

## IVANTI END USER LICENSE AND SERVICES AGREEMENT

IMPORTANT: PLEASE READ THESE TERMS BEFORE ORDERING, INSTALLING, CONFIGURING AND/OR USING THE IVANTI SOFTWARE OR SAAS OFFERINGS. THIS DOCUMENT DESCRIBES THE RELATIONSHIP BETWEEN THE APPLICABLE IVANTI ENTITY AS DETERMINED IN ACCORDANCE WITH THIS DOCUMENT ("IVANTI") AND YOU (EACH OF IVANTI AND YOU, A "PARTY" AND, COLLECTIVELY, THE "PARTIES"). THIS DOCUMENT ALSO MAKES REFERENCE TO ONE OR MORE ADDITIONAL DOCUMENTS WHICH ARE INCORPORATED INTO THIS DOCUMENT BY REFERENCE ("SUPPLEMENTAL TERMS") (COLLECTIVELY WITH THIS DOCUMENT, THE "AGREEMENT"). THIS AGREEMENT WILL BECOME EFFECTIVE ON THE DATE YOU ACCEPT THE TERMS OF THIS AGREEMENT (THE "EFFECTIVE DATE"). BY INSTALLING, CONFIGURING, AND/OR USING THE SOFTWARE OR SAAS OFFERING IN ANY WAY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THE ENTITY OR INDIVIDUAL IDENTIFIED AS THE CUSTOMER ("YOU" OR "YOUR") TO THIS AGREEMENT, AND ARE UNCONDITIONALLY CONSENTING TO BE BOUND BY THE TERMS OF AND BECOME A PARTY TO THIS AGREEMENT WITH IVANTI. IVANTI DOES NOT AGREE TO ANY OTHER TERMS, INCLUDING WITHOUT LIMITATION ANY TERMS ON YOUR PURCHASE ORDERS OR INVOICES. IF YOU HAVE ENTERED INTO A SEPARATE WRITTEN AGREEMENT WITH AN IVANTI ENTITY SPECIFICALLY LISTED HEREIN REGARDING THE SOFTWARE OR SAAS OFFERING ("SEPARATE AGREEMENT"), THE TERMS OF SUCH SEPARATE AGREEMENT SHALL CONTINUE IN FULL FORCE AND EFFECT, AND THIS AGREEMENT SHALL NOT APPLY. NOTWITHSTANDING, THIS AGREEMENT WILL REPLACE AND NEGATE ANY SEPARATE WRITTEN AGREEMENT IN ITS ENTIRETY IF SUCH SEPARATE WRITTEN AGREEMENT IS BETWEEN YOU AND ANY ENTITY NOT SPECIFICALLY LISTED HEREIN AND DEFINED AS "IVANTI".

All references to "Ivanti" shall mean the entity identified below in the same geographic region as You:

- Ivanti, Inc., a Delaware corporation, in the Americas, except Brazil, and China.
- Ivanti Comércio de Software Brasil Ltda, a Brazilian company, in Brazil.
- Ivanti Software K.K., a Japanese company, in Japan.
- Ivanti International Limited, an Irish company, for Wavelink and Naurtech branded products and services in Europe, the Middle East, Africa, and the Asia Pacific region.
- Ivanti UK Limited, a limited company registered in England and Wales, in all other locations.

1. DEFINITIONS. Certain capitalized terms shall have the meanings set forth below in this Agreement.

- a. "Affiliate" means any legal entity that controls, is controlled by or is under common control with You or Ivanti (as applicable); where 'control' refers to ownership of more than fifty percent (50%) of voting securities.
- b. "Analyst" means an individual employed by You or who otherwise provides services (whether as an independent contractor or otherwise) to You, who has login access to manage and use the Software.
- c. "Asset" means (i) any Device or other asset which has an Operating System, whether physical or virtual, that is tracked by or input into Ivanti's asset management Software; or (ii) every physical and virtual object (including but not limited to network devices, applications, databases, objects in the cloud, IoT, or mobile devices which are typically identified by a unique IP or MAC address, web application software and databases) that is registered, managed, and discovered by Ivanti's risk management Software as measured by overall instances which You and/or Your Affiliates use.
- d. "Beta" means a version of the Software that is still in its testing phase and has not yet been released commercially.
- e. "Confidential Information" means any information disclosed by either Party to the other Party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including, without limitation, research, product plans, products, services, customers, markets, software, inventions, processes, designs, drawings, engineering, hardware configuration information, marketing or finances documents), which is designated as "Confidential," "Proprietary" or some similar designation, or if the information should reasonably be considered confidential or proprietary due to its nature or the context of its disclosure. Confidential Information shall include any information relating to the Ivanti Products and any non-public related materials, regardless of whether or how such materials are marked. Information communicated orally shall be considered "Confidential Information" if (i) such information is identified as confidential at the time of disclosure; or (ii) by its nature or content is reasonably distinguishable as confidential to the receiving Party..
- f. "Connection" means anytime (i) a Device is managed by the Software or Devices to which services are provisioned or furnished by the Software, or (ii) a link to an instance of an external system is established in the Software for the purpose of exchanging data, no matter if data is actually transferred or not.
- g. "Customer Data" means any information, data, and other content, in any form or medium, that is collected, uploaded, downloaded, or otherwise received, directly or indirectly, from You or a User by or through a SaaS Offering.
- h. "Device" means an electronic device, including without limitation, (a) a physical device such as a computer, handheld device, workstation, console, server, or any other electronic device; (b) a virtual machine, such as an operating environment that may be running concurrently with another operating environment on a single physical device; or (c) an electronic or virtual mailbox (e.g., a mailbox for email).
- i. "Documentation" means, collectively, the official product operation instructions, release notes and user manuals provided by Ivanti for the Software, in electronic or written form, that Ivanti has made publicly available.
- j. "Enrolling" or "Enrolled" means the act of manually (for example, by explicit user or administrative action) or automatically making a Device known to the Software, such that the Software subsequently has knowledge of the Device and establishes an initial management connection with the Device.
- k. "Hardware" means any tangible hardware, network appliance, equipment or devices marketed and sold to You by Ivanti, including spare

parts supplied by Ivanti.

