

SERVICES AGREEMENT

Services: Trend Micro™ PCI Scanning Service or Trend Micro™ Vulnerability Management Services

Trial and Paid Subscription

Date: March 2011

English/Multi-country

This Services Agreement (“Agreement”) sets forth the terms and conditions under which Trend Micro is willing to provide the Trend Micro PCI Scanning Service or Trend Micro Vulnerability Management Services (collectively, the “Services”) to you on a trial or paid subscription basis. The scope of the Services may be expanded or modified by a scope of work or change order executed by both parties. Upon execution, such scope of work or change order shall be deemed incorporated into and a part of this Agreement. If there is a conflict between the provisions of such scope of work or change order and the provisions of the Agreement, the provisions of this Agreement shall govern and control over any and all scope of work or change orders.

This Agreement is a binding contract between Trend Micro Incorporated or a licensed affiliate (“Trend Micro”) and the legal entity that will be using and receiving the Services. An employee or agent of this entity (“Representative”) must accept this Agreement on its behalf before Trend Micro will provide the Services.

This Agreement will be accepted and a contract formed when a Representative selects an “I Accept”, “OK” or “Yes” button or other similar box below. Entities whose Representatives have validly accepted this Agreement are referred to as “You. If You have already validly received the Services under this Agreement for trial or feasibility testing purposes, You shall be deemed to accept this Agreement as a paid subscriber by placing an order with Trend Micro to use the Services or to provide services to a third party on a fee basis. Please print this Agreement and save a copy electronically.

If an entity does not agree or cannot comply with any term or condition of this Agreement, select the “I Do Not Accept” or “No” or “I decline” button or box below and do not access or use the Services (as defined in Section 1 below).”

1. Services Description.

(a) Trend Micro Vulnerability Management Services. The Services are cloud-based security services that leverage world-class vulnerability discovering technologies from suppliers such as Qualys and provide a SaaS service for detecting and reporting customer system and application level vulnerabilities for the purposes of vulnerability management, PCI compliance and policy compliance. All or a portion of these features or components are available to You subject to payment of the applicable annual subscription fees or as agreed to by Trend Micro on a trial or evaluation basis. You will receive a customized version of written or electronic reports detailing the results of the scanning and mapping functions of the Services (“VMS Reports”). These VMS Reports may be delivered to an email address provided by You or You may access and review the VMS Reports online as instructed by Trend Micro.

Depending on the components or features that are part of Your subscription to the Services, the VMS Reports may contain information designed to meet criteria of the PCI Security Standards Council (the “Card Program”). You acknowledge and agree that third party payment card organizations, and not Trend Micro and its resellers and suppliers, establish the security

criteria and other terms and conditions of the Card Programs (“Criteria”). The following is a summary of the various components or features available under the Services:

- (i) **Vulnerability scanning**
 - Vulnerability scanning of internal and external devices
 - Patch and configuration recommendations
- (ii) **Web application scanning**
 - Identification of cross-site scripting and SQL injection and other web application vulnerabilities
 - Detection of sensitive content in HTML based on user settings
 - Authenticated and non-authenticated scanning
- (iii) **PCI compliance scanning**
 - Vulnerability scanning with VMS Reports for the purposes of PCI compliance
 - Trend Micro is a PCI Approved Scanning Vendor (ASV Certificate Number 5018-01-01)
- (iv) **Policy compliance**
 - Define and track compliance with device security policies

The management of the previous components or features of the Services is provided via a SaaS (software-as-a-service)-based service portal

Your use and access to various components or features of the Trend Micro Vulnerability Management Services are subject to the terms and conditions of this Agreement and any additional terms and conditions that accompany such components or features.

(b) Trend Micro PCI Scanning Service. Under these Services, You will be able to run or schedule external vulnerability scans for PCI compliance purposes. You will receive a customized version of written or electronic reports detailing the results of the scanning and mapping functions of the PCI Scanning Services (the “PCI Reports”).

