

PROFESSIONAL SERVICE TERMS & CONDITIONS

These Professional Service Terms and Conditions (“Terms”) govern the provision of Services by the Company (defined in *Table 1* below, “We,” “Us,” or “Our”) to Customer (“You” or “Your”) (collectively, the “Parties”). By executing a Statement of Work (“SOW”), or placing an Order for the Services, You represent that You have full authority to bind Your organization to these Terms. If You do not agree to these Terms, You may not receive the Services.

All capitalized terms herein have the meaning assigned to them in *Attachment 1*.

1. SCHEDULING AND PERFORMANCE OF THE SERVICES

- 1.1 The Services are specified in a SOW, a Service Order, or other written transaction document executed by the Parties.
- 1.2 We may use subcontractors to perform the Services, and in such case, We remain fully responsible for supervising and directing the subcontractors’ performance.
- 1.3 The Parties will agree on a start date for the Services, which in no event will be later than six (6) months from the Service Order Date.
- 1.4 Any completion times identified in the SOW, or the Service Order are only estimates for each Party’s resource scheduling purposes. Unless the Parties otherwise agree in writing, We will perform the Services within one (1) year of the Service Order Date. You acknowledge and agree that if We have not completed the Services within one (1) year of the Service Order Date for reasons that are not attributable to Us, We may, in our sole discretion, cancel the unperformed Services and retain any pre-paid fees for the unperformed Services.
- 1.5 You are permitted to reschedule the start date of the Services one time, with at least five (5) Business Days’ prior written notice, without Your incurring additional fees. If You request any additional or alternative rescheduling, suspension, or delays, and We agree to such request, You will pay an additional fee equal to twenty-five percent (25%) of the applicable fees in each instance when We accommodate the rescheduled or delayed Services.

2. ACCESS

As applicable to the Services to be performed, You will provide Us with sufficient, free, safe, and timely access to Your facilities, computer systems and networks to enable Our performance of the Services.

3. TERMINATION

- 3.1 **Termination for Cause.** Upon written notice to the other party, either party may terminate the Terms immediately for cause as provided below if:
 - (a) the other party breaches the Terms and has failed to remedy a remediable breach within thirty (30) days of receipt of a written notice from the first party specifying the breach and requiring it to be remedied (except for non-payment per which the cure period is ten (10) days); or
 - (b) the breach is incapable of remedy; or
 - (c) to the extent permitted under applicable law:
 - (i) the other party or its property is subject to insolvency or receivership procedures;

- (ii) the other party becomes insolvent or unable to pay its debts as they mature;
- (iii) the other party makes an assignment for the benefit of creditors; or
- (iv) the other party becomes the subject of any other proceeding under any bankruptcy, insolvency, or debtor's relief law.

3.2 **Suspension of Performance.** We may immediately suspend performance under the Terms if You, in Our reasonable opinion, fail to comply with the Terms.

3.3 **Effect of Termination.** Other than in instances where You terminate these Terms for cause, all Orders for Services that We have accepted before these Terms are terminated will remain effective, due, and payable in accordance with the relevant SOW or Order, regardless of whether the Services have been performed.

4. INSURANCE

Each party must maintain insurance with coverage at least equal to what a prudent company would carry under similar circumstances or as required by law and will provide details of its insurance coverage upon request.

5. PAYMENT

5.1 If You purchase the Services through an Authorized Partner, the payment and tax obligations will be exclusively as between You and the Authorized Partner, and the conditions in Sections 6.1 and 6.2 below ("**Taxes**") will not apply as between You and Us.

5.2 If You are purchasing the Services directly from Us, You will pay Us all fees within thirty (30) days of the invoice date without any right to offset, counterclaim, holdback, or deduction. We reserve the right to charge interest for late payments on the unpaid amounts calculated at the lesser of (a) 1.5% interest per month; or (b) the highest interest rate allowed by relevant law, accrued, and compounded from the date due until payment is received by Us.

6. TAXES

6.1 **Transaction Taxes.**

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

6.2 **Withholding Taxes.**

- (a) All payments due from You will be made free and clear and without deduction for any present and future taxes imposed by any taxing authority.