- l. “Invoice” means the relevant Ivanti or Reseller quotation, order and/or invoice.
- m. “Operating System” means an identifiable piece of software that runs on a physical or virtual device which controls the functions of the device and is discoverable and/or manageable over a network.
- n. “Ivanti Platform” means any hardware, network appliance, equipment or devices marketed and sold by Ivanti.
- o. “Ivanti Products” means the Software, Hardware, Support and Maintenance Services and/or Professional Services.
- p. “Professional Services” means any of Ivanti’s deployment, consulting, training, and education services to be performed by Ivanti or its subcontractors to the extent identified in a statement of work signed by both Parties referencing this Agreement.
- q. “Registered Device” means a Device that has been Enrolled. A Device shall be considered a Registered Device from the time of its Enrolling, until the time the Device is explicitly marked as “removed” (also referred to as “retired”, “wiped” or “deleted”).
- r. “Reseller” means an Ivanti authorized reseller or distributor.
- s. “SaaS Offering” means Ivanti’s provision of the Software under a Subscription License and as a hosted service under this Agreement.
- t. “Server” means an electronic device that has a server Operating System (e.g., Windows Server, Linux, UNIX, etc.) with the ability to install and run additional applications, but does not include devices that run hardened versions of an Operating System that do not allow for the installation of software or applications (e.g., network switch, firewall, load balancer, etc.).
- u. “Software” means the object code form of the Ivanti proprietary software product(s) made available by Ivanti under this Agreement, whether on premise or as a SaaS Offering, and includes any accompanying components, files, modules, audio-visual content, activation keys, Documentation, Updates, and Upgrades to which You are entitled hereunder.
- v. “Support and Maintenance Services” means those technical support and maintenance services for the Software made available by Ivanti under this Agreement.
- w. “Updates” means any updates, minor enhancements, corrections, bug fixes, patches or functions added to or removed from the Software but shall not include any new software or functionality that Ivanti markets and sells separately.
- x. “Upgrades” means major releases of a product that replace a prior version of that product.
- y. “User” means an individual employed by or who otherwise provides services (whether as an independent contractor or otherwise) to You who is supported with or uses the Software.
- z. “Version” means one or more releases of the Software with a common release naming convention.

## 2. GRANT OF LICENSE.

a. Software License. Subject to the terms and conditions of this Agreement and in accordance with the applicable Documentation and the License Type, License Model, Version and quantities of licenses purchased and paid for by You, Ivanti hereby grants You (as applicable) (i) a limited right to access and use the SaaS Offering, (ii) a non-exclusive, non-transferable, non-sublicensable license (except as set forth within this Agreement) to use the Software, and/or (iii) a limited right to maintain one (1) backup, unmodified copy of the Software for archival purposes.

Users shall use and/or access the Software solely on behalf of and for the benefit of You or Your applicable Affiliates and in accordance with the license purchased and the terms of this Agreement. You shall be responsible for all acts and omissions committed by any Users and any actions by such Users that would be a breach of this Agreement, if taken by You, shall be deemed a breach of this Agreement. You agree that Your purchase of the Software is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Ivanti with respect to future functionality or features.

b. License Type. Ivanti provides the Software under two (2) general license types (the “License Types”):

- (i) “Perpetual License”. A license to use the Software that is not time-limited when used in accordance with the terms of this Agreement.
- (ii) “Subscription License”. A time-limited license to use the Software that expires at the end of a specified period. Software licensed under a Subscription License may contain disabling code to automatically disable itself upon the expiration of the subscription term. If You wish to terminate or alter the scope of this Agreement, an Invoice or any Ivanti Products You have purchased, You must provide Ivanti at least ninety (90) days’ notice prior to the end of the Initial Term or any Renewal Term.

c. License Model. Within the License Types, Ivanti offers the following fifteen (15) license models (the “License Models”):

- (i) “User-Based”. Under the User-Based model, the Software may be used by a specific User on any number of that User’s Devices, unless otherwise limited in the Invoice. You may not transfer a license from one User to another User more than once every thirty (30) days. A license is required for each User.
- (ii) “Named User”. Under the Named User model, a Named User is a single User authorized by You to access or use the Software, regardless of whether or not the individual is using the Software. You may not transfer a license from one Named User to another Named User more than once every thirty (30) days. A license is required for each Named User.
- (iii) “Named End User”. Under the Named End User model, which only applies to Ivanti Neurons for HR and Ivanti Neurons for Facilities, a Named End User is a single User that is authorized to access and/or use the Software in a self-service function to consume services, report issues, or use other tools within the Software, regardless of whether or not the individual actually uses the Software. You may not transfer a license from one Named End User to another Named End User more than once every thirty (30) days. A license is required for each Named End User.
- (iv) “Concurrent User”. Under the Concurrent User model, licenses are required for the maximum number of simultaneous Users authorized by You to access or use the Software at any given moment during the previous thirty (30) days (each a “Concurrent User”), regardless of the number of connections used by a User. A license is required for each Concurrent User.
- (v) “Named Analyst”. Under the Named Analyst model, a Named Analyst is a single Analyst authorized by You, who is assigned a dedicated license to access or use the Software, regardless of whether or not the individual is using the Software. A Named Analyst license cannot be shared across multiple Analysts simultaneously and may not be transferred from one Analyst to another Analyst more than once every thirty

(30) days. A license is required for each Named Analyst.

(vi) "Concurrent Analyst". Under the Concurrent Analyst model, licenses are required for the maximum number of simultaneous Analysts authorized by You to access or use the Software at any given moment during the previous thirty (30) days (each a "Concurrent Analyst"), regardless of the number of sessions used by that individual. A license is required for each Concurrent Analyst.

(vii) "Device-Based". Under the Device-Based model, licenses are required for each Registered Device or each Device on which the Software is deployed, whether physical or virtual. You may not transfer a license from one Device to another Device, whether physical or virtual, more than once every thirty (30) days.

(viii) "Device-Limited". Under the Device-Limited model, licenses are required for each Device on which the Software is deployed. A license may only be transferred from one Device to another Device of the same make and model in the event of accidental destruction.

(ix) "Server-Based". Under the Server-Based model, licenses are required for each Server (i) that is tracked, supported or managed by the Software; or (ii) on which the Software is deployed, whether physical or virtual. You may not transfer a license from one Server to another Server, whether physical or virtual, more than once every thirty (30) days.

(x) "Ivanti Neurons Device". Under the Ivanti Neurons Device model, licenses are required for each (i) Registered Device and/or (ii) each Device with a supported Operating System that is tracked, supported or managed by the Software, whether physical or virtual. You may not transfer a license from one Device to another Device, whether physical or virtual, more than once every thirty (30) days.

(xi) "Asset-Based". Under the Asset-Based model, licenses are required for each Asset, whether physical or virtual, which is tracked by or input into the Software. You may not transfer a license from one Asset to another Asset, whether physical or virtual, more than once every thirty (30) days.

(xii) "Concurrent Connection". Under the Concurrent Connection model, licenses are required for the maximum number of simultaneous Connections to the Software at any given moment during the previous thirty (30) days (each a "Concurrent Connection"), regardless of the number of individuals creating the Connections. A license is required for each Concurrent Connection.

(xiii) "Throughput". Under the Throughput model, Throughput is determined by the total amount of data which is passed through or is processed by the Software, and Your access and ability to utilize the Software is limited by the amount of Throughput You purchase.

(xiv) "Management". Under the Management model, a license is required for each Device or Ivanti Platform managed by the Software. You may not transfer a license from one Device or Ivanti Platform to another Device or Ivanti Platform more than once every thirty (30) days.