(c) Hardware. Depending on the Services, hardware products (“Hardware”) may be included as part of the Services. For the avoidance of doubt, any references to Services shall include Hardware as applicable. The Hardware under this Agreement is provided to You under a subscription on an annual basis, during the term of the relevant subscription. You acknowledge that not all Service subscriptions include Hardware. (a) Trend Micro shall select the carrier for delivery but Trend Micro is not liable for any damage or delay in delivery of the Hardware. (b) Subject to the Hardware warranty in this Section, You assume all risk of loss and shall pay for all cost of repair, replacement, or refurbishment caused by accident, misuse, abuse, neglect, or Your failure to install, use and maintain the Hardware in accordance with the applicable documentation and specifications. Subject to the terms and conditions of this Agreement, Trend Micro and its suppliers grant You a limited, non-exclusive, non-transferable, non-sublicensable license to use the software embedded in the Hardware in executable code form only, during the Subscription Term, solely as necessary to operate the Hardware in connection with the Services. (c) Notwithstanding anything to the contrary in this Agreement, Trend Micro will at all times retain title to the Hardware. You may retain and use Hardware during any Subscription Term renewal, provided that You pay the applicable subscription and/or lease fee for such renewal term. Upon termination or expiration (including non-renewal) of this Agreement or Your subscription, You will return all Hardware provided under this Agreement within ten (10) days of such expiration or termination, in substantially the same condition in which it was delivered to You. You will pay all return transportation and delivery costs.

(d) **Changes in Services.** You acknowledge and agree that Trend Micro may, in its sole and absolute discretion, modify or remove the Services as necessary. Scans, verification, and authentications performed by the Services may also be modified, removed, or updated by Trend Micro at any time without notice.

2. Applicable Terms. *Paid Subscription Licenses:* If You have purchased subscription rights to use the Services, Sections 1, 2 and 4-18 apply to You. *Trial Subscription Licenses:* If You have not purchased rights to Services and are using the Services for trial or evaluation purposes, You are a “trial subscriber” and Sections 1, 2, 3, 5-9 and 11-18 of this Agreement apply.

3. Trial Subscription License. If You are a trial subscriber, the Evaluation Period begins on the date You accept this Agreement and ends fourteen (14) days (Trend Micro PCI Scanning Service) or thirty (30) days (Trend Micro Vulnerability Management Services) later or such other date as specified by Trend Micro, unless otherwise terminated earlier by Trend Micro. During the Evaluation Period, You may be entitled to web or email based technical support in the country where You are located. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE TREND MICRO SERVICES AND RELATED DOCUMENTATION USED FOR TRIAL OR EVALUATION PURPOSES ARE PROVIDED TO YOU “AS IS” WITHOUT WARRANTIES OF ANY KIND. Your right to use the Services ends when the Evaluation Period ends or if You violate any term of this Agreement. Trend Micro also reserves the right to terminate any Evaluation Period with or without cause with fifteen (15) days’ prior written notice. Upon termination of the Evaluation Period, Trend Micro will halt Your access to and use of the Services and You agree to delete or destroy all copies of the documentation provided, and You agree to stop using the Services. Your obligations and rights under Sections 5, 6, 9-15 and 18 will continue to apply after the end of the Evaluation Period.

4. Paid Subscription License. If You are a paid subscriber, subject to the conditions set forth in Section 5 below and during the Subscription Term only, Trend Micro will provide You with, and You may use, the Services. You must initiate Services to receive them, and You must initiate them promptly to receive Services for the full Subscription Term.

5. Conditions of Use. As a condition of using and receiving the Services and by accepting this Agreement:

- (i) You authorize Trend Micro to scan, assess, and monitor Your internal and external devices; and web applications;
- (ii) You represent and warrant that You are legally permitted and authorized to permit Trend Micro perform the Services with respect to those devices and web applications;
- (iii) You agree that You are responsible for deciding if and how to use the Services and how to address any security or vulnerability concerns or issues disclosed in the reports provided by Trend Micro;
- (iv) You consent to Trend Micro’s use and disclosure of Your Results only as necessary to comply with its obligations and requirements under the PCI Approved Scanning Vendor Compliance Test Program; and
- (v) You represent that You will otherwise use the Services only in a legal manner and in compliance with applicable laws, including but not limited to, any privacy and data protection statutes, computer and electronic data fraud and abuse laws , as applicable.