- (b) If You are required by applicable law to deduct or withhold income taxes from amounts payable to Us under these Terms (“Withholding Taxes”), You will remit, and provide Us with evidence that You have remitted, the Withholding Taxes to the appropriate taxing authority and pay to Us the remaining net amount.
- (c) You will provide Us with written notice of Your intent to withhold (including details of the amounts and legal basis for Withholding Taxes) at least fifteen (15) Business Days before the due date for any payments under these Terms or any SOW and will cooperate with We to reduce any Withholding Taxes.
- (d) If We provide You with valid and official documentation issued by the relevant taxing authority for a lower rate of Withholding Taxes, then You will apply the lower rate.

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

7. CONFIDENTIALITY

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

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

- (a) is designated as “*confidential*” or by similar words by the Disclosing Party at the time of disclosure and, if oral or visual, is confirmed as confidential by the Disclosing Party in writing within fifteen (15) days of disclosure; or
- (b) the receiving party (**Recipient**) should reasonably have considered to be confidential under the circumstances surrounding disclosure.

However, Confidential Information does not include any information that:

- (a) written records demonstrate was lawfully acquired by or previously known to the Recipient independent of the Disclosing Party;
- (b) is received from a third-party without restrictions on its use or disclosure and not by inadvertence, mistake, or violation of other confidentiality obligations;
- (c) is or has become disseminated to the public through no fault of the Recipient and without violation of the Terms or other obligation to maintain confidentiality; or
- (d) is created independently by the Recipient without breach of the Terms, including any obligation of confidentiality owed to the Disclosing Party.

In addition to the above, the Services and associated fees are deemed Confidential Information.

7.3 Each Recipient of Confidential Information under these Terms must:

- (a) keep the Disclosing Party's Confidential Information confidential and protect it at least to the same extent it protects its own Confidential Information and to the same extent that a reasonable person would protect such Confidential Information;
- (b) not use the Disclosing Party's Confidential Information in any way for its own account or the account of any third-party except to perform its duties, exercise its rights or is

otherwise authorized under the Terms; and

- (c) not disclose the Disclosing Party's Confidential Information except to perform its duties or exercise its rights under the Terms or as otherwise authorized under, provided that:
 - (i) any disclosure made to the Recipient's employees, contractors or agents is on a need-to-know basis; and
 - (ii) the Recipient's employees, contractors, or agents in receipt of the Confidential Information are under an obligation of confidentiality no less stringent than that set forth in this section.

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

- (a) where reasonably possible and permitted, immediately provide written notice to the Disclosing Party of the required disclosure to give the Disclosing Party an opportunity to move for a protective order or otherwise prevent the disclosure;
- (b) disclose only the minimum amount of Confidential Information required to satisfy the legal obligation; and
- (c) assert and take proper steps with the body requiring disclosure to maintain the confidentiality of the Confidential Information to be disclosed.

7.5 You will immediately notify Us if Confidential Information is used or disclosed in breach of the Terms. As monetary damages may not be sufficient relief if anyone violates or threatens to violate the conditions of this section, either party is immediately entitled to enforce its rights by specific performance or injunction proceedings, in addition to any other legal or equitable rights or remedies it may have.

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

7.7 On termination of these Terms, the Recipient must continue to keep the Disclosing Party's Confidential Information confidential for five (5) years in accordance with this section.

7.8 **Feedback.** You agree that We have the unrestricted right to use suggestions and feedback that You provide to Us regarding Our Services and products, without notice or payment to You, or Your consent, and that such suggestions and feedback will be Our Confidential Information.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 As between the Parties, (a) You own all rights, title, and interest in and to any proprietary information, materials, or other items You provide to Us under an applicable SOW ("Customer IP") and all Intellectual Property Rights therein; and (b) We own all rights, title, and interest in and to all Company Materials and Deliverables, including all Intellectual Property Rights therein.