(xv) "Per Instance". Under the Per Instance model, a license is required for each specific realization of the Software used to implement the Ivanti product(s), and each implementation is referred to as an "Instance".

d. Entitlement. The Invoice shall set forth the License Type, License Model, and the means of provisioning of the Software which You are purchasing.

e. Evaluation, Community or Beta. If the Software is offered to You as an evaluation, trial, Beta or community edition license, then You are granted a limited, non-exclusive, non-sublicensable, non-transferrable license to use such licenses solely on a trial use basis to, notwithstanding any contrary provision in this Agreement, use the Software only for internal demonstration, test or evaluation purposes in a non-production environment (except as otherwise allowed for herein or permitted by Ivanti in writing), and for the period specified on the software license key (if not indicated, this period will be forty-five (45) days from delivery) following which, unless the Software automatically disables itself, You are required to immediately remove and destroy all copies of the Software, including all backup copies. Further, Ivanti may terminate Your right to access or use any evaluation, trial, Beta or community edition licenses of the Software at any time and without prior notice. You acknowledge that Ivanti is not obligated to permit further use of the Software past the expiration date and that You have no right to Support and Maintenance Services with any such evaluation licenses. Notwithstanding anything to the contrary, a community edition license may be used in a production environment, but You agree and understand that You assume all risks and liabilities for any such usage in a production environment. NOTWITHSTANDING ANY CONTRARY PROVISION IN THIS AGREEMENT THE EVALUATION, TRIAL, BETA, OR COMMUNITY EDITION SOFTWARE IS PROVIDED "AS-IS" WITHOUT SUPPORT OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. SAVE FOR DEATH AND PERSONAL INJURY CAUSED BY IVANTI'S NEGLIGENCE, IVANTI SHALL HAVE NO LIABILITY OF ANY KIND IN ANY CIRCUMSTANCES WHATSOEVER TO YOU IN RESPECT OF ANY SUCH EVALUATION, TRIAL, BETA, OR COMMUNITY EDITION SOFTWARE. IN PARTICULAR, IVANTI SHALL HAVE NO LIABILITY IN ANY CIRCUMSTANCES WHATSOEVER FOR ANY DATA LOSS OR CORRUPTION AND YOU AGREE THAT YOU HAVE SOLE RESPONSIBILITY FOR PROTECTING YOUR DATA DURING YOUR USE OF AND ACCESS TO THE EVALUATION, TRIAL, BETA, OR COMMUNITY EDITION LICENSES OF THE SOFTWARE.

f. Operating System. If You have a license to the Software which is loaded on a Ivanti Platform that You have purchased, the operating system software installed on the Ivanti Platform, along with the Software, may only be used on said Ivanti Platform and may not be installed or used on any other appliance. In the event You sell or otherwise transfer an Ivanti Platform, You understand that Your license to use the operating system software installed on the Ivanti Platform, along with the Software, will terminate even if such licenses are Perpetual Licenses.

### 3. SAAS OFFERINGS.

a. SaaS Offering Supplemental Terms. If You purchase a SaaS Offering, as identified in the Invoice as a SaaS or cloud offering, then You agree and are subject to the terms and conditions contained in this Agreement and Ivanti's then-current Supplemental Terms for the SaaS Offering found at <https://www.ivanti.com/company/legal/saas>, which is incorporated herein by reference.

b. Reinstatement Fee. If You purchase a SaaS Offering and at the end of the Initial Term or a Renewal Term and choose to change any portion of a SaaS Offering to an on-premise Perpetual License, then Ivanti may assess You with a one (1) time reinstatement fee equal to ten percent (10%) of the cost assessed to You for the SaaS Offering in the Invoice.

4. RESTRICTIONS. The Software is licensed, not sold. You may not use the Software for any purpose beyond the scope of the licenses granted in this Agreement, and all other rights are reserved by Ivanti or its suppliers. Without limiting the generality of the foregoing and except as expressly permitted in this Agreement, You will not and will not permit any User or third party to: (a) authorize or permit access to or use of the Software by persons other than Users or Analysts; (b) assign, sublicense, distribute, sell, lease, rent, novate or otherwise transfer or convey the Software, or Documentation to any third party without Ivanti's prior written consent, except as set forth in the assignment provision in this Agreement; (c) disclose the software license key to the Software to any third party; (d) use the Software in violation of any applicable law or regulation or to support or facilitate any illegal activity (e) pledge as security or otherwise encumber the rights granted under this Agreement; (f) modify, adapt or create any derivative works of the Software (or any component thereof) or the Documentation; (g) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any component of the Software except and only to the extent: (i) that applicable law expressly permits such actions despite this limitation; or (ii) such actions are required to debug changes to any third

party open source software libraries linked to by the Software; (h) use the Software as a service provider or application service provider for third parties; (i) circumvent or attempt to circumvent any technical restrictions in the Software; (j) remove, alter or obscure any proprietary notices or legends from the Software or any copies thereof; (k) violate Ivanti's Acceptable Use Policy located at <https://www.ivanti.com/company/legal>, which is incorporated herein by reference; (l) employ or authorize a competitor of Ivanti to use or view the Software or Documentation without the prior written consent of Ivanti; (m) perform any "mirroring" or "framing" of any part of the Software, or create internet links to the Software which include log-in information, user names, passwords, and/or secure cookies without Ivanti's prior written consent; (n) use the Software for purposes of product evaluation, benchmarking, or other comparative analysis intended for publication without Ivanti's prior written consent; or (o) detach or separate any libraries, files, modules or other components embedded within the Software even if any such library, file, module or other component is separately licensable, or use any such modules, files or other components separately from the Software (except to the extent that a documented feature of the Software product is implemented by doing so).

To the extent that any applicable mandatory laws give You the right to perform any of the aforementioned activities without the consent of Ivanti to gain certain information about the Software, You hereby agree that, before You exercise any such rights, You shall first request such information from Ivanti in writing detailing the purpose for which You need the information. Only if and after Ivanti, at its sole discretion, denies Your request, shall You exercise Your statutory rights.

5. **TITLE.** Ivanti and its licensors (if any) retain all rights, title, and interest, including all patent, copyright, trade secret, trademark, moral rights, and other intellectual property rights, in and to the Software and Ivanti expressly reserves all rights not expressly granted under this Agreement. You hereby agree that the title and ownership to any intellectual property rights under this Agreement shall not transfer and/or pass to You. As between You and Ivanti, You retain all right, title and interest in and to the Customer Data. Ivanti acknowledges that it neither owns nor acquires any additional rights in and to the Customer Data not expressly granted by this Agreement.

6. **SUPPORT AND MAINTENANCE SERVICES.** Standard Support and Maintenance Services, Updates and Upgrades are included in the price of the Software if it is purchased as a Subscription License or a SaaS Offering. Ivanti reserves the right to determine how and when to develop and apply any Updates or Upgrades to any SaaS Offering. You may purchase or upgrade Support and Maintenance Services for the Software separately. Except as set forth herein, You have no rights to any Updates or Upgrades unless You purchase Support and Maintenance Services for the Software. If You purchase Support and Maintenance Services for the Software, You are required to purchase and maintain such Support and Maintenance Services for all licenses of the Software and cannot purchase Support and Maintenance Services for a subset or partial set of licenses of the Software. All Support and Maintenance Services are subject to Ivanti's then-current Supplemental Terms for the Support and Maintenance Services found at <https://www.ivanti.com/company/legal/support-terms> and the relevant end-of-life policies found at <https://forums.ivanti.com/s/end-of-life>, which are incorporated herein by reference.

a. **Exceptions.** Ivanti shall be under no obligation to furnish Support and Maintenance Services for any Software and/or Hardware to the extent that such Support and Maintenance Services are necessary or desired as a result of: (i) the operation of the Software and/or Hardware in environmental conditions or configurations outside those described in the Documentation; (ii) Your failure to upgrade or update the Software and/or Hardware within a supported version as specified at: <https://forums.ivanti.com/s/end-of-life>, or to maintain the Software and/or Hardware in accordance with the standards described in the Documentation or as specified in any Support and Maintenance Services You receive from Ivanti; (iii) actions of any third party other than Ivanti or a third party authorized by Ivanti; and (iv) causes unrelated to the Software and/or Hardware as delivered to You by Ivanti, including without limitation, unauthorized modifications to the Software and/or Hardware, made by You or by a third party on Your behalf.

b. **Reinstatement.** If You terminate or allow Support and Maintenance Services to lapse or expire (whether for Perpetual Licenses or as a part of Subscription Licenses) and You choose to reactivate Support and Maintenance Services, Ivanti shall invoice and You agree to pay for (i) a fee equal to the total Support and Maintenance Services fees retroactive to the date of lapse or termination; (ii) a reinstatement fee; and (iii) a fee for the then-commencing Support and Maintenance Services term.

