



**MAINTENANCE OF TREND MICRO-BRANDED SOFTWARE
LICENSED UNDER THE TREND MICRO BUSINESS SOFTWARE AND APPLIANCE AGREEMENT
EFFECTIVE 1 APRIL 2020
(herein these “Maintenance Terms”)**

1. Introduction; Controlling Terms and Conditions. If Company is procuring paid Maintenance (as defined below) of Software licensed from Trend Micro under the Trend Micro Business Software and Appliance Agreement, effective 1 January 2019 (the “**Agreement**”), the Parties agree that such Maintenance is provided under the Agreement and these Maintenance Terms which are ancillary to, incorporated into, and forms a part of the Agreement with respect to paid Maintenance for such Software and together the referenced documents will solely govern and control the Maintenance of such Software. In each instance in which the terms and provisions of these Maintenance Terms are different than, conflicting or inconsistent with, or additional to, any of the terms and conditions set forth in the Agreement, all such different, conflicting, inconsistent, or additional terms and conditions set forth herein shall modify, amend, and supersede the relevant term or condition set forth in the Agreement with respect to Maintenance of the Software, without the need for specific reference thereto. Unless otherwise noted, section, schedule, attachment or exhibit references in these Maintenance Terms shall reference the respective section, schedule, attachment or exhibit of these Maintenance Terms. **The terms and provisions of the Agreement, as modified, amended, and/or superseded by these Maintenance Terms, shall be the complete statement of the agreement of the Parties with respect to any paid Maintenance made available to Company by Trend Micro and any additional, conflicting, or different terms or conditions proposed by Company in any Company-issued document (such as an Order), are hereby rejected by Trend Micro and Void.**

2. Agreed Definitions. The following additional Agreed Definitions shall apply to the Software. Any capitalized term used in these Maintenance Terms that is not otherwise defined herein shall have the Agreed Definition set forth in the Agreement.

“**Authorized Contact**” means one or more individuals appointed by Company (consistent with Trend Micro’s Support Guide or other published policies) to act as contacts for requesting and receiving Maintenance, which Authorized Contacts will be resident in the country where Company is resident unless otherwise notified to Trend Micro by Company and approved by Trend Micro.

“**Escalated Issue**” means with respect to code-level errors/bugs in licensed Software, a request from Company for Maintenance under Section 3.2.1(b) of these Maintenance Terms and the Support Guide resulting from Company suspecting or asserting in accordance herewith, that such licensed Software no longer performs in accordance with its Documentation in any material respect. Escalated Issues may only be created by Company as directed in the Support Guide.

“**Maintenance**” is defined in Section 3.2 of these Maintenance Terms and includes the Support Guide as well as other Trend Micro Maintenance/support policies published from time-to-time by Trend Micro or otherwise made available to Company.

“**Separate Modules**” means any plug-in, module, or other option for Software that Trend Micro determines to be new or different product/features/functionality that Trend Micro makes generally available to the public by license for new or additional consideration.

“**Software**” means for purposes of these Maintenance Terms, Standalone Software and Integrated Software, but the term does not include Device Code (except that certain virtual appliances licensed by Trend Micro (as identified in its Documentation) include an operating system as part of the licensed Software) or Test Software. “**Device Code**” means any operating system (except for certain virtual appliances as identified in its Documentation, in which event, the Trend Micro-provided operating systems is bundled with and forms a part of the Software), microcode, firmware, utilities and routines, and other sets of object code instructions that are installed on and bundled with any hardware that may be provided to Company as part of an Appliance.

“**Support Guide**” means Trend Micro’s then-current Global Technical Support Guide for Business Customers posted from time-to-time at <https://success.trendmicro.com/support-policies>. The Support Guide sets out policies and procedures for Trend Micro’s provision of Maintenance to its customers throughout the world other than customers located in Japan, the People’s Republic of China, Taiwan, the Republic of Korea, Hong Kong SAR, and Macau SAR. As may be made known by Trend Micro locally, such other excluded-region customers may be entitled to support from local or remote Trend Micro resources.

“**Updates**” means and includes if and when generally made available by Trend Micro with respect to Software licensed hereunder that is also then-subject to paid Maintenance, new object code versions (including patches and workarounds) of such Software that includes: (a) improvement of features/functionality that is used to identify, detect, and block computer viruses, spam, spyware, malicious code, ransomware, websites, or other forms of computer abuse (both known and unknown) generally categorized as malware and other forms of content identification or categorization; (b) corrections, modifications, revisions, patches, workarounds, new definition files, maintenance updates, bug fixes and/or other enhancements to, or for use in connection with, the Software; and/or (c) major or minor new versions of existing Software that contains new features, improvements to existing features, capabilities, structures, and/or functionality that Trend Micro makes available to existing customers that have then-purchased Maintenance for such Software; *provided, however*, the term “Updates” specifically excludes Separate Modules and does not apply to the Hardware component of any Appliance including its Device Code. Updates that are released by Trend Micro from time to time replace or patch and will become part of previously licensed copies of the updated Software and will not increase the units/Licensed Capacity of Software licensed hereunder, or otherwise create additional copies or licenses of such Software, nor does any Update create any new or additional warranty for the Software it updates.

