining how and if You need to comply with those laws or regulations.

46. **Paid Use License Warranty.** For Paid Use licenses, Trend Micro warrants only to You that for one (1) year following Your first use of a registration key or activation code (whichever comes first) for the Software, the Software will materially conform with the applicable Documentation, as updated from time to time, including "ReadMe" files and release notes available online (the "**Limited Warranty**").

47. **Your Remedies.** If the Software does not conform to the Limited Warranty above, Trend Micro's (and its suppliers/Channel Partners) entire liability and Your sole and exclusive right and remedy shall be, at Trend Micro's option, for Trend Micro to: (a) use commercially reasonable efforts to correct the error in the Software so that it complies with the Limited Warranty; (b) help You work around or avoid the Software error; or (c) refund to You, the cost to You of the Software. THE LIMITED WARRANTY DOES NOT APPLY TO (A) ANY ERROR CAUSED BY ACCIDENT, ABUSE, ALTERATION, MISUSE, OR MISAPPLICATION; OR (B) ANY PROBLEM OR ERROR RESULTING FROM THE USE OF THE SOFTWARE IN A MANNER NOT SET FORTH IN THE DOCUMENTATION. ANY REPLACEMENT SOFTWARE WILL BE WARRANTED FOR THE REMAINDER OF THE ORIGINAL LIMITED WARRANTY PERIOD.

48. **No Other Warranties.** GIVEN THE NATURE AND VOLUME OF MALICIOUS AND UNWANTED ELECTRONIC CONTENT, TREND MICRO DOES NOT WARRANT THAT THE SOFTWARE IS ERROR FREE OR WILL DETECT ANY OR ALL SECURITY OR MALICIOUS CODE THREATS OR THAT USE OF THE SOFTWARE (AS UPDATED FROM TIME-TO-TIME) WILL KEEP YOUR NETWORK OR COMPUTER SYSTEMS FREE FROM ALL VIRUSES OR OTHER MALICIOUS OR UNWANTED CONTENT OR SAFE FROM INTRUSIONS OR OTHER SECURITY BREACHES. EXCEPT FOR THE EXPRESS LIMITED WARRANTIES/GUARANTY AND REMEDIES IN SECTIONS 15, 16, AND 17, TREND MICRO MAKES NO PROMISES, REPRESENTATIONS, GUARANTEES, OR WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE RELATING TO THE APPLIANCE, SOFTWARE, DOCUMENTATION OR CONFIDENTIAL INFORMATION UNDER THIS AGREEMENT, AND TREND MICRO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. ANY IMPLIED WARRANTIES/GUARANTEES RELATING TO THE APPLIANCE/SOFTWARE THAT CANNOT BE EFFECTIVELY DISCLAIMED UNDER APPLICABLE LAW SHALL BE LIMITED TO THIRTY (30) DAYS FROM THE DATE YOU ACQUIRE THE APPLIANCE/SOFTWARE.

49. **Back-Up.** While using any Software, You must regularly back-up Your data and computer system(s) on separate media. You acknowledge that any failure to back-up data and systems may cause You to lose data in the event of an error in the Software or Updates. Since only You, and not Trend Micro, can know the value of Your computer systems and data, only You can implement back-up plans and safeguards appropriate to Your needs in the event that an error in the Software or Updates causes computer problems or data loss.

50. **Limitation of Liability; Exclusions of Certain Damages.**

(A) TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW BY WRITTEN WAIVER, IN NO EVENT SHALL TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS BE LIABLE TO YOU: (i) FOR ANY DAMAGES/LOSSES WHICH WERE NOT REASONABLY FORSEEABLE AT THE TIME OF ENTERING INTO THIS AGREEMENT; OR (ii) FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, PUNITIVE, OR INDIRECT DAMAGES OF ANY KIND OR FOR LOST OR CORRUPTED DATA OR MEMORY, SYSTEM CRASH, DISK/SYSTEM DAMAGE, LOST PROFITS OR SAVINGS, OR LOSS OF BUSINESS, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE SOFTWARE. THESE LIMITATIONS APPLY EVEN IF TREND MICRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY. NOTWITHSTANDING THE FOREGOING, THIS SECTION DOES NOT SEEK TO LIMIT OR EXCLUDE THE LIABILITY OF TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE.