8.2 The Services will not be interpreted as a "*work for hire*." You may not exercise any rights, title, and interest in and to the Services, Company Materials, Deliverables, or any related Intellectual Property Rights, except for the limited usage rights granted to You in these Terms.

- 8.3 Subject to these terms and conditions, including the payment of fees:
- (a) We grant to You a fully paid-up, limited, non-exclusive, non-assignable, non-transferable, non-sublicensable, perpetual license to use and reproduce, for Your own internal business operations, the Deliverables (and any Company Materials solely as provided by Us as part of the Deliverables); and
 - (b) You grant to Us a fully paid-up, non-exclusive, non-assignable, non-transferable, non-sublicensable license, during the term of any applicable SOW, to use, reproduce, and distribute to our Representatives, Customer IP to perform the Services and provide the Deliverables to You under these Terms.

9. LIMITED WARRANTY

- 9.1 We warrant that the Services will be performed in a professional and workmanlike manner (“Services Warranty”). If You believe that We have breached this Service Warranty, You must notify Us in writing and in sufficient detail of the breach within thirty (30) days after We have provided the non-conforming Services. We will, at Our option, either (a) re-perform the Services at no additional cost to You or (b) credit You (or if the Services were purchased via an Authorized Partner, the Authorized Partner who paid Us) the service fees associated with the non-conforming Services. This section states Your sole and exclusive remedy, and Our sole and exclusive liability, with respect to any breach of Service Warranty.
- 9.2 **Disclaimer of Warranties.** EXCEPT FOR THE SERVICES WARRANTY SET FORTH IN SECTION 9.1, THE SERVICES ARE PROVIDED “AS IS,” AND TO THE EXTENT PERMITTED BY LAW, WE EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, WITH RESPECT TO THE SERVICES, INCLUDING QUALITY, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SERVICES OR DELIVERABLES; OR THAT WE WILL FIND ANY AND ALL VULNERABILITIES, OR THAT THE SERVICES WILL RENDER YOUR NETWORK AND SYSTEMS SAFE FROM MALICIOUS CODE, INTRUSIONS, OR OTHER SECURITY BREACHES.

10. LIMITATION OF LIABILITY

- 10.1 **LIMITATION ON DIRECT DAMAGES.** EACH PARTY’S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY FOR CLAIMS UNDER OR RELATED TO THE SUBJECT-MATTER OF THESE TERMS WILL BE LIMITED TO DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE TOTAL FEES PAID OR PAYABLE TO US FOR THE SERVICES FROM WHICH THE CLAIM AROSE. THIS LIMITATION OF LIABILITY APPLIES WHETHER SUCH CLAIMS ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY, STATUTE OR OTHERWISE.
- 10.2 **CONSEQUENTIAL DAMAGES WAIVER.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXTRA-CONTRACTUAL DAMAGES OF ANY KIND OR LOSS OF PROFITS, LOSS OF GOODWILL, COSTS OF OBTAINING SUBSTITUTE PRODUCTS OR SERVICES, BUSINESS OR SYSTEM INTERRUPTION, OR ANY LOST OR DAMAGED DATA OR SYSTEMS, OR ANY DAMAGES RELATING

TO CLAIMS THAT THE PRODUCTS, SERVICES OR DELIVERABLES DID NOT OPERATE INTERRUPTION- OR ERROR-FREE) UNDER THESE TERMS, EVEN IF THE DAMAGES WERE FORSEEABLE OR A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY APPLIES WHETHER SUCH CLAIMS ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY, STATUTE OR OTHERWISE.

