



SAAS SERVICES, LICENSE AND SERVICES VERSION 2025.1 (GLOBAL)

IMPORTANT INFORMATION - READ CAREFULLY

UNLESS YOU (THE "CUSTOMER") HAVE OBTAINED PERMISSION TO USE THE SAAS SERVICES, SOFTWARE AND/OR SERVICES UNDER A SEPARATE, DULY SIGNED SAAS SERVICES, LICENSE AND SERVICES AGREEMENT OR OTHER MASTER AGREEMENT WITH BLACK DUCK SOFTWARE, INC. OR AN AFFILIATE ("COMPANY") OR AN AUTHORIZED DISTRIBUTOR, THE SAAS SERVICES, SOFTWARE AND/OR SERVICES ARE PROVIDED UNDER THE FOLLOWING TERMS AND CONDITIONS AND YOUR RIGHT TO USE THE SAAS SERVICES, SOFTWARE AND/OR SERVICES IS CONDITIONED UPON YOUR ACCEPTANCE OF THESE GENERAL TERMS AND CONDITIONS (THE "eSLSA").

IF YOU DO NOT ACCEPT THESE GENERAL TERMS AND CONDITIONS AND YOU DO NOT HAVE A SEPARATE SAAS SERVICES, SOFTWARE AND SERVICE AGREEMENT OR OTHER MASTER AGREEMENT, YOU MAY NOT USE OR COPY THE SAAS SERVICES, SOFTWARE AND/OR SERVICES AND YOU MUST DELETE ANY COPIES OF IT FROM YOUR SYSTEMS.

GENERAL TERMS AND CONDITIONS

1. Definitions. In this Agreement the capitalized words shall have the meanings detailed below:

1.1 **"Affiliate"** of a Party to this Agreement means another person or entity that, directly or indirectly, controls, is controlled by or is under common control with such Party. For the purposes of this definition, "control" means owning a beneficial interest (either directly or indirectly) in more than 50% of the outstanding shares or securities or other ownership interest entitled to vote for the election of directors or similar managing authority. An entity shall be deemed to be an Affiliate under this Agreement for only so long as such requisite conditions are maintained.

1.2 **"Agreement"** means this SaaS Subscription, License & Services Agreement, including its Schedules and any Work Order(s).

1.3 **"Competitor"** means any third party that (a) makes commercially available software security software application products similar to those offered by Company; and/or (b) provides related services in connection with such software applications.

1.4 **"Customer Success Services"** means onboarding, configuration, installation and related services ancillary to the Software and/or SaaS Services performed in accordance with the terms and conditions set forth in this Agreement and pursuant to a Work Order.

1.5 **"Deliverable"** means any item delivered or produced by Company or required to be delivered or produced by Company as the result of Professional or Customer Success Services. Deliverables will generally be described in Work Orders.

1.6 **"Documentation"** means Company official technical manuals, in any medium, generally made available to Company's customers. Documentation shall not include any marketing materials in any media or any demonstration materials or tapes.

1.7 **"Equipment"** means the appropriate computer hardware configuration or other devices, such as handheld devices or associated peripheral equipment required to operate the Software and/or the SaaS Services.

1.8 **"Professional Services"** means security consulting, implementation, integration or any other services performed by Company for Customer in accordance with the terms and conditions set forth in this Agreement and pursuant to a Work Order.

1.9 **"Service(s)"** refers to the Support Services, the Customer Success Services, and/or Professional Services provided by Company.

1.10 **"Software"** means: (i) the Company's on premise software products in object code only; (ii) Company software accessed by Customer using a SaaS Service; (iii) software Deliverables produced by Company Professional, Support or Customer Success Services; (iv) the related Documentation; and (v) Upgrade(s) that Company provides to Customer from time to time. The definition of Software does not encompass Third Party Software.

1.11 **"SaaS Services"** means an internet based platform service hosted for, or on behalf of, Company to provide Customer access to the Company provided software set forth on a Work Order subject to the terms and conditions of this Agreement and Schedule 2; it includes the related Documentation and Upgrade(s) that Company provides to Customer from time to time.

1.12 **"Support Services"** means the maintenance and support services provided by Company for the Software and/or the SaaS Services in accordance with the terms and conditions of this Agreement and Schedule 1.

1.13 **"Territory"** means the specific countr(ies) or geographic areas identified in a Work Order to which Customer's usage of the Software and/or SaaS Services is limited.