(b) SUBJECT TO SECTION 19(A) ABOVE, IN NO EVENT WILL THE AGGREGATE LIABILITY OF TREND MICRO OR ITS SUPPLIERS/CHANNEL PARTNERS FOR ANY CLAIM FOR ACTUAL DIRECT DAMAGES, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY, EXCEED THE AMOUNT RECEIVED BY TREND MICRO WITH RESPECT TO THE UNIT OF APPLIANCE CAUSING SUCH ACTUAL DIRECT DAMAGES. YOU AGREE TO THE ALLOCATION OF LIABILITY SET FORTH IN THIS SECTION AND ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THESE LIMITATIONS, THE FEES CHARGED FOR THE APPLIANCE, SOFTWARE, AND MAINTENANCE WOULD BE HIGHER OR IN THE CASE OF TRIAL USE, TREND MICRO WOULD NOT BE ABLE TO OFFER YOU THE RIGHT TO TRIAL USE AT NO CHARGE.

51. **Confidentiality/Nondisclosure.** During the term of this Agreement, You may be exposed to certain information not generally known to the public that Trend Micro considers and treats as confidential and proprietary ("**Confidential Information**"), including but not limited to product serial numbers, registration keys or activation codes, and information that, due to its character or nature, a reasonable person in a like position and under like circumstances would treat as secret and confidential. During the term of this Agreement and at all times after its termination, You agree (i) to hold the Confidential Information in confidence; (ii) not to disclose Confidential Information to any third parties, except for employees and independent contractors who have a "need to know" and who have signed agreements containing disclosure and use restrictions no less stringent than those in this Section; and (iii) not to use Confidential Information for any purpose except as required to perform under this Agreement.

52. **Assignability/Severability.** You may not assign this Agreement or any right under this Agreement to any third party, including any of Your affiliates, without written approval from Trend Micro. Any purported assignment by You shall be void. Trend Micro may assign this Agreement, in whole or part, and delegate its obligations to qualified third parties or Trend Micro affiliates and/or subsidiaries, provided that no delegation of its obligations shall relieve Trend Micro of its obligations under this Agreement. You agree that if a court or other competent tribunal in any

jurisdiction finds any provision of this Agreement invalid, such finding shall not affect any other provisions of this Agreement, which shall remain in full force and effect.

53. **Export Control.** The Software is subject to export controls under the U.S. Export Administration Regulations. You shall not export or re-export the Software to entities within, or residents or citizens of, embargoed countries or countries subject to applicable trade sanctions, nor to prohibited or denied persons or entities without proper government licenses. Information about such restrictions can be found at the following websites: <http://www.treasury.gov/resource-center/sanctions/Pages/default.aspx> and <http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>. You are responsible for any violation of the US export control laws by You related to the Software. By accepting this Agreement, You confirm that You are not a resident or citizen of any country currently embargoed by the U.S. and that You are not otherwise prohibited from receiving the Software.

54. **Compliance with Import Regulations.** Without prejudice to the generality of Section 22 above, the Software may also be subject in certain jurisdictions to import laws or regulations including but not limited to those relating to encryption use. You are responsible for determining how and if You need to comply with any such applicable import laws or regulations.

55. **U.S. Government Restricted Rights.** The Software is “Commercial Computer Software” as defined under FAR 252.227-7014. If You are subject to the Defense Federal Acquisition Regulations (DFAR), the Commercial Computer Software and associated documentation are sold pursuant to Trend Micro’s standard commercial license pursuant to DFARS 227.7202-1, Commercial Products. For all other government customers, use, duplication, or disclosure by the U.S. Government is subject to restrictions set forth in subparagraph (b)(2) of Commercial Computer Software License 48 CFR 52.227-19, as applicable.

56. **WEEE Directive.** Trend Micro complies with the WEEE regulations. For information on the disposal of electronic waste, visit <http://uk.trendmicro-europe.com/recycle>.

57. **Force Majeure.** Neither party will be liable to the other party for any alleged or actual loss or damages resulting from delays or failures in performance caused by acts of the other party, acts of civil or military authority, governmental priorities, earthquake, fire, flood, epidemic, quarantine, energy crisis, strike, labor trouble, war, riot, terrorism, accident, shortage, delay in transportation, or any other cause beyond the reasonable control of the party whose performance is so delayed. Any party whose obligations have been suspended under the terms of this Section shall resume the performance of those obligations as soon as reasonably possible; *provided, however*, the terms and conditions of this Section shall NOT apply to monies due a party by the other party.