- 10.3 **LIMITATION OF LIABILITY EXCLUSIONS.** THE LIMITATIONS OF LIABILITY IN THIS SECTION 10 WILL NOT APPLY TO: (A) CUSTOMER’S VIOLATION OF OUR INTELLECTUAL PROPERTY RIGHTS OR YOUR USE OF DELIVERABLES IN A MANNER NOT EXPRESSLY AUTHORIZED BY US IN A SOW; (B) EITHER PARTY’S INDEMNIFICATION OBLIGATIONS IN SECTION 11; (C) EITHER PARTY’S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS IN SECTION 7; YOUR PAYMENT OBLIGATIONS UNDER A SOW; (D) EITHER PARTY’S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; OR (E) ANY LIABILITY THAT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

11. INDEMNIFICATION

11.1 Company’s Obligations.

- (a) **Defense and Indemnification.** Subject to Sections 11.3 and 11.4 below, We will defend You against third-party claims that the Deliverables infringe any patent, trademark or copyright of a third-party, or misappropriate a trade secret (but only to the extent that the misappropriation is not a result of Your actions), under the laws of the United States, Canada, the European Economic Area, Australia, New Zealand or Japan, to the extent that the Services are used in such countries (“Infringement Claim”), and indemnify You from the resulting costs and damages finally awarded against You to a third-party by a court of competent jurisdiction or agreed upon in a final settlement.
- (b) **Remedies.** If the alleged infringing Deliverables become, or in Our opinion are likely to become, the subject of an Infringement Claim, We will, at Our option and expense: (i) procure for You the right to continue using the Deliverables; (ii) replace or modify the affected Deliverables so that they are non-infringing; or (iii) terminate Your license to the affected Deliverables and upon Our receipt of Your written confirmation that You have removed or destroyed the affected Deliverables, We will issue You a credit of the fees paid for the affected Deliverables, pro-rated on a three year, straight-line basis. Nothing in this Section 11.1(b) limits Our obligation under Section 11.1(a) to defend and indemnify You, provided that You replace the alleged infringing Deliverables upon Our making alternative Deliverables available to You or You discontinue using the alleged infringing Deliverables upon receiving notice from Us.
- (c) **Exclusions.** Notwithstanding the foregoing, We will have no obligation with respect to any claim based on:
- (i) a combination of the Deliverables with any third-party products that We do not provide and that are not listed on Our commercial price list;
 - (ii) use of the Deliverables for a purpose or in a manner for which the Deliverables were not designed;
 - (iii) any modification to the Deliverables without Our express written approval;
 - (iv) any Deliverables We provide in accordance with Your specifications or designs;

- (v) any claim that relates to open-source software or freeware technology or any derivatives or other adaptations that We do not embed into Our products listed on Our commercial price list or into the Deliverables; or
 - (vi) the continued use of the Deliverable after being notified of the Infringement Claim or after being provided a modified version by Us at no additional cost that is intended to address such alleged infringement.
- 11.2 **Customer Obligations.** Unless prohibited by sovereign immunity or subject to Sections 11.3 and 11.4, You will indemnify and defend Us against any claims, liabilities and expenses (including court costs and reasonable attorney fees) that We incur as a result of or in connection with any third-party claims arising from: (i) Your failure to obtain any consent, authorization or license required for Our use of data, software, materials, systems, networks or other technology provided by You under these Terms; or (ii) Our compliance with any technology, designs, instructions or requirements provided by You or a third-party on Your behalf.
- 11.3 **Indemnification Procedure.** The obligations in this Section 11 are applicable only if the indemnified party (“Indemnitee”):
- (a) provides prompt written notice to the indemnifying party (“Indemnitor”) of the claim;
 - (b) reasonably cooperates in response to the Indemnitor’s request for assistance, in connection with the defense or settlement of the claim;
 - (c) give the Indemnitor sole control over the defense and settlement of the claim, provided that any settlement of a claim will not include a specific performance obligation or admission of liability by the Indemnitee; and
 - (d) is not in material breach of these Terms (and any applicable SOW).
- 11.4 **EXCLUSIVE INDEMNITY.** THE TERMS IN THIS SECTION 11 REFLECT EACH PARTY’S ENTIRE OBLIGATIONS, AND EACH PARTY’S SOLE AND EXCLUSIVE REMEDY FOR THIRD-PARTY CLAIMS INVOLVING INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. THE OBLIGATIONS SET FORTH IN THIS SECTION 11 SHALL SURVIVE THE TERMINATION OR EXPIRATION OF THESE TERMS.

