

THALES E-SECURITY, INC.

END USER LICENSE AGREEMENT

IMPORTANT: READ CAREFULLY PRIOR TO ANY INSTALLATION OR USE OF THE SOFTWARE

USE OF THIS SOFTWARE IS SUBJECT TO THE END USER LICENSE AGREEMENT (THE "EULA" OR "LICENSE AGREEMENT") SET FORTH BELOW BETWEEN YOU, THE LICENSEE ("LICENSEE"), AND THALES E-SECURITY, INC. ("THALES"). CLICK ON THE "I ACCEPT" BOX BELOW TO INDICATE LICENSEE'S ACCEPTANCE OF THESE TERMS. IF LICENSEE DOES NOT ACCEPT THESE TERMS FULLY, LICENSEE MAY NOT INSTALL OR OTHERWISE USE THE SOFTWARE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS NOTICE, UNLESS LICENSEE HAS A SEPARATE WRITTEN AGREEMENT WITH THALES, OR A THALES AUTHORIZED MANAGED SERVICE PROVIDER, FOR SOFTWARE USE, INSTALLING OR OTHERWISE USING THE SOFTWARE INDICATES LICENSEE'S ACCEPTANCE OF THESE LICENSE TERMS AND THESE TERMS SHALL GOVERN LICENSEE'S USE OF THE SOFTWARE AND HARDWARE.

1 DEFINITIONS

1.1 "Documentation" means the user documentation, release notes, and installation guides provided by Thales for the Software.

1.2 "Failure" means a reproducible defect in the Software that causes the Software to fail to operate substantially in accordance with the Documentation and that is reported to Thales.

1.3 "Appliance Software" means the software installed on the Appliance in executable code.

1.4 "Agent Software" means the thin host-installed Thales Data Security software in executable code.

1.5 "Software" means any or all of the Agent Software and Appliance Software and all updates, upgrades, new versions, new releases, or error corrections that Thales may offer to the Licensee or that Licensee is authorized to receive pursuant to this Agreement.

1.6 "Update" means any updates or enhancements to the Software that Thales provides to Licensees that receive continuing support services. Updates are provided so long as no amounts are owed by Licensee to Thales. Error corrections and Updates are subject to the terms and conditions of this Agreement.

2 LICENSE GRANT

2.1 **Software License.** Software licenses purchased or licensed from Thales allows Licensee to make one (1) machine executable copy of the object code of the Agent Software and Appliance Software from the master copy Thales grants Licensee a worldwide, non-exclusive, and non-transferable (except as provided in Section 24 ("General")) license to reproduce, install and use the number of copies of the Agent Software for which licenses have been purchased or licensed by Licensee under this Agreement. Licensee may reproduce, install and use additional copies of the Agent Software, and only Agent Software, subject to the prior written agreement of Thales and the payment of the applicable license fees by Licensee.

2.2 **Right to Copy.** Licensee may also make one copy of the Software solely for archival or emergency back-up purposes. All copies of the Software must contain all proprietary notices that were included on the original master copy of the Software delivered to Licensee or as subsequently provided in the form of an error correction, Update, or new release. Licensee must provide notice to Thales of the number of copies of the Software the Licensee has made upon Thales' written request, no more frequently than annual.

2.3 **Virtual Sessions.** For each Agent Software Licensee purchases or licenses and provided Licensee has paid the applicable virtual license fee, Licensee may operate no more than one (1) real, and one (1) virtual, session of the Agent Software. Provided that Licensee is not in breach of this Agreement, Licensee may purchase or license additional Agent Software to generate virtual sessions of a copy of the Agent Software at such price as may be in effect from time to time.

3 **CERTIFICATION** Within thirty (30) days following the end of each unique twelve (12) month period, if requested by Thales, Licensee agrees to provide Thales with a download of the configuration logs indicating the configuration of each appliance, the guard points enabled, and the number of licenses in use, from the Appliance for the prior twelve (12) month period, and a statement, certified to be accurate by an authorized signatory of Licensee, that the Licensee is in compliance with the limitations on the number of users and other information set forth in the Order Form.

4 **AUDIT** Thales reserves the right to audit Licensee's use of the Software to confirm that each copy of the Software in use by Licensee is authorized under this Agreement. Any such audit will be performed no more frequently than once every twelve (12) months by Thales' employees or Thales' certified public accountant during Licensee's normal business hours upon reasonable prior written notice and subject to Licensee's then-current reasonable procedures regarding access and security. Licensee shall pay to Thales any amount disclosed by the audit to be due and owing within thirty (30) days and based on then-current pricing. Any such audit shall be at Thales' expense, but if such audit discloses an underpayment by Licensee of more than ten percent (10%) for any year, Licensee shall reimburse Thales for the cost of the audit.