58. **Third Party and Open Source Technology.** You acknowledge that the Software contains and is delivered to You with one or more third party components, some of which may be Open Source Software or licensed under other similar license agreements identified by Trend Micro in the Documentation or license file for the Software (the “**Identified Components**”) and be subject to different license agreement terms, conditions, limitations, and disclaimers (collectively “**Different Terms**”) than those set forth herein. Company agrees that those Different Terms apply to and govern the license, possession, reproduction, use, distribution, and modification of such Identified Components by You rather than this Agreement except that this Section and Sections 9(C), 17, and 19 of this Agreement also govern Your license and use of the Identified Components.

59. **Termination – Paid Use.** With respect to Paid Use, this Agreement is effective until the occurrence of a License Termination Event. Upon the occurrence of a License Termination Event, You must uninstall and destroy all copies of the Software and related Documentation. **For the avoidance of doubt, there is no perpetual license model that permits the Software to be moved from hardware-to-hardware in any event or circumstance.** Your obligations under Sections 8, 10, 11, 14, 15, 16, 17, and 19 through 31 will continue to apply after termination under this Section.

60. **Language.** It is the express wish of the Parties that this Agreement and all related documents be drawn up in English.

61. **Websites/Questions.** Trend Micro Websites may be accessed via www.trendmicro.com. Direct questions about this Agreement to: legal_notice@trendmicro.com.

62. **Governing Law/Trend Micro Licensing Entity.**

North America: If you are located in the United States or Canada, the Licensor is: Trend Micro Incorporated, 225 East John Carpenter Freeway, Suite 1500, Irving, Texas 75062. Fax: (408) 257-2003 and this Agreement is governed by the laws of the State of Texas, USA.

Europe, Middle East and Africa: If you are located in the United Kingdom, this Agreement is governed by the laws of England and Wales. If you are located in Austria, Germany or Switzerland, this Agreement is governed by the laws of the Federal Republic of Germany. If you are located in France, this Agreement is governed by the laws of France. If you are located in Italy, this Agreement is governed by the laws of Italy. If you are located in Europe, the licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland

under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373.

If you are located in Africa or the Middle East (other than in those countries embargoed by the U.S.), or Europe (other than Austria, France, Germany, Italy, Switzerland or the U.K.), the Licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373 and this Agreement is governed by the laws of the Republic of Ireland.

Asia Pacific (other than Japan): If you are located in Australia, New Zealand, India, Malaysia, the Philippines, or Thailand, the Licensor is: Trend Micro Australia Pty Limited, Suite 302, Level 3, 2-4 Lyon Park Road, North Ryde, New South Wales, 2113, Australia, Fax: +612 9887 2511 and this Agreement is governed by the laws of New South Wales, Australia.

If you are located in Hong Kong or Taiwan, the Licensor is: Trend Taiwan Incorporated, 8F, No.198, Tun-Hwa S. Road, Sec. 2, Taipei 106, Taiwan, Republic of China. If you are located in Hong Kong, this Agreement is governed by the laws of Hong Kong. If you are located in Taiwan, this Agreement is governed by the laws of Taiwan.

If you are located in Singapore, Vietnam or Indonesia, the Licensor is: Trend Micro Singapore Pte Ltd., 8 Temasek Boulevard #09-04/05 Suntec Tower Three, Singapore, and this Agreement is governed by the laws of Singapore.

The United Nations Convention on Contracts for the International Sale of Goods and the conflict of laws provisions of Your state or country of residence do not apply to this Agreement under the laws of any country.

Notice to Australian Consumers

If you acquired Trend Micro Incorporated ("Trend Micro") software as a consumer within the meaning of the 'Australian Consumer Law' under the Australian Competition and Consumer Act 2010 (Cth) then despite any other provision of this Agreement:

a. The software comes with guarantees that cannot be excluded under the Australian Consumer Law, including that goods will be of acceptable quality and services will be supplied with due care and skill. If Trend Micro fails to comply with any such consumer guarantee, Trend Micro's liability is limited to the following:

(1) in connection with the provision of warranty and support services for the software, to any one or more of the following (at Trend Micro's discretion):

- the supplying of the services again; or
- the payment of the costs of having the services supplied again; and

(2) in connection with the provision of the software, to any one or more of the following (at Trend Micro's discretion):

- the replacement of the software or the supply of equivalent software;
- the repair of the software;
- the payment of the costs of replacing the software or of acquiring equivalent software; or
- the payment of the costs of having the software repaired; and

(3) otherwise, to the maximum extent permitted by law.