In the event of any breach of the representations and warranties in this Section, Trend Micro may, with prior notice and without prejudice to its other rights, suspend the access to the Services until You can show to Trend Micro's satisfaction that any such breach has been cured.

6. Your Obligations.

(a) Contacts. You must appoint a primary and secondary contact (“Authorized Contacts”) to act as points of contact with Trend Micro for technical support and other Services-related purposes. Authorized Contacts should have the appropriate knowledge and expertise to help Trend Micro provide You with the Services. You are responsible for providing Trend Micro with up-to-date, accurate contact information for Authorized Contacts.

(b) Feedback. In order to help Trend Micro to improve the Services, You agree to provide Trend Micro periodically and upon request with concrete and detailed feedback, comments or suggestions about the nature and quality of the Services and specific features of the Services. Trend Micro may request such feedback in oral or written form.

(c) Identification of IP Addresses. (i) Because of the sensitive nature of performing security checks on IP addresses, You represent and warrant that You have full right, power, and authority to consent to have the Service test for vulnerabilities at IP addresses, Web Applications, and/or domain names identified by You to Trend Micro for scanning, whether electronically or by any other means, whether at the time of initial Registration or thereafter. Without limiting any other remedy that Trend Micro and its licensors and/or suppliers may have, You agree to indemnify and hold Trend Micro and its licensors, resellers and/or suppliers harmless from and against any and all liabilities, losses, damages, costs and expenses, including without limitation reasonable attorneys' fees and costs, incurred by Trend Micro and its licensors, resellers and/or suppliers resulting from Your breach of this section. (ii) You also acknowledge and agrees that the scanning of such IP addresses, Web Applications and/or domain names may expose vulnerabilities and in some circumstances could result in the disruption of services at such site(s). Certain optional features of the Service, including exploitive scans, involve substantial risk of Denial of Service (DOS) attacks, loss of service, hardware failure and loss or corruption of data. Consequently, You agree that it is Your responsibility to perform backups of all data contained in or available through the devices connected to Your IP addresses, Web Applications, and/or domain names prior to invoking the use of the Service. You further assume the risk for all damages, losses and expenses resulting from use of the Service.

7. Trend Micro Obligations. In consideration of the subscription fees paid, Trend Micro shall provide the Services in a professional manner. Trend Micro will use reasonable efforts to keep the reports secure and confidential. Trend Micro will provide Authorized Contacts with web and email based technical support Monday through Friday during regular business hours.

8. Ownership. Trend Micro and its licensors and/or suppliers own all right, title, interest and any worldwide copyrights, trademarks, service marks, trade secrets, patents, patent applications, moral rights, contract rights, and other intellectual proprietary rights relating thereto now known or hereafter recognized in any recognition in and to the Service, API, PCI Reports, and the design and function of the Hardware or related or imbed software, all data and information contained therein (collectively, “Intellectual Property Rights”). To the extent legally permissible, You will not directly or indirectly: (i) distribute, transfer or sublicense the Services or related documentation, in whole or in part, to another person or entity; (ii) rent, lease, loan, auction, or resell the Services or related documentation, in whole or in part; (iii) modify, adapt, translate, or create derivative works of the Services or related documentation in whole or in part (iv) open, reverse engineer, de-compile, or disassemble the Services, in whole or in part, or otherwise attempt to reconstruct or discover the source or object code or underlying ideas, algorithms, file formats, programming or interoperability interfaces; (v) use the Services to

provide services to third parties or permit third parties to benefit from their use, (vi) use the Services other than as specifically described in and in accordance with the accompanied documentation, (vii) remove, alter, or obscure in any way any proprietary rights notices of Trend Micro or its suppliers on or within copies of the Services, reports or other materials provided with the Services, or (viii) authorize others to do any of the foregoing. Trend Micro reserves the right to take reasonable steps, including the suspension of Maintenance or any Services, to prevent unauthorized access to, or use of, the Services. All rights not expressly granted are reserved by Trend Micro and its suppliers.