5 **USE AND RESTRICTIONS** Licensee may use the Software only as described in this Agreement and only for Licensee's own internal operations and data security management. Except as expressly authorized herein, Licensee shall not cause or permit any of the following: (i) translating, transmitting, modifying, or copying the Software; (ii) exceeding the maximum number of Agent Software licenses defined in the Order Form; (iii) exceed the number of virtual sessions, as described in Section 2.3; (iv) use of the Agent Software on operating systems or technology platforms other than those designated on the Order Form; (v) making copies of the Appliance Software, except as may be specifically permitted under this Agreement or Order Form for archive or back-up purposes; (vi) distributing, sublicensing, renting, or transferring the Software to any third party, and Licensee shall defend, indemnify, and hold harmless Thales from and against any cost, claim, or liability, including attorneys fees and court costs, arising out of or relating to any resale or transfer by Licensee of the Software; (vii) except as otherwise specifically provided in this Agreement, using the Appliance or the Software in a Hosting Environment; (viii) removing, deleting, or altering any copyright, trademark, or proprietary notices, labels, or marks on the Software, Hardware, or Documentation; or (ix) Licensee shall not, nor shall Licensee assist any third party to, reverse engineer, decompile, disassemble or in any other manner attempt to derive the source code of any component of the Software for any purpose.

6 **HOSTING RIGHTS.** Licensee may use the Software in a Hosting Environment, subject to the terms of this Agreement, only if Licensee's core business is providing hosting services to unaffiliated third parties and only if so indicated on the initial Order Form under which this Agreement is delivered. Licensee shall take such actions as are necessary to obligate any Licensee customer to terms and conditions which are at least as protective of Thales' rights in the Software and the Appliance including, without limitation, the terms and conditions set forth in Sections 2.2 (without regard to any right to host), 6, 7, 10, 13.1, 14, 16, 17, 19 and 23.1 of this Agreement. Licensee guarantees performance by any Licensee customer of any such agreement. Licensee shall have no right to distribute any Software including, without limitation, any Agent Software, to any third party or install any such Software on any server or other computer hardware outside of the server and Appliance which is used in Licensee's Hosting Environment, except for one copy for back-up purposes. THALES DISCLAIMS ALL LIABILITY, AND SHALL HAVE NO RESPONSIBILITY, ARISING OUT OF ANY FAILURE OF THE SOFTWARE OR APPLIANCE TO OPERATE AS A RESULT OF ANY HARDWARE OR TECHNOLOGY OTHER THAN THE SOFTWARE OR APPLIANCE INCLUDING, WITHOUT LIMITATION, ANY FAILURE OF DATA TO BE PROPERLY PROCESSED OR TRANSFERRED TO, IN OR THROUGH LICENSEE'S COMPUTER ENVIRONMENT OR ANY FAILURE OF ANY TRANSMISSION HARDWARE, TECHNOLOGY, OR SYSTEM USED BY LICENSEE OR ANY LICENSEE CUSTOMER. LICENSEE SHALL BE SOLELY RESPONSIBLE FOR THE CHOICE OF ANY HARDWARE OR TECHNOLOGY USED IN THE HOSTING ENVIRONMENT IN WHICH THE SOFTWARE MAY BE ACCESSED. THALES SHALL HAVE NO LIABILITY FOR, AND LICENSEE SHALL DEFEND, INDEMNIFY, AND HOLD THALES HARMLESS FROM AND AGAINST, ANY SHORTFALL IN PERFORMANCE OF THE APPLIANCE, SOFTWARE, OTHER HARDWARE OR TECHNOLOGY, OR FOR ANY INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS, AS A RESULT OF THE USE OF THE APPLIANCE OR THE SOFTWARE IN A HOSTING ENVIRONMENT UNLESS THE SOFTWARE OR THE APPLIANCE WAS THE SOLE CAUSE OF ANY SUCH SHORTFALL OR INFRINGEMENT, AND THEN ONLY TO THE EXTENT EXPRESSLY PROVIDED IN THIS AGREEMENT. LICENSEE SHALL DEFEND, INDEMNIFY, AND HOLD THALES HARMLESS FROM AND AGAINST ANY COSTS, CLAIMS, OR LIABILITIES ARISING OUT OF ANY AGREEMENT BETWEEN LICENSEE AND ANY THIRD PARTY. NO PROVISION OF ANY AGREEMENT BETWEEN LICENSEE AND ANY THIRD PARTY SHALL BE

BINDING ON THALES

7 **TITLE AND OWNERSHIP** The Software is licensed, not sold, to Licensee. All right, title, and interest including, without limitation, all intellectual property rights, in and to the Software, in whole and in part and all copies thereof, are, and shall remain, the sole and exclusive property of Thales and/or its licensors. Thales hereby reserves all rights not expressly granted to Licensee.