## 7. PROFESSIONAL SERVICES AND TRAINING.

a. **Statement of Work.** You may engage Ivanti to provide certain Professional Services pursuant to a statement of work or similar document, whether in print or online, which describes the tasks or services to be provided ("SOW"). Each SOW shall incorporate this Agreement by reference, be governed by and subject to the terms and conditions of this Agreement, and in the event of any conflict or inconsistency between this Agreement and the SOW, this Agreement shall take precedence.

b. **Customer Cooperation.** You shall provide Ivanti with all necessary cooperation, information and support that may reasonably be required by Ivanti for the performance of the Professional Services and You shall perform all obligations as specified in the SOW.

c. **Postponing and Rescheduling.** Unless otherwise agreed by both Parties in writing, You may not postpone or reschedule a Professional Services project fewer than ten (10) business days prior to the start date of a project. In the event You do postpone or reschedule a Professional Services project with fewer than ten (10) days' notice, Ivanti will provide You with a written notice reminding You of this requirement. For all subsequent requests made by You to postpone or reschedule a Professional Services project, Ivanti shall have the right, in Ivanti's sole discretion, (i) to cancel and reschedule all scheduled Professional Services for the project, and/or (ii) to invoice You for all resulting costs of the cancellation. Any such cancellation or rescheduling shall result in delays to project timelines, milestones and deliverable dates and an extension to the project. Ivanti shall not be liable for any delays caused by such cancellations and rescheduling of Professional Services projects.

d. **Implementation Practices.** Ivanti uses, develops, and refines processes, procedures, best practices, computer software code, general knowledge, skills, experience, ideas, know-how, and implementation techniques (collectively, "Implementation Practices") by providing implementation and configuration services to many customers. You benefit from those Implementation Practices and agree that Ivanti owns and is free to use the Implementation Practices in its sole discretion, including Implementation Practices developed or refined in the course of providing Professional Services to You, so long as the Implementation Practices do not include the use of or reference to Your Confidential Information (as defined below). Ivanti grants You a non-exclusive, non-transferable, royalty-free, perpetual, and limited license to use the Implementation Practices within Your organization, for the purpose for which the Professional Services were provided. In the event that the Professional Services involve Ivanti software products licensed to You under a separate license agreement, only the terms set out in such separate license agreement shall apply in respect to each such Ivanti software product. For the avoidance of doubt, all materials provided by You to Ivanti in connection with the Professional Services shall remain Your property.

e. **On-Site Services.** As it relates to Ivanti's outcome-based, prepaid Professional Services packages, the amount of time that Ivanti will be on-site at Your location for Professional Services is subject to the Ivanti project manager's discretion. If You require that Ivanti be on-site for more time than advised by the Ivanti project manager for an outcome-based, prepaid Professional Services package, then Ivanti will only provide the on-site Professional Services after providing You with a quote and receiving a purchase order from You for the additional cost of the on-site

## Professional Services.

f. **Training Courses.** You may also purchase training from the Ivanti Advantage Learning. Payment for training courses is managed through the purchase of an individual license (1 User) or enterprise license (10 Users). Private training courses may be purchased as well. Cancellation fees are due for customer cancelled onsite private training courses at a rate of fifty percent (50%) of the course fee if cancelled within one (1) week of the start of the course, or one hundred percent (100%) of the course fee if the course is not attended or if notice of cancellation is given less than one (1) week before the start of the course. All Ivanti Advantage Learning courses and offerings are subject to Ivanti's then-current terms of use for Ivanti Advantage Learning found at <https://www.ivanti.com/company/legal/terms-of-use-ivanti-advantage-learning>. Orders for Ivanti Advantage Learning training courses and Professional Services expire if not used within one (1) year from the date of order.

8. **PAYMENT.** You agree to pay, without setoff or deduction, the amounts set forth in the Invoice. Fees for any Support and Maintenance Services shall be paid in advance of the relevant term covered. Renewal fees are due on or before the annual renewal date. Fees for the Software purchased as a Subscription License or a SaaS Offering shall be paid for either i) as a lump sum for the entire Initial Term or Renewal Term at the time of purchase, or ii) according to the payment schedule for the Initial Term or Renewal Term set forth in the Invoice. Support and Maintenance Services are offered on an annual basis and must be renewed prior to the expiration of the then-applicable Support and Maintenance Services term. If payment for Support and Maintenance Services for a Renewal Term is not received prior to the expiration date of the existing term, Ivanti reserves the right to suspend access to Support and Maintenance Services until payment is received.

Ivanti will provide the Professional Services as set forth on the applicable quote. Professional Services shall be delivered on either (a) a prepaid basis which will be invoiced upon receipt of a purchase order, or (b) a time and materials basis which will be invoiced monthly as the Professional Services are performed. In the event the Professional Services are performed on-site (and are not included in the price of the outcome-based, prepaid Professional Services package), Ivanti will quote and invoice You a fixed daily rate to cover all of Ivanti's travel and accommodation expenses.

Unless otherwise agreed, all such fees shall be due and payable within thirty (30) days from the date of the Invoice in U.S. Dollars, Euros, or British Pound Sterling, depending on the local currency of the contracting Ivanti entity or Reseller, or as otherwise indicated in the Invoice. A hard copy purchase order number and VAT ID (where applicable) must be provided with all orders.

If You fail to make a payment when due, You agree that Ivanti may charge interest at the lesser of a rate of one and one-half percent (1.5%) per month or the maximum rate allowed by law, which interest will accumulate on the outstanding balance on a daily basis until paid in full. You agree to reimburse Ivanti for all reasonable costs, including legal fees and related costs, Ivanti incurs in collecting any late payments and interest. Ivanti will be entitled to terminate all licenses, and services provided hereunder upon thirty (30) days prior written notice to You if You fail to pay any required fees when due. If You fail to pay undisputed amounts in accordance with the terms and conditions of this Agreement for any SaaS Offering, Ivanti shall have the right, in addition to any of its other rights or remedies, to suspend Your access to the SaaS Offering, without liability to You until such amounts are paid in full.

Except as expressly provided otherwise in this Agreement or a relevant SOW, all payments by You (whether to Ivanti or a Reseller) are nonrefundable and not available for credit for the purchase of other Software.