9. Nondisclosure. During the term of this Agreement, each party may be exposed to certain information not generally known to the public that the other party considers and treats or is required to treat as confidential and proprietary, including but not limited to product serial numbers, registration keys or activation codes, user name and passwords, and information that, due to its character or nature, a reasonable person in a like position and under like circumstances would treat as secret and confidential (“Confidential Information”). Confidential Information shall be either: (i) marked or otherwise identified as “confidential” or “proprietary” at the time of, or prior to, disclosure or (ii) due to its character or nature, a reasonable person in a like position and under like circumstances as the parties would treat it as secret and confidential. Notwithstanding the foregoing, the parties agree that passwords and activation codes are Confidential Information under this Agreement.

During the Subscription Term of this Agreement and at all times after its termination, each party agrees (i) to hold the Confidential Information in confidence; (ii) not to disclose Confidential Information to any third parties, except for employees and independent contractors who have a “need to know” and who have signed agreements containing disclosure and use restrictions no less stringent than those set forth herein; (iii) not to use any Confidential Information for any purpose except as required to perform under this Agreement, and (iii) immediately notify the other party upon learning of any unauthorized use of the other party’s Confidential Information. Confidential Information shall not include (or shall cease to include) information that (i) is or becomes generally known to the public; (ii) was rightfully known to the receiving party prior to its receipt from the disclosing party; (iii) is rightfully furnished to the receiving party by a third party without restriction as to use or disclosure; (iv) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information; or (v) is disclosed with the prior written consent of the disclosing party. Nothing in this provision shall prohibit either party from disclosing Confidential Information to the extent required by law provided that the disclosing party gives the other party prior notice unless prohibited by law. You will be responsible for all activities and charges incurred through the use of Your user name and password, and agree to indemnify and hold harmless Trend Micro and its licensors, resellers and/or suppliers from any and all claims, liability, damages, losses and costs (including reasonable attorneys’ fees) as a result of such unauthorized disclosure or use. You understand and agree that all data and information contained within the Services and/or the reports (excluding Your Confidential Information) and all information concerning or materially relating to the Services and/or Hardware will be deemed Confidential Information of Trend Micro and/or its licensors, resellers and/or suppliers and You may not access, use or refer to any information or data contained within the Services or the reports except for the limited purpose of vulnerability management in accordance with the license You purchased.

The parties acknowledge that the restrictions contained herein are reasonable and necessary to protect their legitimate interests and that any violation of these restrictions will cause irreparable damage to the other party. Each party agrees that damages are not an adequate remedy for any violation of this Section 9 and that the other party will be entitled to seek injunctive relief against each violation.

10. Limited Warranty. Trend Micro warrants that (a) it has the right to enter into this Agreement, (b) it will provide the Services under this Agreement in a professional manner with reasonable skill and care in substantial accordance with the applicable specifications, (c) for the duration of a subscription, under which Hardware is leased, such Hardware, when operated by You in accordance with the applicable documentation and specifications, will function without Error, and (d) the software accompanying the Hardware will perform in substantial accordance with the enclosed documentation, including updates thereto, and other materials (“Limited Warranty”). For purposes of this Agreement, an “Error” is a reproducible operational error that causes the Hardware to operate at material variance from its then-current specifications. Trend Micro does not warrant the accuracy of technical details or the suitability of the Services for a particular purpose unless so provided in the applicable specifications. Specifications provided in the applicable documentation or any other documentation shall not be construed to contain any guarantees, express or implicit.

SUBJECT TO THE FOREGOING AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE HARDWARE, SERVICES, REPORTS, API AND RELATED MATERIALS ARE PROVIDED “AS IS” AND TREND MICRO AND ITS RESELLERS AND SUPPLIERS EXPRESSLY DISCLAIM ALL OTHER WARRANTIES WITH RESPECT TO THE SERVICES, EITHER EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO IMPLIED OR STATUTORY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND QUALITY, AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. ANY IMPLIED WARRANTIES RELATING TO THE SOFTWARE OR SERVICES THAT CANNOT BE EFFECTIVELY DISCLAIMED SHALL BE LIMITED TO THIRTY (30) DAYS FROM THE DATE YOU ACQUIRE THE SERVICES. YOU AGREE THAT THE DISCLAIMER OF WARRANTIES IS FAIR AND REASONABLE AND ACKNOWLEDGE THAT WITHOUT YOUR AGREEMENT TO THESE LIMITATIONS, TREND MICRO AND ITS SUPPLIERS WOULD NOT BE ABLE TO OFFER THE SOFTWARE OR SERVICES.