8 **DELIVERY OF SOFTWARE AND APPLIANCES** To the extent an Appliance is purchased by Licensee, Thales shall ship the initial Appliance units, the Appliance Software, and any ancillary system components listed in the initial Order Form with the Appliance, no later than five (5) business days after receiving a valid purchase order. Thales shall make available for electronic download by Licensee the master copy of the Agent Software, or deliver it with the Appliance. Thereafter, Thales agrees to ship to Licensee all additional Appliance units and other ancillary system components within ten (10) business days after receipt of a valid purchase order. Shipment of all Appliance units, other ancillary system components and the master copy of the Agent Software under this Agreement will be FOB, Thales' facility. Thales agrees to conspicuously label each shipment with the applicable Licensee purchase order number. If the Appliance is (i) damaged or not working when received by Licensee, or (ii) not received by Licensee within seven (7) days from the date of shipment by Thales, then it will be covered under support and maintenance and Thales will ship a replacement Appliance to Licensee within forty-eight (48) hours of such determination and notification from Licensee, and such shipment will be arranged for three-day delivery service and paid for by Thales

9 **REVERSE ENGINEERING** Licensee shall not, nor shall Licensee assist any third party to, reverse engineer, decompile, disassemble or in any other manner attempt to derive the source code of any component of the Software for any purpose. Licensee shall notify Thales if Licensee becomes aware of any person or entity attempting to reverse engineer, reverse compile, or disassemble any of the Software.

10 **SUPPORT** Thales Support ("Support") shall be provided at the cost prescribed by Thales, or the Thales authorized managed service provider, as the case may be. Support shall be provided as described in the Support Schedule, found in Exhibit B.

11 **CONFIDENTIALITY**

11.1 **Definition.** For purposes of this Agreement, "Confidential Information" shall mean the source code of the Software, Licensee's security policies and technical infrastructure, pricing information, product roadmaps, the terms of this Agreement, and all nonpublic information, whether in oral, written or other tangible form that the party disclosing the information (the "Discloser") designates as being confidential or which, under the circumstances surrounding disclosure, the receiving party (the "Recipient") knows or has reason to know should be treated as confidential, whether or not disclosed prior to or after the date of this Agreement. As against Licensee, "Confidential Information" shall also include, without limitation, the results of any substance testing of any Thales employee or contractor, and any biometric or other personal data pertaining to any such employee or contractor.

11.2 **Nondisclosure.** Recipient agrees not to use, disseminate, or in any way disclose any Confidential Information of Discloser to any person, firm or business, except to the extent necessary for the performance of Recipient's obligations hereunder, and for any other purpose Discloser may hereafter authorize in writing. Recipient agrees to treat all Confidential Information of Discloser with the same degree of care as Recipient accords to Recipient's own Confidential Information, but in no case less than reasonable care. Recipient agrees to disclose Confidential Information of Discloser only to those of Recipient's employees and independent contractors who need to know such information ("Authorized Parties"), and Recipient certifies that Recipient's employees and independent contractors have previously agreed in writing, either as a condition to employment or in order to obtain the Confidential Information of Discloser, to be bound by terms and conditions substantially similar to those terms and conditions applicable to Recipient under this Agreement. Recipient will take all reasonable measures to ensure that no unauthorized person shall have access to the Confidential Information and that all Authorized Parties having access refrain from making any unauthorized disclosure in violation of this Agreement. Recipient shall comply with all applicable federal and state laws, rules and regulations protecting the Confidential Information and privacy rights of the Discloser, its customers and suppliers, and shall be responsible for any failure by the Authorized Parties to so comply. Recipient shall immediately give notice to Discloser of any unauthorized use or disclosure of Discloser's Confidential Information. Recipient agrees to assist Discloser in remedying any such unauthorized use or disclosure by Recipient or any of its employees or independent contractors of Discloser's Confidential Information

11.3 **Exclusions.** The obligations of Recipient under this Section with respect to any portion of the Confidential Information of Discloser, shall not apply to such portion that Recipient can document: (i) was in the public domain at or subsequent to the time

such portion was communicated to Recipient by Discloser through no fault of Recipient, or (ii) was developed by employees or agents of Recipient independently of and without reference to any Confidential Information of Discloser. A disclosure of Confidential Information, either (x) in response to a valid order by a court or other governmental body or (y) otherwise required by law, shall not be considered to be a breach of this Agreement by Recipient or a waiver of confidentiality for other purposes; provided, however, Recipient shall provide prompt prior written notice thereof to Discloser to enable Discloser to seek a protective order or otherwise prevent or limit such disclosure.