If You dispute any fees, taxes, or other charges billed by a Reseller or Ivanti under this Agreement, You must notify Ivanti, in writing, of the disputed amount and any relevant information regarding the circumstances of the dispute. Ivanti shall acknowledge receipt of the disputed information in writing to You. All Parties agree to work cooperatively to resolve any such disputed amounts. If You fail to provide Ivanti with a notice of such a disputed amount within twenty (20) business days following receipt of the Invoice for such disputed charge, then such amount is deemed undisputed and due.

All prices exclude value-added tax, sales tax, and any other applicable tax, unless expressly stated otherwise. In the event that any withholding, sales, value-added, use or other taxes or government fees, assessments or charges are payable because of this Agreement, then You agree to pay all such taxes, fees, assessments, and charges in addition to all other payments. If Ivanti is required to make any such payments, You agree to reimburse Ivanti for such payments promptly upon notice.

If You are purchasing Ivanti Products through a Reseller, then the payment terms and associated payment obligations herein do not apply to You to the extent of such purchase(s), instead Your payment terms and obligations with the Reseller would apply to any such purchase(s).

9. **CONFIDENTIALITY.** Each Party shall keep confidential, and not disclose to any third party (except each Party's respective employees or staff members or as maybe required by law or any legal or regulatory authority) any Confidential Information which may be provided in connection with this Agreement. Information communicated orally will be considered to be Confidential Information if such information is identified as Confidential Information at the time of its disclosure, or if such information by its nature should reasonably be understood by the receiving Party to be confidential.

Notwithstanding anything to the contrary, Confidential Information will not include any information that: (a) was publicly known prior to the time of disclosure by the disclosing Party; (b) becomes publicly known after disclosure by the disclosing party to the receiving Party through no action or inaction of the receiving Party; (c) is already in the possession of the receiving Party at the time of disclosure by the disclosing Party (as shown by the receiving Party's files and records) prior to the time of disclosure; (d) is obtained by the receiving Party from a third party without a breach of such third party's obligations of confidentiality; or (e) is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information (as shown by documents and other competent evidence in the receiving Party's possession).

Notwithstanding the obligations set forth above, the receiving Party may disclose the Confidential Information of the disclosing Party to the limited extent such disclosure is required by law (this includes (i) an order of any court of competent jurisdiction or any regulatory, judicial, governmental or similar body or any taxation authority of competent jurisdiction; (ii) the rules of any listing authority or stock exchange on which its shares are listed; or (iii) the laws or regulations of any country to which its affairs are subject) to be disclosed by the receiving Party.

Each Party agrees that it shall take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other Party. Without limiting the foregoing, each Party shall take at least those measures that it takes to protect its own most highly confidential information and shall ensure that its employees, consultants, contractors, or agents who have access to Confidential Information of the other Party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees, consultants, contractors, or agents. The receiving Party shall remain liable for any non-compliance of such employee, consultant, contractor, or agent with the terms of this Agreement. Notwithstanding the foregoing, if You purchase the products and services under this Agreement from a Reseller, each Party may disclose the terms of this Agreement and any Invoice to such Reseller, subject

to conditions of confidentiality.

#### 10. INDEMNIFICATION.

a. **Defense of Infringement Claims.** Ivanti will, at its expense, either defend You from or settle any claim, proceeding, or suit brought by a third party against You alleging that Your use of the Software infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right ("Infringement Claim"). You must (i) give Ivanti prompt written notice of the Infringement Claim; (ii) grant Ivanti full and complete control over the defense and settlement of the Infringement Claim; (iii) provide assistance in connection with the defense and settlement of the Infringement Claim as Ivanti may reasonably request; (iv) comply with any settlement or court order made in connection with the Infringement Claim; and (v) not make any admission of liability, agreement or compromise in relation to the Infringement Claim nor defend or settle any Infringement Claim without Ivanti's prior written consent. You may participate in the defense of the Infringement Claim at Your own expense and with counsel of Your own choosing, subject to Ivanti's sole control over the defense and settlement of the Infringement Claim as provided above.

b. **Indemnification of Infringement Claims.** Ivanti will indemnify You and Your Affiliates from and pay: (i) all damages, costs, and reasonable attorneys' fees finally awarded against You and Your Affiliates in any Infringement Claim; (ii) all out-of-pocket costs, including reasonable attorneys' fees incurred by You in connection with the defense of an Infringement Claim (other than attorneys' fees and costs incurred without Ivanti's consent after Ivanti has accepted defense of the Infringement Claim and expenses incurred pursuant to the last sentence of the prior section); and (iii) all amounts that Ivanti agrees to pay to any third party to settle any Infringement Claim.

c. **Exclusions from Obligations.** Ivanti has no obligation to indemnify You for any Infringement Claim to the extent that it arises out of or is based upon (i) Your use of the Software in combination with third-party products or services not authorized by Ivanti or the Documentation; (ii) any aspect of the Software configured specifically for You to comply with designs, requirements, or specifications required by or provided by or on Your behalf; (iii) use of the Software by You, any User, any Analyst, or any third party outside the scope of the rights granted in this Agreement; (iv) failure of You, any User, any Analyst, or any third party to use the Software in accordance with the Documentation or any instructions provided by Ivanti; (v) failure of You to use the most recent version of the Software (including any Updates or Upgrades provided to You by Ivanti) if use of the most recent version of the Software is required to avoid the Infringement Claim; or (vi) any unauthorized modification of the Software or SaaS Offering.

d. **Infringement Remedies.** In the defense or settlement of any Infringement Claim, Ivanti may, at its sole option and expense: (i) procure for You a license to continue using the Software or SaaS Offering; (ii) replace or modify the allegedly infringing technology to avoid the infringement; or (iii) if the foregoing options are not commercially feasible in Ivanti's sole judgment, refund any prepaid, unused Subscription License or Support and Maintenance Services fees as of the date of termination or Perpetual License fees depreciated on a straight line basis over thirty-six (36) months. The foregoing states Ivanti's sole and exclusive liability, and Your sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third-party intellectual property right by the Software or SaaS Offering.

e. **Ivanti Indemnitees.** You agree to hold harmless, indemnify, or at Your option, settle, any third party claim, suit or proceeding brought against Ivanti, its Affiliates and their respective employees, officers and directors ("Ivanti Indemnitee(s)") arising out of (i) Your unauthorized use of the Software and related services; (ii) Ivanti's compliance with Your designs, specifications or instructions; (iii) Your unauthorized modification of the Software or SaaS Offering; and (iv) Your instructions or Your failure to comply with the obligations as set forth in Section 15(c) of this Agreement and the DPA, and You shall pay all third party costs and damages awarded in judgment of such claim or agreed to in settlement of such claim between You and such third party; provided that Ivanti Indemnitee(s): (a) provide You with prompt notification of the claim, such that You are not prejudiced by any delay in such notification; and (b) provide reasonable assistance in connection with the defense or settlement, at Your expense.