1.14 **"Third Party Software"** means third party software, including Open Source Software, embedded in or accessed through the Software or the SaaS Services.

1.15 **"Upgrade"** means a release of the Software and/or SaaS Services subsequent to the initial delivery generally made available to customers in which Company has incorporated: (i) changes made to correct Errors; (ii) enhancements to provide new capabilities, or (iii) improvements to provide better performance, together with new or revised Documentation. It does not include new product offerings.

1.16 **"Users"** has the meaning set forth in Section 3.3.

1.17 **"Work Order"** means, as applicable, (x) Company's Purchasing Agreement for ordering Software, SaaS Services, Customer Success Services, and/or Professional Services and/or (y) in the case of custom Professional Services, a Statement of Work, in each case which has

been completed and executed or accepted by both Parties. Each Work Order entered into shall be governed by the terms of this Agreement.

2. Schedules. These General Terms and Conditions shall apply to each Schedule, including any Work Order, attached to or entered into under this Agreement, which are incorporated herein by reference. The Agreement and Schedules shall, to the extent possible, be interpreted so as to supplement each other and avoid any conflict between them. However, in the event of a conflict between the Agreement documents, the Agreement documents will have the following order of precedence, unless and only to the extent expressly provided to the contrary elsewhere: (a) Work Orders; (b) Schedules; and (c) General Terms and Conditions. Schedules attached hereto are [select as applicable; Support Services schedule applies to both Software and SaaS Services purchases]:

☒ Schedule 1 - Support Services

☒ Schedule 2 – SaaS Services

3. Technology Usage.

3.1 Subject to the terms and conditions of this Agreement, Company grants to Customer (a) a non-sublicensable, non-exclusive and non-transferable, limited right and license to use the proprietary on-premise Software and/or (b) a subscription to use the SaaS Services listed on a Work Order and the right to use any accompanying Documentation, in each case for the Term (defined below) set forth in the applicable Work Order. The Software and SaaS Services shall only be used for Customer's internal business purposes by Users within the Territory as defined in the Work Order. Customer may possess only the number of copies of on-premise Software necessary for the type of use specified in the Work Order and one non-productive use copy for backup, testing and archival purposes; provided, that all proprietary markings, titles, trademark, symbols, copyright notices and other legends that appear on the original Software and Documentation are reproduced on such copy. Company shall at all times retain ownership of all Software, SaaS Services, Documentation and any copies thereof.

3.2 Unless other methods of delivery are specified in the Work Order, Company will provide Customer with license keys to the Software and/or access codes to the SaaS Services. Delivery of the Software and/or SaaS Services will be complete and irrevocable acceptance thereof by Customer and will occur when Company first furnishes access to the applicable Software and/or SaaS Services, whether electronic or otherwise ("**Delivery Date**"). Customer contact(s) and the email address to which Company will send the license keys and/or access codes are set forth in the Work Order. Where physical delivery is requested irrevocable acceptance for the delivered Software shall be the date the Software is delivered F.O.B. to the carrier.

3.3 The Software and/or SaaS Services may only be used by Customer's authorized employees, consultants and agents (excluding Competitors) who have a need to access and use such solely as permitted pursuant to this Agreement ("**Users**"); provided, that such employees, consultants and agents agree to be bound by the terms of this Agreement. Customer shall be responsible for any and all acts and omissions of its Users to the same extent as if such action or omission were the action or omission of Customer. The number of Users authorized to use the Software and/or SaaS Services and the applicable license metric will be defined in the applicable Work Order.

4. Restrictions and Representations.

4.1 Customer agrees that it will not itself, or through any Affiliate, agent or other third party:

(a) sell, lease, loan, assign, convey, license, sublicense, encumber or otherwise transfer (except for temporary transfer in the event of a computer malfunction) the Software, SaaS Services or Documentation except as expressly set forth herein;

(b) decompile, disassemble, or reverse engineer any portion of the Software or SaaS Services, or attempt to discover any source code or underlying ideas or algorithms of any Software or SaaS Services;

(c) except as expressly set forth in this Agreement, use the Software or SaaS Services to provide processing services to third parties, or otherwise use or allow others to use the Software and/or SaaS Services for the benefit of any third party in a commercial timesharing, rental, sharing arrangement, or other "service bureau" basis;