12. PRIVACY AND USE OF DATA

- 12.1 Each party shall comply with applicable laws governing the collection, use and disclosure of Personal Data and must obtain consents required with respect to the handling of Personal Data.
- 12.2 Unless a specific agreement has been executed between the Parties, by agreeing to a SOW or submitting an Order, Our Data Processing Agreement (“DPA”) shall be deemed incorporated into these Terms. In the event of any conflict between the terms of the DPA and this Agreement, the terms of the DPA will take precedence.
- 12.3 You grant to Us a non-exclusive, perpetual right and license to use, reproduce and disclose Threat Data and deidentified material for improvement of products and services; research to enhance understanding of Malware, threats, and vulnerabilities; and to improve overall security. This includes without limitation compiling statistical and performance information and making such information publicly available. We retain all rights in Threat Data and aggregated and anonymous data.

- 12.4 The Services may employ applications and tools to collect Customer Data. Such collection of Customer Data may be necessary to provide Customer with the relevant Services. You may be required to uninstall, disable or cease using Services to stop further Customer Data collection.
- 12.5 You will, in Your use of the Services and Deliverables, comply with Your obligations under privacy regulations in respect of Your processing of Personal Data and any processing instructions You issue to Us. You represent that You have all rights, permissions, and authorizations necessary for Us to process Your Personal Data under this Agreement. You agree that these Terms are a complete and final instruction to Us in relation to the processing of Personal Data.

13. COMPLIANCE WITH EXPORT LAWS

- 13.1 Each party will comply with the applicable national, state, and local laws and regulations with respect to its rights and obligations under this Agreement, including applicable privacy and export control laws and regulations.
- 13.2 You will not, directly or indirectly, export, transmit, permit access or use any Services or technical data (or any part of Services or technical data) or system or service incorporating any Services to or in any country to which export, transmission or access is restricted by regulation, statute, or other law, without the authorization, if required, of the Bureau of Industry and Security of the U.S. Department of Commerce or any other competent governmental entity that may have jurisdiction over export or transmission. You will not use, transfer, or access any Services for end use relating to any nuclear, chemical, or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license.
- 13.3 You acknowledge and agree that certain Services containing encryption may require authorization from the U.S. and other competent authorities including the European Union, prior to export. You also acknowledge and agree that certain Services containing encryption may be subject to import or use restrictions in other countries. Additional information regarding exporting and importing Services may be found on Our [“Export Compliance”](#) webpage, as updated from time to time.
- 13.4 If We receive notice that You are or become identified as a sanctioned or restricted party under applicable law, We will not be obligated to perform any of Our obligations under these Terms (and applicable SOWs/Service Orders) if such performance would result in violation of the sanctions or restrictions.

14. COMPLIANCE WITH ANTI-CORRUPTION LAWS

- 14.1 Each Party agrees to comply with all applicable country, federal, state, and local anti-bribery, and anti-corruption laws, including, but not limited to, the U.S. Foreign Corrupt Practices Act (“FCPA”), the U.K. Bribery Act, and other applicable anti-corruption laws (“Anti-Corruption Laws”).
- 14.2 Each Party represents and warrants that:
- (a) neither it, nor anyone acting on its behalf, has violated or will violate the Anti-Corruption Laws in connection with these Terms;
 - (b) it has not and will not, directly or indirectly, offer, promise, authorize, solicit, pay, or give *anything of value* to any Government Official to:
 - (i) influence an act or decision of the Government Official in his or her official capacity;

- (ii) induce the Government Official to do or omit to do any act in violation of the lawful duty of such official;
 - (iii) secure an improper advantage; or
 - (iv) induce the Government Official to use his or her influence to affect or influence any act or decision of a government or instrumentality, in each case in order to assist Company or any of Our Affiliates in obtaining or retaining business; and
 - (v) none of its employees, directors, owners, officers, or principals, or any immediate family member of a director, owner, officer, or principal, is a Government Official with influence over these Terms.
- 14.3 In addition, each Party shall properly and accurately record all transactions related to these Terms in its books and records, including amounts, purpose, and recipient, all of which each Party shall maintain with supporting documentation.
- 14.4 If We have reasonable basis to believe that a breach of the obligations set forth in this Section 14 has occurred, or may occur, We may, without limitation to other rights and remedies (a) withhold further Services until such time as We have received confirmation to Our satisfaction that no breach has or will occur or (b) terminate these Terms in accordance with the termination terms herein.
- 14.5 Upon Our request, You agree to provide Us with anti-corruption/anti-bribery/FCPA certifications.