11.4 **Specific Performance.** The parties acknowledge that it will be impossible to measure in money the damage to the parties hereto of any failure to comply with the obligations of this Section 14, that every such restriction and obligation is material, and that in the event of any such failure, the parties will not have an adequate remedy at law or in damages. Therefore, each party consents to the non-breaching party seeking an injunction or the enforcement of other equitable remedies against it at the suit of an aggrieved party, without bond or other security, to compel performance of all of the terms of this Section 14, and waives any defenses to an equitable remedy based on a failure of consideration, breach of any other provision of this Agreement, and availability of relief in damages. The parties in no way waive their rights to contest any action on the merits or pursue any other remedy which might be available to such party.

12 **TECHNICAL SUPPORT; PROFESSIONAL SERVICES** Technical Support services will be available to Licensee pursuant to the terms of the Support Schedule (Exhibit B – Download Available), provided that Licensee is current with all applicable Support Schedule fees. Professional Services will be available to Licensee pursuant to the terms of the Services Agreement.

13 **PRODUCT WARRANTY** Thales represents and warrants that, for ninety (90) days following Licensee's initial installation of the initial copy of the Agent Software in Licensee's production environment, the Software will perform substantially in accordance with the Documentation when operated on the Designated Operating System. Subject to the foregoing, Thales does not warrant that the Software will meet Licensee's requirements or that the operation of the Software will be uninterrupted or error-free, or that all Software errors will be corrected. Furthermore, the Software is not intended as a comprehensive solution to information security and may not be effective against all intrusions, viruses, worms, or other malicious code. Thales further represents and warrants that the Appliance will perform substantially in accordance with the Documentation and be free of defects in materials and workmanship for a period of ninety (90) days following installation of such Appliance.

14 **LIMITATION OF WARRANTY AND REMEDIES**

14.1 **Limitations.** The warranties above shall not apply to Software or Appliances that have been (i) improperly installed, (ii) modified by anyone other than Thales, (iii) used in a manner other than as authorized under this Agreement or as required by the Documentation, (iv) used with other software, hardware, or telecommunication interfaces not meeting or not maintained in accordance with Thales' specifications as described in the Documentation; (v) operated or maintained in environmental conditions outside the parameters designated in the Documentation or elsewhere; (vi) subjected to accident, unusual physical, electrical or electromagnetic stress, neglect, or misuse; or (vii) subjected to extreme power surge or failure, or electromagnetic field. Additionally, Thales shall have no obligation for any errors in performance of the Software or the Appliance that are not reproducible by Thales in good faith. Any claim submitted under the warranty must be submitted in writing to Thales within the specified warranty period set forth in Section 13. Licensee shall give Thales prompt written notice of such noncompliance discovered through use of the Software and Appliance in a production environment, together with any available details that may reasonably assist Thales to reproduce the noncompliance and effect a cure.

14.2 **Sole Remedy.** In the event that Thales and Licensee mutually and reasonably determine that a Failure exists in either the Appliance or the Software, Thales' sole and exclusive obligation, and Licensee's sole and exclusive remedy, will be, at Thales' option, (i) for Thales to use commercially reasonable efforts to promptly correct such Failure in order to make the Appliance or Software, as applicable, operate as warranted or (ii) if the defect concerns solely the Appliance, for Thales to deliver to Licensee a replacement Appliance. If Licensee receives a replacement unit, Licensee may retain such unit, at Thales' option, in full satisfaction of Licensee's replacement remedy.

15 **Disclaimer.** THE SOFTWARE IS PROVIDED "AS IS." THE WARRANTIES ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED. THALES DISCLAIMS ANY OTHER WARRANTIES INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