(d) remove any product identification, trademark, copyright, confidentiality, proprietary or other notice contained on or within the Software, SaaS Services or Documentation;

(e) modify or create a derivative work from the Software, SaaS Services or any portion thereof, except to the extent that the Software or SaaS Services provides for user-modifiable components (should Customer's use of the Software or SaaS Services result in a derivative work, Company shall own such derivative work). The use of robotic process automation (RPAs, or "bot" technology) or other third-party software to modify the Software, SaaS Services and/or performance experience, or for any other purpose, is strictly prohibited without prior written authorization by Company. Customer and its Users must comply with all applicable Company policies on Software or SaaS Services use, including usage of bots; or

(f) except as required to comply with Company's compliance obligations under applicable law and regulations, post the Software, SaaS Services, Documentation, or any screenshots of the Software or SaaS Services or its results of operation, including, without limitation, any scans, SBOMs, license compliance statement, copyright reporting or other results ("**Results**") on any network that is accessible by anyone other than Company or its Users or disclose to any third party any comparison of the Results in a benchmarking process of the Software or SaaS Services with other products.

4.2 Customer acknowledges and agrees that it has made its own evaluation in deciding to purchase the Software and/or SaaS Services hereunder, accepts the Software or SaaS Services as delivered, and has not relied on the future availability of any specific features and/or functionality or development of any future customizations or modifications.

4.3 Customer acknowledges and agrees that from time to time product changes may occur (e.g. IP addresses, URLs, integration and/or repository names) which will require Customer to make changes to its systems to continue to use the Software and/or SaaS Services. Company will provide Customer with reasonable notice of such changes and Customer shall have sole responsibility for making any system changes to accommodate such product changes. Company shall not be responsible for any damages resulting from the inability of Customer to use the Software and/or SaaS Services resulting from such changes.

5. Ownership. Customer acknowledges that all intellectual property rights in the Software, SaaS Services, Documentation, and Services are owned by and retained by Company and/or its licensors, as applicable, and any work arising from or created, produced or developed by Company (whether alone or jointly with others) under or in the course of this Agreement, including those arising from the performance of Services, shall immediately upon creation or performance vest absolutely in and shall be and remain the sole and exclusive property of Company, and Customer shall acquire no right, title or interest in and to the same, except for the limited rights expressly granted in this Agreement. For Professional Services, all right, title and interest in and to all testing tools and utilities; testing software and plans; strategies, processes and methodologies; models and historical data; training materials; and related materials and documentation owned or possessed by Company prior to, or developed during the course of Company's performance of, the Professional Services shall vest in Company regardless of the use of such material in any engagement or the inclusion of such material in any Deliverables.

6. Professional Services; Customer Success Services.

6.1 If Customer engages Company to provide Professional or Customer Success Services, then Customer and Company will mutually develop and approve a Work Order in connection with the Professional or Customer Success Services to be provided, which shall be governed by the terms of this Agreement. Such Work Order may be amended from

time to time upon mutual agreement of the Parties. Company may terminate a Professional Services Work Order, in whole or in part, for convenience upon five (5) business days prior written notice if Customer has not authorized all work to begin under such Work Order within thirty (30) calendar days of its effective date. The Parties agree that Company may use the employees or contractors of its Affiliates or Company's own contractors to perform Professional or Customer Success Services. Customer agrees that Company's Affiliates who perform Professional or Customer Success Services shall not be liable to Customer under this Agreement and Customer's sole recourse, if any, would be against Company subject to the terms of this Agreement. Company reserves the right to increase its Professional and Customer Success Services rates at any time upon prior notice; such rate increase shall not apply to Work Orders then in effect.

6.2 Each Party shall assign a representative who shall have the principal responsibility for overseeing and managing the performance by such Party of Professional or Customer Success Services under this Agreement and who shall be the primary point of contact for and person authorized to issue to and receive communications from the other Party in relation to the Professional or Customer Success Services. A Party may substitute others in this position upon prior notice to the other Party. Each Party's representative shall dedicate such time as needed to perform that Party's obligations in accordance with the Work Order.

6.3 Customer Success and Professional Services shall be performed only in relation to the Software and/or SaaS Services and as specified in a Work Order. If Company personnel are working on Customer's premises: (a) Customer will provide a safe and secure working environment for such personnel and (b) Company will comply with all reasonable workplace safety and security standards and policies that are applicable to Customer's employees of which Customer notifies Company in writing and in advance of the commencement of any Customer Success or Professional Services. Customer will make available to Company any data, information and any other materials reasonably required by Company to perform the Customer Success or Professional Services, including, but not limited to, any data, information or materials specifically identified in the Work Order or the relevant datasheet.