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- b. Nothing in this Agreement excludes, restricts or modifies any right or remedy, or any guarantee, warranty or other term or condition implied or imposed by the Australian Consumer Law which cannot be lawfully excluded or limited; and
- c. The benefits provided to you by the warranties in this Agreement are in addition to other rights and remedies available to you under a law in relation to the goods or services to which the warranty relates.
- d. The software may be capable of retaining user-generated data. Trend Micro hereby provides you with notice that if Trend Micro repairs your software, that repair may result in the loss of that data. To the full extent permitted by law, the limitations and exclusions of Trend Micro's liability in this Agreement apply in respect of any such loss of data.
- e. If you think that you are entitled to any warranty under this Agreement or any of the above remedies, please contact Trend Micro:

Trend Micro Incorporated
225 East John Carpenter Freeway
Suite 1500
Irving, Texas 75062

- f. To initiate a support request or warranty claim, please visit <https://tmc.tippingpoint.com/TMC/> and select "Support" and "Support Contacts" option for the most current list of phone support numbers.

LEGAL NOTICE -- READ BEFORE DOWNLOADING OR OTHERWISE USING THIS SOFTWARE.

Trend Micro TippingPoint End User License Agreement Enterprise Version

1. **Applicability.** This end user license agreement (this "Agreement") is between an entity or person that has directly or indirectly validly accepted this Agreement (herein "You" or "Your") and Trend Micro Incorporated (including its TippingPoint business unit) or a licensed affiliate/affiliate licensor (collectively, "Trend Micro") and governs Your use of accompanying software ("Software"). By downloading, copying, or using the Software You agree to this Agreement. Trend Micro provides translations of this Agreement in certain languages other than English, which may be found at: <https://tmc.tippingpoint.com/TMC/>.
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3. **Authorization and Acceptance.** If You agree to this Agreement on behalf of another person or any entity that has authorized you to do so, You warrant You have all necessary authority to do so and do hereby accept this Agreement and the license to the Software herein granted on behalf of such person or entity. An entity or person that has NOT directly or indirectly validly accepted this Agreement shall have no right (either implied, by estoppel, or otherwise) or license hereunder to possess, install, activate, deploy, or use the Software for any purpose.
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- d. You may not copy Software or make it available on a public or external distributed network.
- e. You may not allow access on an intranet unless it is restricted to authorized users.
- f. You may make one copy of the Software for archival purposes or when it is an essential step in authorized use.
- g. You may not modify, reverse engineer, disassemble, decrypt, decompile or make derivative works of software. If You have a mandatory right to do so under statute, You must inform Trend Micro in writing about such modifications.

7. Remote Monitoring. Some Software may require keys or other technical protection measures and Trend Micro may monitor Your compliance with the Agreement, remotely or otherwise. If Trend Micro makes a license management program for recording and reporting license usage information, You will use such program no later than 180 days from the date it's made available.

8. Ownership. No transfer of ownership of any intellectual property will occur under this Agreement.

9. Copyright Notices. You must reproduce copyright notices on Software and documentation for authorized copies.

10. Operating Systems. Operating system software may only be used on approved hardware and configurations.

11. 90-day Limited Warranty for Trend Micro Software.

a. Trend Micro -branded Software materially conforms to its specifications, if any, and is free of malware at the time of delivery; if You notify Trend Micro within 90 days of delivery of non-conformance to this warranty, Trend Micro will replace Your copy. This Agreement states all remedies for warranty claims.

b. Trend Micro does not warrant that the operation of Software will be uninterrupted or error free, or that Software will operate in hardware and Software combinations other than as authorized by Trend Micro in Supporting Material. To the extent permitted by law, Trend Micro disclaims all other warranties.

12. Intellectual Property Rights Infringement. Trend Micro will defend and/or settle any third party claims against You that allege that Trend Micro -branded Software as supplied under this Agreement infringes the intellectual property rights of such third party. Trend Micro will rely on Your prompt notification of the claim and cooperation with our defense. Trend Micro may modify the Software so as to be non-infringing and materially equivalent, or we may procure a license. If these options are not available, we will terminate Your license to the Software and this



Agreement and refund to You the amount paid for the affected product in the first year or the depreciated value thereafter based on a five (5) year useful life. Trend Micro is not responsible for claims resulting from any unauthorized use of the Software.