16 **LIMITATION OF LIABILITY** EXCEPT FOR CLAIMS INVOLVING CONFIDENTIALITY OR INFRINGEMENT, NEITHER PARTY'S AGGREGATE LIABILITY IN CONNECTION WITH ANY CLAIMS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE USE OF THE APPLIANCE OR SOFTWARE SHALL BE MORE THAN THE LESSER AMOUNT OF (1.) THE LICENSE FEES ACTUALLY PAID BY LICENSEE UNDER THIS AGREEMENT, PLUS THE AMOUNT OF SUPPORT FEES WHICH HAVE BEEN PAID OR WILL BE PAID DURING THE FIRST YEAR OF THIS AGREEMENT, OR (2.) ONE MILLION DOLLARS (\$1,000,000). THIS LIMIT, WHICH INCLUDES ALL COSTS AND FEES ARISING OUT OF ANY SUCH CLAIM, SHALL APPLY TO ANY AND ALL CLAIMS REGARDLESS OF THE LEGAL THEORY ON WHICH THEY ARE BASED. NEITHER PARTY (NOR VORMETRIC'S LICENSORS) SHALL BE LIABLE UNDER THIS AGREEMENT FOR LOST PROFITS OR FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, OR EXEMPLARY DAMAGES, REGARDLESS OF THE LEGAL THEORY ON WHICH THEY ARE BASED, EVEN IF THALES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY ARE INDEPENDENT OF ANY EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY SET FORTH IN THIS AGREEMENT AND WILL APPLY EVEN IF THE ABOVE STATED WARRANTY FAILS OF ITS ESSENTIAL PURPOSE. IN ADDITION, THALES WILL HAVE NO LIABILITY TO LICENSEE UNDER ANY OF SECTIONS 12 OR 17 OF THIS AGREEMENT, OR UNDER THE SUPPORT SCHEDULE, IF LICENSEE NEGLECTS TO INSTALL WITHIN A REASONABLE TIME PERIOD ANY FAILURE CORRECTION SOFTWARE DELIVERED TO LICENSEE, OR ANY UPDATE OR RELEASE OF THE SOFTWARE MADE GENERALLY AVAILABLE AFTER THE EFFECTIVE DATE THAT WOULD HAVE AVOIDED OR MITIGATED THE CLAIM. For purposes of clarification, the foregoing limitations will apply to any obligation of Thales, if any, which may be deemed to apply under Section 17 ("Indemnification and Infringements"), to indemnify or hold harmless Licensee from any internal costs incurred by Licensee (i) for loss of time or profit as a result of defense of the third party claim, (ii) loss of use of the Appliances or Software (and loss of time or profit attributable thereto), or (iii) associated with procuring or installing third party replacement products. .

17 **INDEMNIFICATION AND INFRINGEMENTS** Subject to Section 16 ("Limitation of Liability") herein, Thales will indemnify, defend and hold harmless Licensee against any and all claims, losses and liabilities incurred by Licensee directly as a result of any filed claim against Licensee that the Appliance or Software furnished and used within the scope of this Agreement infringes a United States patent, trademark, copyright or trade secret. This commitment is subject to the following conditions: (i) Licensee notifies Thales in writing within thirty (30) days of the claim, (ii) Thales has sole control of the defense and all related settlement negotiations, and (iii) Licensee provides Thales, at Thales' expense, with the assistance, information, and authority necessary to perform the above. Thales shall have no liability for any claim of infringement if (a) the infringement or alleged infringement is caused by the combination, operation, or use of any Software furnished to Licensee with equipment, programs, or data not furnished by Thales if such infringement would have been avoided by the use of the Software without such equipment, programs, or data, or (b) the infringement is caused by alterations or modifications of the Software not authorized by Thales. If the Software is held to infringe, or Licensee's use of the Software is enjoined, or if Thales believes that the Software will become the subject of an infringement action, Thales shall have the option, at its expense in lieu of its indemnification obligations, (1) to modify the Appliance or Software to be non-infringing, (2) to obtain for Licensee a license to continue using the Appliance or the Software, (3) to substitute the Appliance or the Software with other software and hardware having substantially similar functionality acceptable to Licensee, or (4) if none of the foregoing remedies are reasonably and commercially feasible, terminate this Agreement without further liability to Thales and provide Licensee with a refund of the unamortized portion of applicable purchase price for the Appliance or the Software and the related Appliance based on a five (5) year straight-line depreciation rate from the applicable delivery date. THIS SECTION STATES VORMETRIC'S ENTIRE LIABILITY AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

18 **LICENSEE INDEMNIFICATION** Licensee shall indemnify, defend and hold Thales harmless from and against any and all costs, claims, or liability, including, without limitation, reasonable attorney fees, resulting from any third party claim based on Licensee's use of the Software contrary to the Documentation.

19 **COMPLIANCE WITH LAWS** Each party shall comply with all applicable laws and regulations (including local laws of the country where the Software is being used) pertaining to the Software including, without limitation, restrictions on use of products containing encryption, import or export laws and regulations, and domestic and international laws and regulations pertaining to privacy and the protection of financial, medical, or personally identifiable information. Without limiting the generality of the foregoing, Licensee shall not export or re-export the Software or allow access to the Software to any third party including, without limitation, any customer of Licensee, in violation of United States laws and regulations, including, without limitation, the Export Administration Act of 1979, as amended, and successor legislation, and the Export Administration Regulations issued by the Department of Commerce.