#### 11. LIMITED WARRANTY AND DISCLAIMER.

a. **Limited Warranty.** Ivanti warrants that: (i) for a period of ninety (90) days from the date of purchase, the Software will perform substantially in accordance with the Documentation, (ii) for the duration of the applicable subscription term to the SaaS Offering, the SaaS Offering will perform substantially in accordance with the Documentation, and (iii) the Support and Maintenance Services and Professional Services will be provided in a professional and workmanlike manner. If the Support and Maintenance Services or Professional Services are not provided in a workmanlike manner, You have a period of thirty (30) days from delivery to provide written notice of Your warranty claim.

b. **Exclusions.** The limited warranties outlined above will not apply unless: (i) the Software has been properly installed and used at all times in accordance with the Documentation; and (ii) no unauthorized modification, deletion or addition has been made to the Ivanti Products. Ivanti disclaims all warranty claims and any liability that may arise if and to the extent that the warranty claims and liability are caused by the acts of a third party that has provided support services, consulting services and/or professional services of any kind without Ivanti's approval.

c. **Exclusive Remedy.** Ivanti and its Resellers' entire liability and Your exclusive remedy under this warranty will be, at the sole option of Ivanti and subject to applicable law, (i) to repair or replace the Software, the SaaS Offering, Support and Maintenance Services and/or Professional Services to perform per the warranty within a reasonable time, (ii) to refund, on a pro-rated basis, the fees paid for the nonconforming Subscription License or Support and Maintenance Services and terminate this Agreement and Your right to access and use the Subscription License and/or Support and Maintenance Services, or (iii) to refund the fees paid for the nonconforming Perpetual License and/or Professional Services and terminate this Agreement and Your right to access and use the Perpetual Licenses of the Software and/or Professional Services (subject to You deleting all copies of the Software within Your possession and control and certifying in writing to Ivanti that You have done so).

d. **Third Party Products.** As a convenience to You, Ivanti resells certain products that are owned by third parties and are not licensed by Ivanti ("Resale Products"). Resale Products are not included as part of the Software, are not required or necessary for use of the Software and will be identified on the Invoice as Resale Products. Any Resale Products provided by Ivanti are provided pursuant to the terms of the applicable third-party agreement, and Your use of any such Resale Products constitutes agreement to comply with the terms of the applicable third-party agreement. Ivanti assumes no responsibility for, and specifically disclaims any liability or obligation with respect to, any Resale Products. All Resale Products are provided with the third party's warranty and without any additional warranty of any kind, whether express or implied. If support and maintenance is offered for a specific Resale Product and You purchase directly from Ivanti, Ivanti shall distribute the applicable Resale Product error correction, update, upgrade, and other release provided to Ivanti by the third-party licensor.

e. **Third Party Services.** The Software may contain features designed to interface with applications or services provided or made available by third parties that are not In-Licensed Materials (each a "Third Party Service"; collectively the "Third-Party Services"). In order to use a feature in connection with a Third-Party Service, You must have a subscription or license from the provider of the relevant Third-Party Service. If the Third-Party Services are no longer available or if the applicable third-party provider no longer allows the Third-Party Services to interface with the Software (for whatever reason), then such features will no longer be available or function in the Software and You will not be entitled to any



refund, credit, or other compensation from Ivanti or the provider of the applicable Third-Party Service. Ivanti hereby disclaims all warranties, indemnities, obligations, and other liabilities in connection with any interface or integration with the Third-Party Service. Further, Ivanti disclaims all warranties, indemnities, obligations, and other liabilities in connection with any Third-Party Service.

f. **Disclaimer.** Except for the limited warranties above or as required by applicable law, Ivanti provides no other warranties or conditions and disclaims any other express, implied, or statutory warranties and conditions, including warranties and conditions of quality, title, non-infringement, merchantability, and fitness for a particular purpose. Ivanti Products that are provided without charge are provided “AS IS,” WITHOUT ANY WARRANTY OR CONDITION. Further, the Ivanti Products are not designed, manufactured, or intended for use or distribution with any equipment, the failure of which could lead directly to death, personal injury, or severe physical or environmental damage

12. **LIMITATION OF LIABILITY.** Subject to Section 12.d (Exclusions), Section 12.e (Exceptions) and Section 12.f (Applicability), each Party’s liability to the other Party for the Ivanti Product(s) provided under this Agreement is limited to direct damages finally awarded, not to exceed an amount determined as follows:

a. **Perpetual Licenses.** For each Ivanti Product provided under a Perpetual License, each Party’s maximum, aggregate liability is the amount You paid for the applicable licenses.

b. **Subscriptions.** For each Ivanti Product provided under a Subscription License and Support and Maintenance Services, each Party’s maximum, aggregate liability is the total amount of subscription fees You paid to use the applicable Ivanti Product during the twelve (12) months preceding the most recent incident giving rise to the claim(s).

c. **Professional Services.** For Professional Services, each Party’s maximum, aggregate liability is the amount You paid for the applicable Professional Services.

d. **Exclusions.** In no event will either Party be liable for indirect, incidental, special, punitive, or consequential damages; loss of income, revenue, opportunity, profits, or anticipated savings (whether direct or indirect); or loss of use, loss of goodwill, loss of data, loss of business information, or interruption of business, however caused or on any theory of liability.

e. **Exceptions.** No limitations or exclusions under this Agreement will apply to liability arising out of: (i) Your obligations to pay fees pursuant to Section 8 (Payment); (ii) Your violation of Section 4 (Restrictions); or (iii) Ivanti’s indemnification obligations under Section 10 (Indemnification).

f. **Applicability.** To the extent permitted by applicable law, the limitations, exclusions, and exceptions set forth in this Section (Limitation of Liability) apply to all claims and damages under or relating to this Agreement or the Ivanti Products provided hereunder, including, without limitation, breach of contract, breach of warranty, strict liability, and negligence and other torts, even if the parties knew or should have known about the possibility of the damages. The Parties acknowledge that the fees reflect this allocation of risk. The Software is not designed or intended for use in mission critical applications in which the failure of the Software could cause substantial property damage, personal injury, or death. Ivanti disclaims any liability for use of the Software in any such mission critical applications.

### 13. TERM AND TERMINATION.

a. **Term.** The term of this Agreement will be the period specified in the Invoice(s), or if no period is specified, as otherwise agreed upon or until the Agreement is terminated (the “Initial Term”). At the end of the Initial Term, this Agreement and the Ivanti Products found in all applicable Invoices will automatically renew for additional terms of one (1) year or as otherwise agreed to by the Parties (each a “Renewal Term”). Either Party may terminate this Agreement or any Invoice at the end of the Initial Term or any Renewal Term (as measured from the Effective Date) on ninety (90) days’ prior notice to the other Party.

b. **Termination for Cause.** Either Party may terminate this Agreement in the event that the other Party (i) materially breaches this Agreement and the breaching Party fails to remedy such breach (if such breach is capable of remedy) within thirty (30) days from the other Party’s written notice or (ii) becomes insolvent or bankrupt, is liquidated or is dissolved, or ceases substantially all of its business activities. In the event of any such termination by You under this Section 13.b., You shall be entitled to a refund for any unused and prepaid fees as of the date of termination.

c. **Early Termination.** If You terminate the Agreement or any Invoice before the end of the Initial Term or Renewal Term for any reason other than a material breach of the Agreement by Ivanti, then Ivanti will invoice You for all unpaid fees for the remainder of the Initial Term or Renewal Term (“Termination Fees”). Additionally, Ivanti will invoice You for any upcoming renewal fees if You do not provide Ivanti with written notice of Your intent to terminate the Agreement or any Invoice at least ninety (90) days prior to the end of the Initial Term or a Renewal Term (“Renewal Fees”). In the event of any such termination by You under this Section 13.c., You shall not be entitled to any refund or credit for any unused fees.

d. **Effect of Termination.** Upon termination of this Agreement, all rights granted herein will terminate and You must immediately remove and destroy all copies of the Software, including all backup copies (except for Perpetual Licenses in the event You terminate for cause under Section 13.b). Any obligations to pay fees or expenses, including any applicable Termination Fees and/or Renewal Fees, incurred prior to or at the time of termination shall survive termination.