13. **Limitation of Liability.** Trend Micro's liability to You under this Agreement is limited to the amount actually paid by You to Trend Micro for the relevant Software, except for amounts in Section 12 ("Intellectual Property Rights Infringement"). Neither You nor Trend Micro will be liable for lost revenues or profits, downtime costs, loss or damage to data or indirect, special or consequential costs or damages. This provision does not limit either party's liability for: unauthorized use of intellectual property, death or bodily injury caused by their negligence; acts of fraud; willful repudiation of the Agreement; or any liability that may not be excluded or limited by applicable law.

14. **Termination.** This Agreement is effective until terminated or in the case of a limited-term license, upon expiration; however, Your rights under this Agreement terminate if You fail to comply with it. Immediately upon termination or expiration, You will destroy the Software and documentation and any copies, or return them to Trend Micro. You may keep one copy of Software and documentation for archival purposes. We may ask You to certify in writing You have complied with this section. Warranty disclaimers, the limitation of liability, this section on termination, and Section 15 ("General") will survive termination.

15. **General.**

a. **Assignment.** You may not assign this Agreement without prior written consent of Trend Micro, payment of transfer fees and compliance with Trend Micro 's Software license transfer policies. Authorized assignments will terminate Your license to the Software and You must deliver Software and documentation and copies thereof to the assignee. The assignee will agree in writing to this Agreement. You may only transfer firmware if You transfer associated hardware.

b. **U.S. Government Customers.** Consistent with FAR 12.211 and 12.212, commercial computer software, computer software documentation and technical data for commercial items are licensed under Trend Micro 's standard commercial license.

If you are licensing the Software on behalf of the U.S. Government ("Government"), the following provisions may also apply. If the Software is supplied to the Department of Defense ("DoD"), it is classified as "Commercial Computer Software" as defined under paragraph 252.227-7014 of the DoD Supplement to the Defense Federal Acquisition Regulation ("DFAR") (or any successor regulation) and the Government is acquiring only the license rights granted herein (the license rights customarily provided to non-Government users). For all other government customers, use, duplication, or disclosure by the Government is subject to restrictions set forth in subparagraph (b)(2) of Commercial Computer Software License 48 CFR 52.227-19, as applicable, or in the case of NASA, in paragraph 18.52.227-86 of the NASA Supplement to the FAR (or any successor regulations).

c. **Global Trade Compliance.** You agree to comply with the trade-related laws and regulations of the U.S. and other national governments. If You export, import or otherwise transfer products provided under this Agreement, You will be responsible for obtaining any required export or import authorizations. You confirm that you are not located in a country that is subject to trade control sanctions and further agree that You will not retransfer the products to any such country. Trend Micro may suspend its performance under this Agreement to the extent required by laws applicable to either party.

d. **Audit.** Trend Micro may audit You for compliance with the Software license terms. Upon reasonable notice, Trend Micro may conduct an audit during normal business hours (with the auditor's costs being at Trend Micro 's expense). If an audit reveals underpayments then Trend Micro may submit a claim for damages in accordance with the Contract Disputes Act. If underpayments discovered exceed five (5) percent, Trend Micro may submit a claim for damages in accordance with the Contract Disputes Act.



Securing Your Journey
to the Cloud

e. Third Party and Open Source Technology. The Software may contain certain third party technology and You acknowledge that Your use of such third party technology may be subject to separate terms and conditions, which are typically found in a "Read Me" or an "About" file in

the Software. The owners of such third party technology retain all ownership and intellectual property rights in their respective technology. In that case, this Agreement does not affect Your legal relationship with these third parties. The relationship between Trend Micro and such third parties is that of licensee/licensor. For Software that contains any Wind River technology, Wind River is a third party beneficiary under this Agreement.

f. Notices. Written notices under this Agreement may be provided to Trend Micro via the method provided in the Supporting Material or if none, to the address listed for your region at <http://www.trendmicro.com/us/about-us/contact/index.html#locations>.

g. Governing Law. This Agreement will be governed by the laws of the state of New York, U.S.A., excluding rules as to choice and conflict of law. You and Trend Micro agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.

h. Force Majeure. Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control, except for payment obligations.

i. Entire Agreement. This Agreement represents our entire understanding with respect to its subject matter and supersedes any previous communication or agreements that may exist. Modifications to the Agreement will be made only through a written amendment signed by both parties. If Trend Micro doesn't exercise its rights under this Agreement, such delay is not a waiver of its rights.

16. Australian Consumers. If You acquired the Software as a consumer within the meaning of the 'Australian Consumer Law' under the Australian Competition and Consumer Act 2010 (Cth) then despite any other provision of this Agreement, the terms at this URL apply: <https://tmc.tippingpoint.com/TMC/>.