15. TRAINING SERVICES

Additional terms pertaining to Our Training Services are set forth in *Attachment 2* to this Agreement.

16. GENERAL PROVISIONS

- 16.1 **Relationship.** The Parties are independent contractors and expressly disclaim any partnership, franchise, joint venture, agency, employer/employee, fiduciary, or other special relationship. Neither party intends these Terms to benefit or create any right or cause of action in or on behalf of, any person or entity other than the Parties and listed Affiliates. These Terms are not intended to create a third-party beneficiary of any kind. You must not represent to any third-party that it has any right to bind Us in any manner and You will not make any representations or warranties on Our behalf.
- 16.2 **Severability.** If a court holds that any provision of these Terms as invalid or unenforceable under applicable law, the court will modify the provision to the minimum extent necessary to make it valid and enforceable or, if it cannot be made valid and enforceable, the court will sever and delete the provision. The change will affect neither the validity of the amended provision nor the validity of any other provision of the Terms, which will continue in full force and effect.
- 16.3 **No Waiver.** A party's failure or delay in enforcing any provision of the Terms will not operate as a waiver of the right to enforce that provision or any other provision at any time. A waiver of any provision of the Terms must be in writing, specify the provision to be waived and signed by the party agreeing to the waiver.
- 16.4 **Force Majeure.** No delay, failure, or default, other than a failure to pay fees when due, will constitute a breach of these Terms to the extent caused by acts of war, terrorism, hurricanes, earthquakes, other acts of God or of nature, strikes, or other labor disputes, riots, or other acts of civil disorder, embargoes, epidemics, pandemics, or other causes beyond the performing party's reasonable control.

- 16.5 **Governing Law.** All disputes arising out of or relating to these Terms, or its subject matter will be governed by the substantive laws for the Territory as specified in *Table 1 of Attachment 1* of these Terms. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act do not apply to these Terms.
- 16.6 **Jurisdiction.** The courts for the applicable Territory as specified in *Attachment 1* will each have exclusive jurisdiction over all disputes arising out of or relating to the Terms or its subject matter.
- 16.7 **Entire Agreement.** These Terms constitute the entire understanding between the Parties relating to its subject-matter and supersedes all oral or written proposals, and all communications between the Parties relating to its subject matter. The conditions of these Terms will prevail, notwithstanding any variance with any Purchase Order or other written instrument submitted by You, whether expressly rejected by Us. All pre-printed terms on Orders are expressly rejected and will not apply.
- 16.8 **Notices.** Any notice given under or in relation to this Agreement must be in writing, signed by or on behalf of the Party giving it, and addressed to Us, “*Attention Legal Department*”, to the applicable address listed in *Attachment 1*. We will contact You at the contact information You provide when purchasing or registering for the Cloud Services. Notices will be considered delivered when received if delivered by hand with receipt, the next business day after sending it by pre-paid, nationally recognized, overnight air courier with tracking capabilities; or five (5) Business Days after being sent by registered or certified airmail, return receipt required, postage prepaid, to the address mentioned above.
- 16.9 **Assignment.** We provide the Services to You for Your own internal business purposes and not for the benefit of third parties. You may not sublicense, assign, or transfer Your rights under these Terms without Our prior written consent. Any attempt by You to sublicense, assign or transfer any of Your rights, duties, or obligations under the Terms, whether directly, or indirectly by merger or acquisition, will be null and void.
- 16.10 **Survival.** The following sections, together with any other terms necessary for the interpretation or enforcement of the Terms and any SOW, will survive termination of these Terms/SOW: Sections: 3.3 (“Effect of Termination”), 5 (“Payment”), 6 (“Taxes”), 7 (“Confidentiality”), 8 (“Intellectual Property Rights”), 9 (“Warranties, Exclusions, Disclaimers”), 10 (“Limitation of Liability”), 11 (“Indemnification”) and 16 (“General”).