### 14. AUDIT.

a. **On Premise Software.** As it relates to Your purchase of Perpetual Licenses or Subscription Licenses that are deployed on-premise or otherwise not hosted by Ivanti, You agree to maintain accurate and complete records regarding Your use of such Software (“Records”) and understand that the Software may gather and communicate telemetry data to Ivanti. Further, You shall provide such records to Ivanti, upon request, any time during the term of this Agreement and for two (2) years after the later of (i) termination of the Agreement or Support and Maintenance Services for the applicable Software, or (ii) installation of the Software. Ivanti has the right to remotely audit the Records and Your use of the Software to verify that Your use of the Software is in compliance with this Agreement. Within thirty (30) days of written request by Ivanti, You shall provide Ivanti with the Records and/or permit Ivanti (or such persons appointed by Ivanti) to conduct a remote audit of Your use of the Software using such tools and/or software approved by You and available to Ivanti from time to time. Ivanti may only conduct an audit once per calendar year and all such audits shall take place during normal business hours, upon reasonable prior notice and will not unreasonably interfere with Your day-to-day operations. You agree not to (i) delete or remove distributed licenses or (ii) receive a transfer of licenses from Your managed service provider (if any) to ensure You are in compliance in anticipation of or during an audit. The aforementioned limit on the number of audits that can be performed in a calendar year shall not apply if any such misconduct is discovered or reasonably suspected by Ivanti. Without prejudice to any other rights and remedies, where such audit reveals any underpayment, You shall promptly pay Ivanti at the then-current list price as

follows: (i) for Subscription Licenses You shall pay for all Subscription Licenses of the Software needed to become compliant for (y) the current term (if applicable), and (z) for the previous period of over usage, up to three (3) years; and/ or (ii) for Perpetual Licenses You shall pay for (x) all Perpetual Licenses of the Software needed to become compliant, (y) Support and Maintenance Services for the current term (if applicable), and (z) Support and Maintenance Services for the period of over usage, up to three (3) years. If any such underpayment is more than five percent (5%) of the amounts paid or payable by You for the audited period, You shall, in addition to paying for Your overuse of the Software as outlined above, promptly reimburse Ivanti for the reasonable costs of the audit.

b. SaaS Offering. As it relates to Your purchase of a SaaS Offering, You agree Ivanti has the right to continuously monitor Your access and usage of the SaaS Offering. In the event Ivanti discovers any access or usage that is not in compliance with this Agreement, Ivanti may initiate a remote audit to determine the reason for the non-compliance. Without prejudice to any other rights and remedies, where such audit reveals any underpayment, You shall promptly pay Ivanti at the then-current list price for the Subscription Licenses of the applicable SaaS Offering(s) needed to become compliant for (i) the current Subscription License term, and (ii) for the previous period of over usage.

c. If You fail to comply with Ivanti's requests in this Section 14, You will be in material breach of this Agreement and Ivanti may reduce the functionality of the Software, restrict Your access to the Software, or render the Software inoperative in addition to any other rights and remedies under this Agreement. You agree that Ivanti's right to review the Records and perform an audit under this Agreement will not require any amendments, addendum, or additional agreements.

## 15. GENERAL.

a. Applicable Laws. Ivanti shall comply with all laws applicable to its provision of Ivanti Products under the Agreement, including those applicable to privacy and security of personal information (including mandatory trans-border data transfers and mandatory data breach notification requirements) (collectively "Applicable Laws"), but excluding laws specifically applicable to You and/or Your industry that are not generally applicable to information technology service providers regardless of industry. You will comply with all laws applicable to Your use of Ivanti Products, including those applicable to collection, processing and security of Customer Data in Ivanti systems through the Ivanti Products. You agree to provide any required disclosures to and obtain any required consents for the transfer of Customer Data to Ivanti.

b. Data. In addition to any other provisions with respect to data use and handling included in this Agreement and any supplemental terms and conditions, Ivanti uses and handles Your data in accordance with its Privacy Policy located at <https://www.ivanti.com/company/legal/privacy-policy>, which is incorporated herein by reference.

c. Personal Data. Ivanti's processing of personal data is subject to its Data Processing Addendum found at <https://www.ivanti.com/company/legal/data-processing-addendum> (the "DPA"), which is incorporated herein by reference. Before providing any personal data to Ivanti, You will obtain all consents from applicable third parties as required under applicable privacy and data protection laws.

d. FedRAMP Rules of Behavior. If You purchase Ivanti's FedRAMP SaaS Environment then You, along with Your system administrators, employees, contractors, end-users, and other third parties who are given access to the FedRAMP SaaS Environment, are subject to the FedRAMP Rules of Behavior located at <http://www.ivanti.com/company/legal/fedramp>.

e. Export Restriction. The Software may be subject to certain export and import control laws and regulations, including the United States Export Administration Act (and its associated regulations), and regulations of the United States Bureau of Industry and Security, the United Kingdom Department for Business, Innovation & Skills and other applicable agencies. You agree not to directly or indirectly, export, re-export, or release the Software to, or make the Software accessible from, any country, jurisdiction or person to which export, re-export, or release is prohibited by applicable law. You shall comply with all applicable laws and complete all required undertakings (including obtaining any necessary export license or other governmental approval) prior to exporting, re-exporting, releasing, or otherwise making the Software available to Users outside Your country of domicile. You represent that You and Your Affiliates are not on any denied persons or restricted party list, or other list published by the U.S. Government of persons or entities to whom exports or re-exports of products subject to export controls are forbidden. You agree to promptly notify Ivanti if at any time the representation in the foregoing sentence is no longer accurate.

f. U.S. Government End Users. Each of the components that constitute the Software is a "commercial item" as that term is defined at 48 C.F.R. 2.101, consisting of "commercial computer software" and/or "commercial computer software documentation" as such terms are used in 48 C.F.R. 12.212. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4, all U.S. Government end users acquire the Software with only those rights set forth herein. If Software is acquired for or on behalf of the U.S. Government, then it is recognized and agreed that the Software: (i) was developed at private expense; (ii) was not required to be originated or developed under a Government contract; and (iii) was not generated as a necessary part of performing a Government contract. United States government agencies and entities and others acquiring under a United States government contract shall have only those rights, and shall be subject to all restrictions, set forth in this Agreement.