7. Third Party Software & Equipment.

7.1 Customer shall be responsible for: (i) providing the Equipment and utilities to adequately support the proper operation of the Software and SaaS Services including without limitation, as applicable, modems, servers, hardware, software, network and communication services; (ii) providing the necessary backup, recovery and reboot services for its Equipment; and (iii) appointing personnel to a project team for the purpose of learning and using the Software and/or the SaaS Services.

7.2 The Software and SaaS Services may contain open source or community source software ("**Open Source Software**") provided under separate license terms (the "**Open Source License Terms**"). The applicable Open Source License Terms are identified in a directory named "Licenses" provided with the delivery of the Software and SaaS Services. Customer's use of the Open Source Software in conjunction with the Software and/or SaaS Services in a manner consistent with the terms of this Agreement is permitted, however, Customer may have broader rights under the applicable Open Source License Terms and nothing in this Agreement is intended to impose further restrictions on Customer's use of the Open Source Software. Open Source Software and other Third Party Software is provided "AS-IS", WITHOUT ANY WARRANTY OF ANY KIND, AND COMPANY FURTHER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THIRD PARTY SOFTWARE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER COMPANY NOR THE LICENSORS OF THIRD PARTY SOFTWARE SHALL HAVE ANY LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS), HOWEVER CAUSED AND

ON ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY, OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OR DISTRIBUTION OF THE THIRD PARTY SOFTWARE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. Copyrights to Third Party Software are held by the copyright holders indicated in the copyright notices in the corresponding source files.

7.3 If Customer wishes to utilize certain functionality provided by third parties, then Customer may be required to contract directly with such third party. Customer may be required to provide information to Company regarding such third party contracts, such as proof of authorization and account identification, to enable the third party functionality to work with the Software or SaaS Services. Company does not warrant or make any representations to any third party software Customer may use separate from and outside of the Software.

8. Fees, Payments and Taxes.

8.1 In consideration of the Software, SaaS Services, and/or Services provided herein, Customer shall pay to Company the fees set forth in the Work Order(s). Software Fees, SaaS Services Subscription Fees and fees for Professional Services and Customer Success Services are due and payable as set forth in the applicable Work Order. All payments are nonrefundable unless specifically provided otherwise in this Agreement. Customer shall pay interest at one and one-half percent (1.5%) per month on any invoiced amount Customer fails to pay within the due date of the invoice, calculated from the invoice date. Interest shall continue to accrue on all unpaid amounts until the point at which they are paid in full. The currency for payments made under this Agreement shall be United States Dollars or, where approved by Company, the local currency of the country where Company is located.

8.2 Customer agrees to reimburse Company for all pre-approved, reasonable, out-of-pocket expenses Company incurs in providing Software, SaaS Services and/or Services including, but not limited to, transportation, airfare, lodging, rental vehicles and meals.

8.3 Company reserves the right, upon written notice to Customer, to temporarily or permanently discontinue Customer's access to all Software, SaaS Services and/or Services if any payment is overdue by more than thirty (30) days and Company shall not be responsible to Customer for any damages, losses, costs and expenses caused by such discontinuation. Customer agrees to compensate Company for all attorneys' fees, costs and expenses incurred in collecting overdue payments and/or otherwise enforcing its rights under this Agreement.

8.4 Customer agrees to pay or reimburse Company for all federal, state, local, sales, use, VAT, GST, personal property, or other taxes, fees or duties arising out of the transactions of this Agreement (other than taxes on the net income of Company) and any related penalties and interest associated therewith.

8.5 If Customer is receiving tiered pricing and Customer's use of the applicable Software and/or SaaS Services causes Customer to move into a higher tier during the applicable invoice period, then Company reserves the right to charge Customer for the difference between the original tier and the higher usage tier, if any, during the next invoice period.

8.6 If a non-renewing Term expires prior to Customer's execution of a renewal Work Order (a "**Late Renewal**"), and Customer desires to continue use of the applicable Software, SaaS Services or Services until the renewal Work Order is executed, then Company may agree to allow Customer such continued use, subject to the terms of the expiring Work Order, during negotiation of the Late Renewal and Company reserves the right to charge Customer a late renewal fee.