20 **REGULATORY COMPLIANCE** Licensee understands, acknowledges, and agrees that the Software is not intended to dictate Licensee's actions required for Licensee to comply with applicable legal and regulatory matters, but as a computer platform to enable Licensee to automate certain of its data protection functions. Licensee understands, acknowledges, and agrees that it is solely Licensee's responsibility to insure that (i) the requirements imposed on it under applicable law and regulation are accurately implemented in any Software that Licensee may use to protect its data, and (ii) Licensee will comply strictly with applicable law in connection with all information processed, transmitted, stored, or otherwise disposed of by Licensee or its Affiliates using the Software.

21 **GOVERNMENT RESTRICTED RIGHTS LEGEND** The Software is a "commercial item" as that term is defined at 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer software documentation", as such terms are used in 48 CFR 12.212 and is provided to the U.S. Government only as a commercial end item. Consistent with 48 CFR 12.212 and DFARS 227.7202-1 through 227.7202-4, all United States government end users acquire the Software with only those rights set forth herein. Thales is Thales e-Security, Inc. at Suite 710, 900 South Pine Island Road, Plantation, FL 33324.

22 **TERM AND TERMINATION**

22.1 **Term.** This date of software is downloaded shall be the effective date of this Agreement ("Effective Date") and this Agreement shall remain in effect until terminated as set forth herein.

22.2 **Termination On Material Breach.** This Agreement may be terminated by either party at any time if (i) the other party is notified in writing that it is in material breach of the terms or conditions of this Agreement; and (ii) such other party fails to remedy such breach within thirty (30) days following such notice or fifteen (15) days following such notice.

22.3 **Termination on Financial Difficulty.** To the extent allowed by law, either party may terminate this Agreement effective immediately upon written notice to the other party if a party (a) files a voluntary petition in bankruptcy or otherwise seeks protection under any law for the protection of debtors; (b) has a proceeding instituted against it under any bankruptcy law that is not dismissed within sixty (60) days; (c) is adjudged as bankrupt; (d) has a court assume jurisdiction of its assets under a reorganization act; (e) has a trustee or receiver appointed by a court for all or a substantial portion of its assets; (f) suspends or ceases to do business if the obligations under this Agreement are not otherwise assumed; or (g) makes an assignment of its assets for the benefit of its creditors.

23 **ACTIONS ON TERMINATION** Upon termination of this Agreement, except as expressly provided herein, and in addition to all other rights and obligations each party may have under this Agreement (a) the rights and licenses granted to Licensee pursuant to this Agreement automatically terminate, and (b) Licensee shall, within ten (10) days, ship to Thales or destroy (including purging from any system or storage media) all items in its possession proprietary to Thales, including but not limited to all Software and the Appliance, and an officer of Licensee shall certify in writing to Thales that the Appliance, and all Software and other confidential information of Thales have been returned to Thales or destroyed. Sections 4 ("Audit"), 7 ("Title and Ownership"), 9 ("Reverse Engineering"), 11 ("Confidentiality"), 15 ("Disclaimer"), 17 ("Indemnification and Infringements"), 16 ("Limitation of Liability"), 19 ("Compliance with Laws"), 22 ("Term and Termination"), 23 ("Actions on Termination"), and 24 ("General") will survive termination of this Agreement.

24 **GENERAL**

24.1 **Choice of Law.** This Agreement shall be governed by the laws of the State of New York, without reference to its conflict of laws principles, or the United Nations Convention on Contracts for the International Sale of Goods. The Uniform Computer Information Transactions Act or any version thereof, adopted by any State in any form ("UCITA"), shall not apply to this Agreement and, to the extent that UCITA is applicable, the parties agree to opt-out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein.

24.2 **Entire Agreement.** This License Agreement constitutes the entire and complete agreement of the parties with respect to the terms hereof. No acceptance of any purchase order from Licensee, or delivery of any goods or services, shall constitute acceptance by Thales of the terms of any purchase order or other document from Licensee. No additional, inconsistent, or conflicting clauses in any purchase order, release, or other written correspondence from either party, shall be deemed to be included in these terms and conditions and shall be of no effect, even if later in time than this form, unless the parties agree otherwise in a writing specifically referring to this form, specifically stating that such writing is modifying this form, and executed by

authorized signatories of each party. These terms and conditions supersede any usage of trade and control all course of dealing between Licensee and Thales. This Agreement replaces and supersedes any prior written or verbal agreements, understandings, communications or representations.