g. Authorized Resellers. If You purchase the Software through a Reseller, You acknowledge that the Reseller and Ivanti are independent of each other and that the Reseller does not have any authority to bind Ivanti in any way, make any modifications to this Agreement or to make any warranties or representations on Ivanti's behalf and that Ivanti has no liability whatsoever for any actions or omissions of any Reseller.

h. Governing Law. If the Agreement is with Ivanti, Inc. or Ivanti Comércio de Software Brasil Ltda, it will be governed by the laws of the State of Utah without regard to conflict of laws principles and in any dispute arising out of or in connection with the Agreement You consent to the exclusive jurisdiction and venue in the State and Federal courts within Salt Lake County, Utah. If this Agreement is with Ivanti U.K. Ltd. or Ivanti International Limited, it will be governed by the laws of England and Wales without regard to conflict of laws principles and any dispute arising out of or in connection with this Agreement You consent to the exclusive jurisdiction and venue in the courts within London, United Kingdom. If this Agreement is with Ivanti Software K.K., it will be governed by the laws of Japan without regard to conflict of laws principles and any dispute arising out of or in connection with the Agreement You consent to the exclusive jurisdiction and venue in the courts within Tokyo, Japan. The United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

i. Severability. If any provision of this Agreement is held to be unenforceable, void, or invalid under applicable law, such provision shall be deemed omitted and the remaining provisions will remain in full force.

j. Entire Agreement; English Language Agreement Controls. This Agreement, including without limitation the Supplemental Terms or DPA represent the complete and exclusive statement of the agreement between Ivanti and You with respect to the Ivanti Products, and supersedes all prior or contemporaneous oral or written communications and arrangements concerning the subject matter contained herein. Any printed or other terms and conditions on a purchase order or similar order document conflicting with, or purporting to add to, the terms and conditions of this Agreement or its exhibits and addenda will be of no force or effect. You agree that you shall have no remedies in respect of any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this Agreement, or any document(s) expressly referred to herein. In the event of any inconsistency between this Agreement in English language and any translation of it into another language, the English language version of the Agreement shall control. Unless the Parties have a different agreement signed by both Parties, all use of the



Software, SaaS Offering, Support and Maintenance Services, and Professional Services are subject to the terms of this Agreement.

k. **No Waiver.** No failure or delay to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other rights or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right shall preclude or restrict the further exercise of that or any other right or remedy. No statement or representation, other than by a Party's authorized representative in a written waiver, shall constitute a waiver of any rights or remedies.

l. **No Assignment.** Except for a transfer of all or substantially all of a Party's business and assets, whether by merger, sale of assets, sale of stock, or otherwise, neither Party shall assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Agreement without the prior written consent of the other Party.

m. **Force Majeure.** Neither Party will incur any liability to the other Party for any loss or damage resulting from any delay or failure to perform any part of the Agreement if such failure or delay is caused by circumstances beyond the Parties' reasonable control including, without limitation, flood, fire, acts of war, terrorism, earthquake, acts of God, and governmental acts, orders, or restrictions; however, inability to meet financial obligations is expressly excluded. Ivanti shall not be liable for any failure of or delay in performing its obligations on account of Your failure to perform Your obligations under this Agreement.

n. **Third Party Rights.** A person who is not a party to the Agreement shall not have any rights under or in connection with it.

o. **Variation.** Any variation or amendment to the Agreement, except as provided for herein, shall only be binding when agreed in writing and signed by both Parties.

p. **Counterparts.** The Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement. The Agreement may be executed in person or electronically and delivered physically or electronically in Portable Document Format ("PDF"). The Parties agree that such electronic execution and delivery shall have the same force and effect as delivery of an original document with original signatures, and that each Party may use such facsimile, PDF, or e-signatures as evidence of the execution and delivery of this Agreement by all Parties to the same extent that an original signature could be used.

q. **Survival.** Sections 2, 3, 6, 7, 9, 10, 11, 12, 13, 14 and 15 shall survive the termination or expiration of this Agreement.

r. **Referrals.** You agree to make commercially reasonable efforts to work with Ivanti in the event Ivanti asks You to be part of Ivanti's reference or referral programs or to develop marketing materials about Your experience as an Ivanti customer. Specific activities, usage, rights and obligations will be covered in a separate written agreement for any such activities.

s. **Logo Usage.** You agree that Ivanti may use Your name and logo on Ivanti's website and customer-facing presentations.

t. **Contact Information.** Please direct legal notices or other correspondence, if to Ivanti, Inc., to 10377 South Jordan Gateway, South Jordan, UT 84095, Attention: Legal Department.

u. **Intellectual Property and Trademark Usage.** The Software and SaaS Offerings are protected by the U.S. and International Patents listed on <https://www.ivanti.com/company/legal/ivanti-patents>. For information regarding acceptable third-party use of Ivanti trademarks, refer to <https://www.ivanti.com/company/legal/trademark> or contact Ivanti legal representatives.

v. **Hardware.** If You purchase any Ivanti Platform or hardware from Ivanti, then such hardware shall be provided under the hardware terms and conditions that (i) accompany the hardware, and/or (ii) are found at <https://www.ivanti.com/company/legal/hardware> and incorporated herein by reference.

w. **In-Licensed Materials and Open Source.** The Software may contain or may operate with software, services or other technology that is not owned by Ivanti but has been licensed to Ivanti by a third party and may be necessary for the full operation of the Software ("In-Licensed Materials") or that is available under open source or free software licenses. The In-Licensed Materials may be subject to additional terms and conditions, as identified on <https://www.ivanti.com/company/legal/thirdpartyterms> or as otherwise made available to You. Such terms and conditions are incorporated by reference herein. To the extent Ivanti uses open-source software in the Software, the terms and restrictions in this Agreement shall not prevent or restrict You from exercising additional or different rights to such open-source software in accordance with the applicable open-source licenses.

x. **Your Affiliates.** Your Affiliates may purchase Ivanti products and/or services under this Agreement by (i) executing a participation agreement with Ivanti pursuant to which it agrees to be bound by the terms of this Agreement applicable to You, and (ii) passing an Ivanti credit check, after which it may purchase Ivanti products and/or services directly from Ivanti or from a Reseller. For purposes of such purchase, references to "You" and "Your" shall be deemed to refer to Your Affiliate making such purchase.

y. **Microsoft Intune®.** Certain functionalities within Ivanti Patch for MEM are enabled by accessing Microsoft Intune® through the Microsoft API and use of Ivanti Patch for MEM and accompanying services does not remove the need for users to have a valid license for their use of the Microsoft Intune® service.

z. **Subcontractors.** Ivanti may engage third parties to perform obligations under this Agreement at Ivanti's discretion. However, Ivanti is and will remain responsible under this Agreement for the performance of any such third parties.

aa. **Artificial Intelligence Tools.** In the event You elect to use any functionalities of any Ivanti Products that employs artificial intelligence, such usage shall be subject to the Ivanti Supplemental Terms for AI Tools located at <https://www.ivanti.com/company/legal>, which is incorporated herein by reference.

bb. **Translations.** Ivanti has created versions of this Agreement in languages other than English. All such translated versions of this Agreement are provided for convenience and comparison purposes only. The Parties agree that the English version of the Agreement is the controlling and binding document in the event of any conflict between the English version and any version translated into another language.