17. Anti-Corruption Laws. You agree that you are familiar with the provisions of the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act and other analogous anti-corruption legislation in other jurisdictions where You do business (together "Anti-Corruption Laws"), and that you shall not in connection with the license of the Software make any payment or transfer anything of value, offer, promise or give a financial or other advantage or request, agree to receive or accept a financial or other advantage either directly or indirectly: to any government official or employee (including employees of a government corporation or public international organization) or to any political party or candidate for public office or to any other person or entity with an intent to obtain or retain business or otherwise gain an improper business advantage. You further agree that you will not take any action which would cause you to be in violation of the Anti-Corruption Laws. In case of breach of the above, we may suspend or terminate the license of the Software at any time without notice or indemnity. You agree to indemnify the non-breaching party for any losses, damages, fines or penalties which the non-breaching party may suffer or incur as a result of or incidental to any such violation.

TREND MICRO PRIVACY POLICY **(November 2015)**

Trend Micro Incorporated and its subsidiaries and affiliates (collectively, "Trend Micro") are committed to protecting your privacy and ensuring you have a positive experience on our websites and in using our products and services ("Trend Micro Products and Services").

This Privacy Policy only applies to personal information collected by Trend Micro websites that link to this Statement but does not apply to personal information collected by Trend Micro websites that have their own privacy policy or by websites hosted by third parties authorized to display the Trend Micro name and/or corporate logo.

Our Privacy Policy explains the following:

- A. Why does Trend Micro collect your personal information?
- B. Collection and use of your personal information
- C. Communication preferences
- D. Sharing your personal information
- E. Protection and Security of your personal information
- F. Use of cookies and other technology
- G. Managing your personal information
- H. Collection and use of non-personal information
 - I. Third-Party websites and services
 - J. Children
- K. European Economic Area (EEA) customers
- L. Changes to the Trend Micro Privacy Policy
- M. Trend Micro contact information and inquiries

A. Why does Trend Micro collect your personal information?

Trend Micro websites collect personal information to provide its products, services and support to its customers. Many of our services require you to set up an account and complete your purchase. This information is helpful in providing you the services and support you expect from Trend Micro and that is of interest to you.

B. Collection and use of your personal information

Trend Micro collects personal information in many ways: when you place orders on our website or purchase one of our products or services, download free evaluation software or upgrades, when you register as a customer, when you contact Trend Micro through our "Contact Us" link on our website, when you participate in a campaign or a website forum or referral promotions, when you request a quote or technical support, when you cause information or data to be sent to Trend Micro as part of the product services, when you subscribe to Trend Micro newsletters or receive product updates or technical alerts, when you enter a contest, giveaway, promotion or special offer, when you provide us with feedback or opinion, or when you apply for a job online with Trend Micro.

Trend Micro uses collected personal or other information for various purposes, including but not limited to, responding to or addressing your request, improving your experience on our website, tracking customer preferences, communicating with or notifying you of updates or services or benefits available, awarding prizes, , completing a transaction or confirming an order, completing an offer or managing, evaluating your interest in employment in the case of employment applications submitted by you or renewing or terminating your subscription. This information may include but not be limited to name, company name, billing and shipping information, email address, phone number, credit card or payment information and other relevant information about you and your systems. We use your credit card or payment information to process an order or transaction and for no other purpose without your consent.

Trend Micro will maintain your personal information only for as long as you are a registered Trend Micro customer or end user or as is reasonably necessary for audit or internal purposes or as needed to provide you with information you request unless a longer retention period is required or permitted by law.

C. Communication Preferences

Trend Micro gives you the choice of receiving a variety of information that complements our products and services. You can manage your communication preferences and unsubscribe in one of the following ways: (a) Trend Micro promotional emails include instructions on how you can unsubscribe from that particular communication; or (b) sending a message via email to legal_notice@trendmicro.com or via mail to Trend Micro Incorporated, c/o Legal Department, 10101 N. De Anza Blvd, Cupertino, CA 95014, USA. Please include your name, email address and specific relevant information about the material that you no longer wish to receive.

D. Sharing your personal information

Trend Micro is a global organization. Trend Micro may share personal information with its affiliated companies, resellers, distributors or partners in order to provide the high quality, localized services or offers you have requested, meet your needs or provide you with customer support. Trend Micro may engage contractors to provide certain services, such as providing technical support, handling order processing or shipping products, conduct customer research or satisfaction surveys.