-Attachment 1 follows this page-

ATTACHMENT 1 - Definitions

Capitalized terms used in these Terms have the following meaning:

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

Authorized Partner means any of Our distributors, resellers or other business partners who are authorized by Us in writing to sell Services.

Business Day means any day other than a Saturday, Sunday, statutory or public holiday in the place where the Services are performed.

Company means one of the legal entities listed in *Table 1* below who is identified on the Service Order or who has executed a SOW for the Services:

Company Materials means all Intellectual Property Rights that are:

- (a) owned or licensed by Us or our third-party licensors prior to performing the Services;
- (b) developed, acquired, conceived, or reduced to practice by Us or Our agents during the provision of the Services, and
- (c) modifications, enhancements, and Derivative Works of the Intellectual Property Rights referred to in (a) and (b) above.

Company Privacy Notice refers to Our Privacy Notice, available at <https://www.skyhighsecurity.com/en-us/about/privacy.html>.

Customer means the entity to whom the Services are to be provided by Us. For avoidance of doubt, “Customer” does not mean an individual consumer.

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

Data Processing Agreement or DPA means the Our Data Processing Agreement with Customers posted at <https://www.skyhighsecurity.com/en-us/about/legal.html>.

Deliverables means any reports, analyses, or other tangible or intangible materials or work product that We deliver to You, as set forth in a SOW and/or Order.

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

Effective Date means the date of the last signature of a SOW or the date of Our acceptance of an Order.

Government Official means any officer, employee or person acting in an official capacity for any government department, agency, or instrumentality, including state-owned or -controlled companies, and public international organizations, as well as a political party or political party official or candidate for political office.

Intellectual Property Rights means all intellectual property or other proprietary rights throughout the world, whether existing under statute, at common law or in equity, now existing or created in the future, including: (a) copyright, trademark and patent rights, trade secrets, moral rights, right of publicity, authors' rights; (b) any application or right to apply for any of the rights referred to in paragraph (a); and (c) all renewals, extensions, continuations, divisions, restorations or reissues of the rights or applications referred to in paragraphs (a) and (b).

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

Personal Data means any information relating directly or indirectly to an identified or identifiable individual.

Representative means a party's Affiliates, permitted resellers, subcontractors, employees, or authorized agents.

Service Order or Order means a purchase order for Services from You to Us or an Authorized Partner, as applicable.

Service Order Date means the date when We accept an order for Services.

Table 1

Territory: For Services in the following Regions/Country:	Legal Entity	Business Address For Notice	Choice of Law and Venue
United States, Canada, Mexico, Central America, South America, and the Caribbean	Musarubra US, LLC	6000 Headquarters Drive, Suite 600, Plano, TX 75024, USA	California Law/ The state courts in Santa Clara County or the federal courts in the Northern District of California
All countries in Europe, the Middle East and Africa (EMEA)	Musarubra Ireland Limited	Building 2000, City Gate, Mahon, Cork, Ireland	The laws of the Republic of Ireland/ Courts of the Republic of Ireland
Japan	Musarubra Japan KK	Shibuya Mark City West, 1-12-1 Dogenzaka, Chibuyaku, Tokyo 150-0043	The laws of Japan/ Courts in Tokyo District Court of Japan
Asia Pacific region, but excluding Japan, China, and Australia	Musarubra Singapore Pte Ltd	238A Thomson Road, #12-01/05 Novena Square, Tower A, Singapore, 307684	The laws of the Republic of Singapore/ The courts of the Republic of Singapore
China	McAfee (Beijing) Security Software Co., Ltd	Room 608, Unit 610, 6/F Zhongyu Masion, No.6 North Workers' Stadium Road, Chaoyang District, Beijing, China	The laws of the Republic of Singapore/ The courts of the Republic of Singapore