3.1 Maintenance Overview. Only when purchased by Company, Maintenance will be provided to Company on the terms and subject to the conditions of these Maintenance Terms and the Agreement as follows: (a) for Standalone Software licensed for a paid Subscription Period; (b) for Standalone Software licensed for a Perpetual Period: (i) for one (1) year only from the date Company first receives the Standalone Software registration key(s), activation code(s), the Standalone Software serial number(s) or License Certificate, whichever is earlier, for newly-licensed Standalone Software, (ii) for one or more additional one (1) year periods if Maintenance is repurchased by Company; and (c) for the first twelve (12) months from the Delivery Date for Integrated Software licensed as part of an Appliance unless otherwise stated in applicable Appliance Differing Terms. On the terms and subject to the conditions of the Maintenance Terms then-in-effect, Company may purchase additional Maintenance for twelve (12) month periods for its Licensed Capacity for Software referenced in subparts (2) and (3) above, otherwise, Maintenance will lapse at the end of the paid twelve month period.

3.2 Maintenance; Maintenance Exclusions.

3.2.1 Maintenance. When purchased by Company, Company shall have the right to receive and Trend Micro shall provide the following to Company's Authorized Contacts on the terms and subject to the conditions set forth in these Maintenance Terms, the following English-language services (collectively, together with the Support Guide and other policies, procedures, and objectives made commercially-available available by Trend Micro, "**Maintenance**"):

- (a) Trend Micro will make available to Company for downloading from Trend Micro's website advised to Company from time-to-time, Updates for then-licensed Software released during each paid Maintenance period.
- (b) Trend Micro will accept requests from Company's Authorized Contacts via telephone or electronic submission in English on Trend Micro business days (except as noted below) in the country where Company is located as set forth in and determined by <https://success.trendmicro.com> (select "**Contact Support**" in the lower left hand corner for Company's region) with respect to: (1) routine, short duration initial Software installation and usage (how-to) questions, but it shall remain Company's sole responsibility to install, configure, and deploy all Software; and (2) with respect to an Escalated Issue, troubleshooting code-level errors/bugs in licensed Software (that is to say, Software does not substantially conform to its Documentation) that Company is unable to bring to resolution on its own; *provided, however*, Company shall have the right to 24x7x365 technical support access via telephone or electronic submission for Severity 1 Critical Issues as defined and described at www.trendmicro.com/severitydefinitions and during local Business Hours for all other Severity Levels. For further information on the subject, please refer to the Support Guide.
- (c) Trend Micro will provide Company's Authorized Contacts with reasonable access to Trend Micro's antivirus researchers via an established technical support channel set forth in the Support Guide to assist Company in addressing malware/virus infections, but in no event will Trend Micro provide any remediation services with respect thereto unless by separate agreement.
- (d) The Company shall have the right to optionally enable, access, and use Trend Micro's Smart Protection Network ("**SPN**") to the extent such features form a part of a licensed Software.
- (e) All Maintenance will be conducted by the Parties only in the English language (unless otherwise agreed) and provided by Trend Micro and/or its global Affiliates (or its or their subcontractors) from locations Trend Micro and/or its global Affiliates may determine from time-to-time, which may be a location solely outside the country or region of Trend Micro's Licensing Entity. Maintenance may be available in other languages on different terms and conditions and at an additional charge. Company understands that in some regions, Maintenance of Products will only be provided by Trend Micro's subcontractors.
- (f) Maintenance does not include any Separate Modules, Premium Support Services, or other Trend technical or engineering services, all of which may be available by separate agreement and compensation as may be agreed upon from time to time.