For example, if you choose to purchase a license to a Trend Micro product on our website, you will be directed to the website of one of Trend Micro's e-commerce resellers, such as Digital River, in order to purchase the license. Trend Micro and the pertinent e-commerce reseller will need to share some of your personal information. Trend Micro requires that all contractors keep personal information of our customers secure and confidential and that they do not share such personal information with others or use your personal information for their own marketing purposes.

It may be necessary by law, legal process, litigation and/or requests from public and governmental authorities within or outside your country of residence for Trend Micro to disclose your personal information. We may also disclose information about you if we determine that for purposes of national security, law enforcement or other issues of public importance, disclosure is necessary or appropriate.

Trend Micro may also disclose information if we determine that disclosure is necessary to enforce our terms and conditions or protect our products or users. In addition, in the event of a reorganization, merger or sale, we may transfer any and all personal information we collect to the relevant third party.

E. Protection and security of personal information

As a global security leader, Trend Micro understands the importance of securing your personal information. Trend Micro has taken appropriate security measures – including administrative, technical and physical measures - to maintain and protect your personal information against loss, theft, misuse, unauthorized access, disclosure, alteration and destruction. Access to your personal information is restricted to authorized personnel only.

F. Use of cookies and other technology

Trend Micro's website, online services, interactive applications and email messages may use "cookies" and other technologies such as web beacons. Cookies are alphanumeric identifiers that Trend Micro transfers to your computer's hard drive through your web browser to enable our systems to recognize your browser to provide services. Cookies help websites work or work more efficiently and can help provide us with business and marketing information. They also enable a website to tailor information presented to you based on your browsing preferences such as language and geographical region.

Trend Micro may use cookies to personalize web pages during your visit to our web sites; and/or remember you for easy navigation

and access during return visits after registering for product and service information, sales contacts and other offers including but not limited to White papers, webcasts, events, evaluation software, etc., provide information about the previous link used by you, track your visits to our website, aggregate and analyze data about your machine, such as browser type, screen resolution, operating system; or about the Trend Micro product installed on your machine, such as product ID and days remaining to expiration and your license SKU. This information, which does not personally identify you, is used to determine what content to serve to you when you land on our pages and to provide you with the offers of Trend Micro products and services that are most relevant to you. The data collected by the cookie expires after 14 days unless you visit our website again. Cookies may also be used to serve you with banner ads if you exit our store without purchasing. These cookies expire automatically within 30 days.

If you have registered your product and created a Trend Micro account, we will match the information gathered from our cookies with any information you have given us about yourself, or that is stored in your Trend Micro account, or that we have otherwise collected about you for the purposes explained in this Privacy Policy.

If you do not want Trend Micro to deploy cookies in your browser, you can set your browser to reject cookies or to notify you when a website tries to put a cookie in your browser software.

Rejecting cookies may affect your ability to use of some of our products and/or services.

You can also visit <http://www.coremetrics.com/company/privacy.php#optout> for additional information on how to opt out of receiving marketing cookies.

Trend Micro also uses "web beacons" (or single pixel or clear GIFs) on our website to analyze traffic patterns such as the frequency of use of particular parts of our website. The data collected helps us learn what information is of most interest to our customers and what our customers would most like to see. You can opt-out of this analysis by disabling JavaScript on your computer but note that if you do so, some of the features on our website will not work. The information collected is generally anonymized and is not used to identify any particular user. Trend Micro has no access or control of any third party tracking technologies.

Web Analytics

This website uses Google Analytics, a web analytics service provided by Google Inc. ("Google"). Google Analytics uses so called "cookies", i.e., small text files that are stored on your computer and make it possible to analyze your website usage. Usually the information stored in cookies about your website usage is transmitted to a Google server in the US and saved there. If IP anonymization is enabled on this web page, Google will shorten your IP address before transmission if it belongs to a member state of the European Union or to a contracting party to the Agreement on the European Economic Area. Only in exceptional cases will your full IP address be transmitted to a Google server in the US and shortened there. On behalf of the website operator, Google will use this information to analyze your website usage, to compile reports about website activities, and to provide the website operator with further services associated with the use of the website and of the internet. The IP address that your browser transmits within the scope of Google Analytics will not be merged with other Google data. You can configure your browser software to disable the use of cookies but we would like to point out that this may prevent you from making full use of this website. You can also stop data (incl. your IP address) created by cookies and associated with your website usage from being sent to Google or processed by Google by downloading and installing the browser plug-in available at the following link [<http://tools.google.com/dlpage/gaoptout?hl=en>].