Territory: For Services in the following Regions/Country:	Legal Entity	Business Address For Notice	Choice of Law and Venue
Australia	Musarubra Australia Pty Ltd	Level 16, 40 Mount Street, North Sydney, NSW 2060, Australia	The laws of New South Wales, Courts of New South Wales, Australia
Sales to the U.S. Government and to state/local governments and healthcare companies in the United States	Trellix Public Sector LLC	11911 Freedom Drive, Suite 400, Reston, VA, 20190	California law/ The state courts in Santa Clara County or the federal courts in the Northern District of California

Services means the professional services to be provided by Us to You under these Terms, including any Deliverables, and as described in an applicable SOW or Order.

Statement of Work or SOW means a written statement of work entered into from time to time by the Parties that describes the Services to be performed by Us, the Parties' respective obligations regarding those Services, and any other related and mutually agreed terms, conditions, and dependencies.

Terms means these governing terms and conditions together with any SOW or Order, as applicable.

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

-Attachment 2 follows this page-

ATTACHMENT 2 – Additional Terms for Training Services

1. These additional terms apply to Our Training Services. We will provide confirmation of the Training Services to You prior to the start date of the training course. You must book all courses for training Services within one (1) year of the date of Our invoice for those Training Services otherwise We may cancel all or a portion of the Training Services that You have not booked. You agree that any fees for Training Services are non-refundable or available for credit or exchange, except as We expressly agreed in writing.
3. We are not liable for any travel or accommodation costs incurred to attend a training course. Unless agreed otherwise in writing, We will provide all Training Services in English.
4. **Payment.** If You are purchasing the Training Services directly from Us, You must pay all Training Services fees in accordance with Our invoice to ensure that We receive the Training Services fees at least fourteen (14) days prior to the start date of the relevant training course.
5. **Cancellations.**
 - 5.1 **By Customer.** You must cancel any scheduled Training Services in writing within fourteen (14) days of the training course start date to avoid paying cancellation fees. The following cancellation fees apply when cancellations are made less than fourteen (14) days prior to the scheduled training:
 - (a) fifty percent (50%) of the fees costs and expenses relating to the cancelled training course (including invoicing costs for this amount) if We receive Your cancellation notice between seven (7) and fourteen (14) days of the training course start date; or
 - (b) the full amount of fees costs and expenses relating to the cancelled training course (including invoicing costs for this amount) if We receive Your cancellation notice less than seven (7) days prior to the training course start date.
 - 5.2 **By Company.**
 - (a) We may cancel Training Services without liability or penalty if We have not received the applicable Training Services fees in accordance with Section 4 above.
 - (b) We may cancel Training Services at any time for convenience. If We are unable to provide a suitable substitute training course, Our sole liability to You will be to refund the Training Services fees paid by You. For the avoidance of doubt, We will not be liable for any travel or hotel costs associated with a cancellation under this section.
 - 5.3 **Substitution and Rescheduling.**
 - (a) You may substitute training course attendees with employees with substantially equivalent qualifications required for participation in the training course, at Your discretion. However, We reserve the right to refuse or to limit any Training Services if We consider that an attendee fails to satisfy the requirements for the relevant training course. You may reschedule the training course, subject to availability, by providing Us with fourteen (14) days prior written notice.
 - (b) We reserve the right to use substitute instructors, to modify the Training Services content slightly and to make changes to the dates and locations of any scheduled training course upon notice to You. If You cannot attend because of the changes, You may rebook for another available course. We will not be liable for any costs associated with the rescheduling.

(c) **Conduct.** We reserve the right to refuse, limit or cancel any Training Services if a Customer attendee, in Our sole opinion, has displayed unreasonable behavior or is deemed to be violent, abusive, or disruptive. In such case, You will not be entitled to any refunds.

5.4 **Training Materials.** All training materials and systems that We provide as part of the Training Services are provided on an “*as-is*” basis, without warranty of any kind, whether express, implied, statutory, or otherwise including without limitation as to quality, reliability, timeliness, usefulness, sufficiency, and accuracy.

-End-