11. Warranty Restrictions. The above Warranty shall be void (i) if the Hardware defect or Hardware Software nonconformity has resulted from service, maintenance or repair work performed by any party other than Trend Micro or an authorized service representative; (ii) if the label/serial number has been altered or obscured; (iii) if the defect or nonconformity is attributable to any extrinsic cause, accidental damage, improper use, modification, adaptation, neglect, wear and tear, improper installation, improper connection with any peripheral, thermal or electrical stress or external electrical fault. Trend Micro’s warranty obligations do not include installation support.

12. No Other Warranties. GIVEN THE NATURE AND VOLUME OF MALICIOUS AND UNWANTED ELECTRONIC CONTENT, NEITHER TREND MICRO NOR ITS LICENSORS, RESELLERS OR SUPPLIERS WARRANT THAT THE HARDWARE, SERVICES, REPORTS OR API WILL BE COMPLETE, FREE FROM INTERRUPTION OR FAILURE, WILL BE ERROR FREE OR WILL DETECT ONLY OR ALL SECURITY OR MALICIOUS CODE THREATS OR WILL DETECT EVERY VULNERABILITY OR THAT THE HARDWARE, SOFTWARE OR SERVICES WILL BE CONTINUOUSLY AVAILABLE OR THAT USE OF THE SOFTWARE, SERVICES AND RELATED UPDATES WILL KEEP YOUR NETWORK OR COMPUTER SYSTEMS FREE FROM VULNERABILITY, ALL VIRUSES OR OTHER MALICIOUS OR UNWANTED CONTENT OR SAFE OR SECURE FROM INTRUSIONS OR OTHER SECURITY BREACHES OR SECURE FROM UNAUTHORIZED ACCESS OR THAT THE SERVICES OR REPORTS MEET THE CRITERIA OF ANY CARD PROGRAM OR THAT A “PASS” DESIGNATION IN A REPORT OR STATEMENTS OF TREND MICRO AND/OR ITS LICENSORS, RESELLERS OR

SUPPLIERS IS AN INDICATION THAT YOUR NETWORK IS SECURE OR THAT THE INFORMATION AVAILABLE THROUGH THE HARDWARE, SOFTWARE OR SERVICES WILL BE ACCURATE, COMPLETE OR CURRENT OR THAT ERRORS OR DEFECTS WILL BE CORRECTED. THE SERVICES MAY BE UNAVAILABLE DUE TO ANY NUMBER OF FACTORS INCLUDING SCHEDULED OR UNSCHEDULED MAINTENANCE, TECHNICAL FAILURE OF THE SOFTWARE OR SERVICES, TELECOMMUNICATIONS INFRASTRUCTURE, OR THE INTERNET.

13. Exclusive Remedies. If the Hardware does not conform to the Limited Warranty in Section 10, Trend Micro's entire liability and Your sole remedy shall be, at Trend Micro's option, for Trend Micro to (a) to repair or replace the Hardware in whole or in part with new or reconditioned Hardware such that it operates without Error; or (b) accept return of the Hardware and refund You the pro-rata portion of fees paid for such Hardware; provided that You notify Trend Micro of Your claim under the Limited Warranty within the one year warranty period. If the Software or Services do not conform to the Limited Warranty in Section 10, Trend Micro's entire liability and Your sole remedy shall be, at Trend Micro's option, for Trend Micro to (a) to use commercially reasonable efforts to correct the error; (b) help You work around or avoid the error; or (c) to re-perform the Services; provided that You notify Trend Micro of Your claim under the Limited Warranty within the one year warranty period. This Section 13 sets forth Your sole and exclusive remedy and Trend Micro's liability to You for any error or other malfunction in the Hardware, Software or Services. Any error correction provided to You will not extend the original Limited Warranty period.