24.3 **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed given and received on the earlier of when actually received or three (3) business days upon deposit with the United States Mail with delivery confirmation, postage prepaid, or (or for notices given across national boundaries, by Federal Express, DHL, or other comparable delivery service, delivery prepaid), or for notices sent within the continental United States, the next business day if sent by overnight Federal Express or other nationally recognized overnight courier, and addressed to Thales Legal at the business address of the party as shown on the initial paragraph of this Agreement or to such other address as the party may request by written notice. When notice is required to be given within a specified time, the notice shall be timely given if it is deposited in the mail or with a courier or transmitted within the specified time, but time periods that begin with the delivery of the notice shall not begin to run until the notice is received or deemed to have been received as provided above.

24.4 **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect, and the clause held invalid shall be modified to effect the original intent of the parties, and convey the economic benefits originally intended to be conveyed.

24.5 **Assignment.** Licensee may not assign this Agreement or sublicense the Software without the prior written consent of Thales, which shall not be unreasonably withheld or delayed, and any prohibited assignment or sublicense shall be null and void. Notwithstanding the foregoing, consent shall not be required in the context of an acquisition of either party, by asset sale, merger, change of control or operation of law.

24.6 **Amendments, Waivers, and Consents.** The parties shall not amend or waive any provision of this Agreement except in a writing signed by the parties. No waiver or consent shall be binding except in a writing signed by the party making the waiver or giving the consent. No course of dealing between the parties shall constitute an amendment of this Agreement.

24.7 **Force Majeure.** Except for Licensee's obligation to pay fees, neither party shall be liable for any failure to perform due to causes beyond its reasonable control. Any deadline or time within which a party must perform under this Agreement shall automatically be extended upon the occurrence of any such cause for a period equal to the time lost because of such event, but not for more than 90 days. If such cause continues for more than 90 days, then the party not otherwise in breach of contract as a result of the cause, or either party if both are otherwise in breach of contract as a result of the cause, may terminate this Agreement upon written notice to the other.

Exhibit A

Services Schedule

This Exhibit to the Agreement describes the terms under which services will be provided to Licensee by Thales under any Statement of Work ("SOW").

1 **Scope of Services.** Subject to the terms and conditions of this Agreement, during the term of this Agreement, Thales shall provide to Licensee the Services and any deliverables ("Deliverables") described in a SOW signed by Thales and Licensee. From time to time, the parties may add new SOWs, which, upon execution by both parties, will be subject to the terms and conditions of this Agreement.

2 **Delivery.** Thales shall complete the Services and deliver any Deliverables as described and according to the schedule set forth in a SOW. Notwithstanding, any date set forth in a SOW for the completion of any Deliverable or Services may be delayed if the delay relates to or will likely arise because Licensee is late in the performance of any of its obligations hereunder. If for any reason Thales cannot perform its obligations with respect to the Deliverables or Services in accordance with the schedule set forth in a SOW, the parties will mutually agree upon a revised schedule. Services will be deemed delivered to the Licensee when Thales indicates that the Services have been performed.

3 **Manner of Performance.** Thales will retain the sole and exclusive right to control and direct the manner and means by which the Services are performed and may subcontract or assign any or all of its obligations and rights under this Agreement. Licensee shall provide, at no charge to Thales, office space, information, employees, services and equipment (such as copiers, fax machines, telephones and modems) as Thales reasonably requires to perform the Services.

4 **Product Changes.** If Licensee desires to change the scope of Services, Licensee shall notify Thales in writing of such change (the "Change Order"). The Change Order shall specify all such changes in the same detail as the original Services or specifications. As promptly as possible, but in no event more than thirty (30) days after receipt of the Change Order, Thales shall provide to Licensee a statement of any estimated fees and costs pursuant to the Change Order, and an estimate of when Thales could begin performing the Services subject to the changes. Within thirty (30) days thereafter, Licensee shall notify Thales of Licensee's acceptance or rejection of Thales' response to the Change Order and shall include a copy of the Change Order signed by an authorized representative of Licensee. If Licensee accepts Thales' response, Thales shall perform the Services including, without limitation, providing the Deliverables, as may be required by Licensee pursuant to the Change Order and this Agreement. Licensee's failure to deliver any such acceptance or rejection within such thirty (30) day period shall be deemed a rejection of Thales' response. Thales shall have no obligations with respect to any Change Order rejected, or not accepted, by Licensee.

5 **Assistance.** Licensee shall provide Thales with reasonable assistance, information, and materials so that Thales can effectively perform the Services. Thales shall be excused from performing the Services to the extent that Licensee delays providing Thales with such requested assistance, information, or materials.

6 **Cancellation or Rescheduling.** If Licensee and Thales contract directly for Services, then Licensee shall pay all fees, plus any out-of-pocket costs incurred by Thales, associated with Services cancelled by Licensee within forty-five (45) days of the commencement date of such Services. If Licensee desires to reschedule such Services, Licensee shall pay any outstanding cancellation fees associated with such Services before such Services are rescheduled.