3.2.2 Escalated Issues. In connection with Trend Micro's performance of its Maintenance obligations with respect to an Escalated Issue, Company agrees to perform, and Trend Micro's responsibilities and obligations to perform Maintenance with respect to Escalated Issues are subject to, Company doing the following:

- (a) Ensuring that the licensed Software is being used only in accordance with its Documentation.
- (b) Prior to escalating a suspected issue to Trend Micro, Company will undertake the identification of and/or isolation of suspected issue(s) with licensed Software such as recreation, diagnosis, and resolution of problems related to licensed Software, and if Company is unable to do so, Company will develop, diagnose, identify (including gathering all necessary or relevant information, logs, and/or technical information), and create repeatable demonstrations of any purported Software non-conformance, issues or errors for submission to Trend Micro for Maintenance.
- (c) After escalation of an issue, allow Trend Micro to have remote access to Company's networks/systems to troubleshoot an Escalated Issue if requested by Trend Micro to the extent consistent with Company security policies. Company and Trend Micro will agree on appropriate security measures to prevent unauthorized access to Company's networks/systems/data for which there is no need-to-know; *provided, however*, the ultimate responsibility for the security of the networks/systems/data remains solely with Company. Trend Micro will not connect to the Company's networks/systems without prior authorization and such connection will be solely to provide Maintenance. Company has the right to observe and maintain control over such access.
- (d) Make available knowledgeable (in Company's systems and the Software) technical staff (including, without limitation, Authorized Contacts) to aid Trend Micro in resolution of any Escalated Issues.
- (e) With respect to each Escalated Issue, Company remains responsible for: (i) any data and the content of any data/information Company makes available to Trend Micro; (ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data and information (including any personally-identifiable information); and (iii) backup and recovery of the networks/systems/devices/databases and any stored data/information. Company will not send or provide to Trend Micro access to personally-identifiable information or other information controlled or regulated under Applicable Laws during or in connection with any Escalated Issue and Company will be responsible for any reasonable costs and other amounts that Trend Micro may incur relating to any such information mistakenly provided to Trend Micro or to the loss or disclosure of such information by Trend Micro, including those arising out of any third party claims.
- (f) Company understands and consents (without compensation) to Trend Micro using information about Software errors and malware problems discovered in connection with any Escalated Issues to improve Trend Micro's products and services and assist with the provision of Maintenance offered by Trend Micro.

3.2.3 Maintenance Exclusions. Maintenance does not include and Company will perform, among other things, as Company deems necessary or appropriate (or cause to be performed by Contractors): (a) the installation, activation, configuration, deployment, implementation, Updating, and operational training for licensed Software, including gaining access to and utilizing all features and functionality of such Software; (b) the provision of initial support assessment and distinguish whether or not the issue is licensed Software-related that should become an Escalated Issue; (c) simulating and attempting to recreate Escalated Issues and performing any required interoperability tests between Software and any Company network/system component; and (d) facilitation and collection of samples and escalation of malware and virus-specific Escalated Issues.

3.3 Authorized Contacts. Trend Micro will provide Maintenance to Company only through Company's Authorized Contacts. Authorized Contacts, each of whom must be technically skilled and knowledgeable about the Software and the Company's networks, systems, and environment in order to help resolve system issues and to assist Trend Micro in analyzing and resolving Escalated Issues. The Support Guide states the number of Authorized Contacts that Company is entitled to register with Trend Micro and the registration process. If Company needs to designate additional technical personnel as Authorized Contacts, Trend Micro may permit Company to do so, but Trend Micro reserves the right to charge Company applicable fees. Authorized Contacts will be responsible for, among other things: (i) developing and deploying troubleshooting processes within Company and its Affiliates accessing/using any Software licensed to Company; (ii) performing any and all technical service required of Company

in connection with any Software other than Maintenance that Trend Micro is obligated to perform hereunder; and (iii) performing the technical services required of Company prior to Company's request for assistance with any Escalated Issue so as not to impair or impede Trend Micro's ability to perform Maintenance of any Software in accordance herewith. An Authorized Contact may not share his or her login, ID, or other credentials with anyone else, nor delegate his or her responsibilities as an Authorized Contact to anyone other than another Authorized Contact. Company may update this contact information through Trend Micro's designated online case management system referenced in the Support Guide. Company agrees that Trend Micro may store, disclose internally, and use the business contact information of Company's Authorized Contacts and other employees and Contractors in connection with the provision of Maintenance by Trend Micro and its Affiliates. Where required by Applicable Law, by providing any such business contact information to Trend Micro, Company represents to Trend Micro on an ongoing basis that Company will have already notified and obtained the consent of the individuals whose business contact information may be stored, disclosed internally, and processed and will forward their requests, if any, to Trend Micro where required by Applicable Law to access, update, correct or delete their contact information to Trend Micro that will then comply with such request.