G. Managing your personal information

If you participate in a Trend Micro discussion forum on our website, you should be aware that the information you provide there will be made broadly available to others, and can be read, collected or used by other users of these forums, inside or outside of Trend Micro. This information can be used to send you unsolicited messages. You are responsible for the personal information you choose to submit in these instances. For example, if you list your name and email address in a forum posting, that information is public. Please be careful and responsible when you are participating in any forum or discussion group on Trend Micro websites and note that some of these forums may have additional rules and conditions. Each participant's opinion on a forum in our website is his or her own and should not be considered as reflecting the opinion of Trend Micro. Trend Micro is not responsible for the personal information or any other information you choose to submit in these forums.

You have the right to update your personal information on your Trend Micro account or by contacting Trend Micro as noted below. If requested, and to the extent permissible by applicable law relating to the retention of records or otherwise not required for valid business purposes (such as fulfillment of transactions), you may request that your personal information be removed from Trend Micro's systems.

H. Collection and use of non-personal information

Trend Micro also collects non-personal information which means data that does not relate to a single, identifiable customer or end user. Trend Micro may collect, use, transfer and disclose non-personal information for any purpose. Trend Micro may collect certain information to better understand customer behavior and improved our products, services and advertising. We may also collect information regarding customer activities on Trend Micro's website and from our products and services. This information is aggregated and used to help Trend Micro provide more useful information to our customers, to understand and analyze trends, understand which parts or pages of our website, administer the site, to learn about user behavior on the site and understand which products and services are of most interest to our customers, to gather demographic information about our customer base as a whole and to improve our customers' experience. Trend Micro collects this information through cookies or web beacons.

Trend Micro also collects log files of traffic that visit our websites. These log files may include information such as your Internet Protocol (IP) address, browser information and language, domain name, date and time of request. We use this information to track aggregate traffic patterns throughout our website but such information does not correlate with any personally identifiable information. Trend Micro may collect and retain for a certain period IP address information of customers in order to provide technical support, obtain geo-location information, for subscription and registration purposes and to secure our networks and systems. Trend Micro treats this information as non-personal information. However, to the extent that IP addresses or similar identifiers are considered personal information by local law, we also treat these identifiers as personal information. Similarly, to the extent that non-personal information is combined with personal information, we treat the combined information as personal information for purposes of this Privacy Policy.

I. Third-Party websites, products and services

Trend Micro's website contains a number of links to websites of Trend Micro business partners or to co-branded websites that are maintained by Trend Micro and one or more of our business partners who are collecting your information pursuant to their own policies and purposes. You should carefully read the privacy policies on such websites or co-branded websites as they may differ from Trend Micro's Privacy Policy, especially as information collected on such websites is governed by the pertinent privacy policies. Trend Micro is not responsible for the content, their products or privacy practices or misuse of any information you provide on those websites.

J. Children

Trend Micro does not knowingly collect personal information from children under the age of 13. If we learn that we have collected the personal information of a child under the age of 13, Trend Micro will promptly delete such information.

K. European Economic Area (EEA) customers

With respect to data transfers from the EEA to the United States or to other countries outside the EEA, Trend Micro has taken steps to ensure adequate protection for such data transfers in accordance with European data protection legislation. Trend Micro has entered into appropriate data transfer agreements based on the standard contractual clauses approved by the European Commission to provide adequate protection for data transfers between Trend Micro entities and between Trend Micro entities and third parties located outside the EEA, as necessary.

L. Changes to the Trend Micro Privacy Policy

Trend Micro will occasionally update this Privacy Policy to reflect changes in our products and services and customer feedback. When we make changes to the Privacy Policy, we will revise the date at the top of the Privacy Policy. If there are material changes to this Privacy Policy or in how Trend Micro will use your personal information, Trend Micro will notify either by prominently posting a notice

of such changes prior to implementing the change or by directly sending you a notification.

M. Trend Micro contact information and inquiries

If you have any questions, comments or concerns regarding this Privacy Policy or if you would like to change your communication preferences, update or review personal information we have about you or withdraw your consent for the collection, use or disclosure of your personal information, please email us at legal_notice@trendmicro.com or by sending a letter to Trend Micro Privacy Program, Trend Micro Incorporated, c/o Legal Department, 10101 N. De Anza Blvd, Cupertino, CA 95014, USA.