7 **Rights to Deliverables.** Subject to the terms and conditions of this Agreement and the Statement of Work, Thales grants to Licensee a perpetual, non-exclusive, worldwide, non-transferable, non-sublicensable, royalty-free license to internally use the Deliverables. Subject to the foregoing, all Deliverables hereunder and all work products created or developed hereunder shall be the exclusive property of Thales. Any ideas, know-how, or techniques that may be developed by Thales, including any enhancements or modifications made to the Deliverables and work products created hereunder, shall be the property of Thales.

8 **Disclaimer.** EXCEPT AS SPECIFICALLY SET FORTH IN THE AGREEMENT OR STATEMENT OF WORK, ALL DELIVERABLES ARE PROVIDED AS IS, WITH ALL FAULTS, AND THALES DISCLAIMS ANY WARRANTIES, EXPRESS OR IMPLIED INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS, OR NON-INFRINGEMENT.

Exhibit B

Support Schedule

This Exhibit to the Agreement describes the terms under which technical support will be provided to Licensee by Thales.

9 **Definitions.** All capitalized terms used in this Support Schedule shall have the terms given in the Agreement unless otherwise defined in this Section 1.

9.1 **“Resolution”** means a bug fix, correction, patch, workaround, or modified release of the Software or Documentation provided to Licensee by Thales to resolve a Failure.

10 **Support Services.** Thales will provide the support services described in this Exhibit (the “Support Services”). Thales will have no obligation under this Support Schedule with respect to any release of the Software which is not the current release or the immediately preceding release. Thales will have no responsibility or obligations under this Agreement with respect to Failures resulting from or related to (i) improper installation; (ii) modification by anyone other than Thales; (iii) use in a manner other than as authorized under this Agreement or as required by the Documentation; (iv) use of the Software or Appliance with other software, hardware, or telecommunication interfaces not meeting or not maintained in accordance with Thales’ specifications as described in the Documentation; (v) operation or maintenance in environmental conditions outside the parameters designated in the Documentation or elsewhere; (vi) unusual physical, electrical or electromagnetic stress, neglect, or misuse; (vii) extreme power surge or failure, or electromagnetic field; or (viii) use of any release of the Software other than the current release or the immediately preceding release. In addition, Thales shall have no obligation to provide any technical support under this Agreement or otherwise in connection with any Software that is not in a live production environment or in connection with any inability of the Software to operate substantially in accordance with the Documentation which is not reproducible.

11 **Designated Support Contacts.** Licensee may designate no more than one (1) primary contact, and no more than two (2) secondary contacts, as the sole Designated Support Contacts.

12 **Support Option.** If Licensee desires Support Services, one of the following Support Services options must be specified on the Order Form and/or Licensee’s valid purchase order:

OPTION 1 Premium Annual Support*	OPTION 2 Standard Annual Support
Telephone Support: 24 hours per day, 7 days per week, 365 days per year.	Telephone Support: 5 days per week, Thales holidays excepted, 9:00 a.m. to 5:00 p.m., Thales time – Pacific time zone.

**Premium Support is included in subscription based licensing at no additional charge.*

13 **Installation.** Licensee will be responsible for installing and implementing all Failure corrections and Updates. Licensee understands that failure to incorporate Failure corrections and Updates may cause subsequent Failure corrections and Updates to be unusable including, without limitation, any Updates provided to all licensees.

14 **Response and Resolution.** Thales will use reasonable commercial efforts to satisfy the following response times and Resolution efforts:

Severity Level	Response Time to Notice of Failure*	Resolution Effort
Level 1: All use of Software on a production platform is lost.	One (1) Hours	Continuous efforts by both parties.
Level 2: Use of the Software on a production platform is severely degraded and/or access to data is impeded with no work around.	Two (2) Hours	Continuous effort by both parties during business hours.
Level 3: Licensed Software on a production platform causes or results in substandard or erratic performance with no work around.	One (1) Day	Next maintenance release.
Level 4: Minor problem; or when any of the above categories of Failures has been addressed with a workaround.	Five (5) Days	Next update at Thales' discretion.
Level 5: Failure is cosmetic in nature and does not result in reduced performance.	Five (5) Days	Next update at Thales' discretion.

* Response time does not denote Resolution time

The determination of the level of severity will be made by Thales in consultation with Licensee. In certain instances Licensee and Thales may determine that Resolution of a Failure may be expedited if Thales is given remote access to Licensee's live environment. In such case, in Licensee's sole discretion, Licensee may provide remote access to Thales, subject to Thales' execution of Licensee's security agreements and compliance with Licensee's policies. Notwithstanding any provision to the contrary in any security agreement or Licensee policy.