14. LIMITATION OF LIABILITY.

(a) SUBJECT TO SECTION 14 (b) BELOW, A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY (i) FOR ANY LOSSES WHICH WERE NOT REASONABLY FORSEEABLE AT THE TIME OF ENTERING INTO THIS AGREEMENT OR (ii) FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND OR FOR LOST OR CORRUPTED DATA OR MEMORY, SYSTEM CRASH, DISK/SYSTEM DAMAGE, LOST PROFITS OR SAVINGS, OR LOSS OF BUSINESS, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USE OR INABILITY TO USE THE SERVICES, DOCUMENTATION OR ANY INFORMATION PROVIDED IN OR COLLECTED BY THE SERVICES OR THE SERVICES OR MAINTENANCE. THESE LIMITATIONS APPLY EVEN IF THAT PARTY HAS BEEN ADVISED OR KNEW OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE FORM OF ACTION, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY.

(b) SECTION 14(a) DOES NOT SEEK TO LIMIT OR EXCLUDE THE LIABILITY OF TREND MICRO OR ITS SUPPLIERS IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE.

(c) SUBJECT TO SECTIONS 14(a) AND 14(b) ABOVE AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL LIABILITY OF EITHER PARTY FOR ANY CLAIM, WHETHER FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT PRODUCT LIABILITY OR ANY OTHER CAUSE OF ACTION OR THEORY OF LIABILITY, EXCEED THE AMOUNTS PAID BY A PARTY FOR ONE YEAR OF SERVICE FOR USE OF THE SERVICES. THE LIMITATION OF LIABILITY IS CUMULATIVE WITH ALL PAYMENTS ON LIABILITIES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT. EACH PARTY AGREES TO THE

ALLOCATION OF LIABILITY AND RISK SET FORTH IN THIS SECTION AND ACKNOWLEDGES THAT WITHOUT SUCH AGREEMENT TO THESE LIMITATIONS, THE PARTIES WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON LIABILITY.

15. Indemnification. You shall defend, indemnify, and hold harmless Trend Micro and its licensors, resellers and/or suppliers from and against any and all third party claims, demands, deficiencies, losses, damages, costs (including reasonable attorney's fees), expenses, suits, fines, penalties and legal liability, connected with, arising out of, or resulting from any (1) inaccuracy or breach of any representation, warranty or agreement made herein by You or Your representatives; and (2) breach or failure to perform any of the covenants or obligations made herein by You and Your representatives.

16. Term and Termination.

(a) Term. If You are a trial subscriber, this Agreement shall commence from the date You accept this Agreement and terminates upon the expiration of the Evaluation Period. If You are a paid subscriber, the term of this Agreement will commence from the date You accept this Agreement and remain in force for a period of one (1) year or such other time period, as stated on a purchase order, order confirmation or License Certificate (the "Subscription Term") and, subject to Your payment of the applicable annual fees, shall automatically renew for successive one-year periods at the then current list price for the Services unless terminated by either party upon 30 days prior written notice of non-renewal.

(b) Termination. Either party may terminate this Agreement at any time upon thirty (30) days prior written notice if the other party is in breach of any material provision of this Agreement, if such breach is not cured within such thirty (30) day period. This Agreement shall terminate automatically with no further action by either party if: (i) when a party is an individual, a sequestration order is made in respect of that individual's personal estate; (ii) a resolution is passed or court order made for the winding up of that party; or (iii) a receiver or receiver and manager, is appointed to the whole or any part of the assets or undertaking of either party, or a party enters into or resolves to enter into a scheme of arrangement, deed of You arrangement or composition or makes a general assignment for the benefit of all or any class of its creditors; or it proposes a re-organization, moratorium or other administration involving any of them; or (iv) You are unable to pay Your obligations under this Agreement as and when they fall due or You are deemed unable to pay Your obligations. Trend Micro is not liable for any damages that may result from termination carried out in accordance with this Agreement in the event You fail to pay Your obligations.