3.4 Lapse and Reinstatement. In the event that Company allows Maintenance to lapse or is not timely repurchased for any Software other than Software licensed for a Subscription Period, any reinstatement by repurchase of Maintenance requires payment of annual fees retroactive to the date of lapse or termination, plus if the lapse/expiration is for more than sixty (60) days, reinstatement requires the additional payment of a reinstatement fee of twenty-five percent (25%) of such Maintenance fees; *provided, however*, Company shall have no right to purchase and Trend Micro shall have no obligation to permit Company to reinstate or otherwise purchase, Maintenance if the period of lapse or expiration of Maintenance exceeds one hundred twenty (120) days. **Trend Micro advises and Company acknowledges that because of the constantly changing threat/security environment and periodic technology improvements to most Software, the technical and/or security capabilities, functionality, and performance of any such Software will rapidly degrade and will, in most instances, not perform in the manner and for the purposes for which it is designed or as set forth in the Documentation if annual Maintenance is not repurchased or is otherwise allowed to lapse and such Software is thereafter utilized by Company.**

3.5 End-of-Maintenance. Trend Micro reserves the right to discontinue Maintenance of any licensed Software (including Software licensed for a Perpetual Period) in accordance with this Section (each of the following herein an "End-of-Maintenance" event). In each of the following End-of-Maintenance events:

- (a) Trend Micro will continue to make Maintenance available for any licensed Software that is no longer offered for sale by Trend Micro for a period of twelve (12) months after the end-of-sale effective date unless a longer period of time is published by Trend Micro in the Support Guide for specified Software.
- (b) Trend Micro provides Maintenance and other technical support for a then-current Update of licensed Software only for eighteen (18) months after the release of a subsequent Update for such Software unless a longer period of time is published by Trend Micro in the Support Guide for a specified Software; *provided, however*, one or more versions of Trend Micro's Deep Security product family may have different rules and/or policies for discontinuance of Maintenance that will be published from time-to-time at <https://success.trendmicro.com/support-policies>.

Trend Micro advises that it will not renew Maintenance for a period that would otherwise extend past the expiration of an End-of-Maintenance period referenced in subpart (a) above. The Parties understand and agree that an End-of-Maintenance event with respect to any licensed Software shall not be considered a breach hereof by Trend Micro, nor shall any such End-of-Maintenance entitle Company to any claim for compensation or damages as result of or in connection therewith.

4. Limited Maintenance Warranty; Non-Conformance Remedy.

4.1 Limited Maintenance Warranty. When purchased by Company, Trend Micro warrants to Company ONLY that Maintenance will be provided or performed using reasonable care and skill on the terms and subject to the conditions of these Maintenance Terms. Trend Micro will have no obligation to provide Maintenance with respect to any licensed Software, and the foregoing Maintenance warranty will be voided by: alteration, modification, enhancement, or misapplication of the licensed Software; failure to properly install and/or configure the licensed Software; use of the licensed Software other than in accordance with its Documentation; failure to install/deploy the most current Update if such Update would resolve the Escalated Issue; improper maintenance of the Software by any person other than Trend Micro; use of the licensed Software in an unsuitable physical or operating environment; or an Escalated Issue is caused in whole or in part by a product or technology that Trend Micro did not supply.

4.2 Non-Conformance Remedy. For a breach of the foregoing warranty, Company's sole and exclusive remedy, and Trend Micro's entire obligation and liability shall be the re-performance of the non-conforming Maintenance. However, only with respect to separately purchased (by unique SKU) and invoiced Maintenance, if Trend Micro is unable to re-perform Maintenance for any reason to achieve conformance with the foregoing warranty after making commercially reasonable efforts, either Company or Trend Micro may terminate these Maintenance Terms for convenience as to the non-conforming portion of such Maintenance, in which event, Trend will refund to Company a pro-rated amount corresponding to the remaining portion of any paid Maintenance. **TREND MICRO SHALL ONLY HAVE LIABILITY FOR ANY SUCH BREACH OF WARRANTY IF COMPANY PROVIDES TIMELY NOTICE (IN ACCORDANCE WITH THE SUPPORT GUIDE) OF THE BREACH TO TREND MICRO WITHIN TEN (10) DAYS OF THE PERFORMANCE OF THE APPLICABLE MAINTENANCE SERVICE. THE FOREGOING WARRANTY IS COMPANY'S EXCLUSIVE WARRANTY AND REPLACES ALL OTHER WARRANTIES, GUARANTEES, OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED, TO WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. TREND MICRO DOES NOT WARRANT OR GUARANTEE THAT MAINTENANCE WILL BE FREE FROM ERRORS OR DEFECTS, BE UNINTERRUPTED, THAT MAINTENANCE WILL PROTECT AGAINST ALL POSSIBLE THREATS, OR THAT TREND MICRO WILL CORRECT ALL DEFECTS IN MAINTENANCE OR SOFTWARE. IN ADDITION TO THE FOREGOING, IT IS EXPRESSLY AGREED THAT THE TERMS, CONDITIONS, LIMITATIONS, AND EXCLUSIONS SET FORTH IN SECTION 12 OF THE AGREEMENT WILL APPLY TO THESE MAINTENANCE TERMS AND MAINTENANCE.**

End of Maintenance Terms