(c) Effect of Termination. Upon termination of this Agreement because of a breach by You, Trend Micro's obligation to provide You access to and use of the Services shall immediately cease. Upon termination, You shall destroy or return any material containing Trend Micro's intellectual property or information proprietary to Trend Micro or Confidential Information. Sections 5, 6, and 9-18 shall survive the termination of this Agreement. If your subscription is terminated prior to the expiration of any term for any reason, whether voluntary or involuntary, Trend Micro will not refund any monies, whether used or unused, paid by you in accordance with this Agreement.

17. Fees. Unless specifically waived by Trend Micro, its distributors or suppliers, annual license fees for the Services, including taxes as applicable, are payable in advance and are non-refundable. Fees, including applicable taxes, for all subsequent one-year renewal terms shall be due on or before the anniversary date of the Agreement. You agree to pay all fees due whether or not You use the Services. You further agree that Trend Micro may revise its fees at any time.

18. General.

(a) Assignment. Trend Micro may assign or subcontract some or all of its support service obligations under this Agreement to qualified third parties, provided that no such assignment or subcontract shall relieve Trend Micro of its obligations under this Agreement. You shall not sell, transfer, or assign this Agreement without the prior written consent of Trend Micro. Any act in derogation of the foregoing shall be null and void.

(b) Waiver/Severability. The waiver or failure of either party to exercise in any respect any right provided for in this Agreement shall not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement will remain in full force and effect.

(c) Governing Law/Trend Micro Licensing Entity.

North America: If you are located in the United States or Canada, the Licensor is: Trend Micro Incorporated, 10101 N. De Anza Blvd., Cupertino, CA 95014. Fax: (408) 257-2003 and this Agreement is governed by the laws of the State of California, USA.

Europe, Middle East and Africa: If you are located in the United Kingdom, this Agreement is governed by the laws of England and Wales. If you are located in Austria, Germany or Switzerland, this Agreement is governed by the laws of the Federal Republic of Germany. If you are located in France, this Agreement is governed by the laws of France. If you are located in Italy, this Agreement is governed by the laws of Italy. If you are located in Europe, the licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373.

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

Japan: If you are located in Japan, the Licensor is: Trend Micro Incorporated, Shinjuku MAYNDS Tower, 1-1 Yoyogi 2-Chome, Shibuya-ku, Tokyo 151-0053, Japan and this Agreement is governed by the laws of Japan.

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

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

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

(d) Force Majeure. Neither party shall be held liable for failure to fulfill its obligations under this Agreement, if the failure is caused by flood, extreme weather, fire, or other natural calamity, acts of a governmental agency, acts of terrorism or war, or similar causes beyond the control of such party, and the term for performance shall be increased to a reasonable period of time.

(e) Dispute Resolution. Prior to commencing any litigation, the parties agree to seek an amicable settlement of any disputes or claims, provided that either party may commence litigation at any time to avoid prejudice to any rights.

(f) Intended Third Party Beneficiary. Qualys, Inc. is an intended third party beneficiary to these terms and conditions and as such may assert its rights as a Trend Micro supplier under this Agreement.

(g) Notices. All notices and demands hereunder shall be in writing and shall be served on the parties at their respective addresses set forth at the bottom of this Agreement. All notices or demands by mail shall be sent by registered mail, return receipt requested, or by nationally-recognized private express courier, and shall be deemed given upon receipt.

(h) Amendment. Trend Micro reserves the right to change the terms and conditions, including fees, applicable to the Services from time to time. Your use of the Services after such a change will be deemed full and adequate acceptance of the modified terms. Trend Micro also reserves the right to modify, discontinue or make temporarily unavailable the Services. Any new or modified features of the Services, unless explicitly stated otherwise, are subject to these terms and conditions.

(i) Entire Agreement. This Agreement represents the complete agreement and understanding of the parties with respect to the subject matter herein, and supersedes any other agreement or understanding, written or oral, including the terms and conditions of Your purchase order for the Services provided herein which shall not be binding.