9. Term & Termination.

9.1 The term for Software, SaaS Services, Support and any other Services under a Work Order (the "**Term**") shall commence on the date set forth in the applicable Work Order and shall remain in effect for an initial term that is non-cancellable by Customer, as identified in the Work Order. Thereafter, unless written notice (subject to the applicable notice

provisions herein) (a) to terminate or (b) to modify the quantities and/or type of Software, SaaS Services or Services is provided at least sixty (60) days before the expiration date of the then-current Term, at the conclusion of the then-current Term, the term shall be automatically extended for the same period of time as the initial term at fees then in effect, but subject to fee increases of up to 7% per year, unless otherwise agreed to in writing by the Parties. Fees shall start to accrue when the Term commences and shall be invoiced and are due and payable as set forth on the applicable Work Order.

9.2 A Party may terminate this Agreement: (i) if the other Party is in material breach of this Agreement and such breach is not cured within thirty (30) days of written notice of such breach; or (ii) immediately if the other Party ceases business activities, becomes insolvent, is unable to meet payment obligations, makes an assignment for the benefit of creditors, becomes subject to winding down proceedings or the direct control of a trustee, receiver or similar authority.

9.3 Termination of this Agreement will become effective immediately on the date set forth in the written notice of termination, and any payment obligations under this Agreement shall immediately become due and owing. If Company terminates on the grounds set forth in Section 9.2, then the due date of all Software, SaaS Services and/or Services fees shall automatically be accelerated so that payments shall become due and payable to Company on the effective date of termination, even if longer payment terms had been previously provided.

9.4 Upon termination of this Agreement, all licenses, use rights, subscriptions granted and/or Services hereunder shall terminate and Customer shall cease all use of the applicable Software or SaaS Services. Upon request, a Party shall return or certify the destruction of the other Party's Confidential Information, and all copies thereof, in its possession and return or destroy all applicable Software, Documentation, access to SaaS Services, and/or derivative works, in whole or in part, and all copies thereof in its possession or control. For avoidance of doubt, Company shall only be required to return a copy of any Customer data contained in the SaaS Services, and the amount of such data will be subject to the then-existing Company data retention policy. Company's obligation to return or destroy Confidential Information shall not apply to copies of Customer's Confidential Information made as a matter of routine technology backup pursuant to document retention and disaster recovery policies and procedures or to the retention of records as required by any applicable law and/or regulation, such as banking regulations, for so long as required by such laws/regulations. Any Confidential Information that is not returned or destroyed shall be kept confidential.

9.5 Termination is not an exclusive remedy and all other remedies, including injunctive relief, will be available whether or not termination occurs.

9.6 If changes in applicable law, regulation, rule or order materially affect delivery or continued use of the Software, SaaS Services or the Services hereunder, then the Parties will negotiate in good faith appropriate changes to the relevant Software, SaaS Services, Services or fees. If the Parties are unable to reach an understanding within 30 days after Company's written request of renegotiation: (i) Company may, effective upon written notice to Customer, pass through any increased costs of delivery, and (ii) Customer may, within 30 days following receipt of such written notice, terminate the access to Software, SaaS Services or the Services upon 30 days' written notice to Company without further liability; prepaid fees are non-refundable.

10. Indemnification.

10.1 Company will indemnify and hold Customer harmless any claim brought against Customer by a third party specifically alleging that the standard Software, SaaS Services, Services or Deliverables (in the form supplied to Customer by Company and when used in accordance with this Agreement) directly infringes a valid U.S. patent, trademark, trade dress or copyright of such claimant (an "IP Claim") and Company will pay those costs and damages finally awarded or settled (upon settlement terms acceptable to Company) against Customer based on

such IP Claim provided that: (i) Customer promptly notifies Company in writing no later than thirty (30) days after becoming aware of such IP Claim but in no case later than reasonably required to prevent Company's ability to defend such IP Claim from being prejudiced; (ii) Company has sole control of the defense and all related settlement negotiations and Customer does not make any admission or disclosure or otherwise take any action prejudicial to Company; and (iii) Customer provides Company with the assistance, information, and authority reasonably necessary to perform Company's obligations.

10.2 Company will have no liability for any claim of infringement to the extent that the IP Claim results from: (i) failure of Customer to implement any Upgrade to the Software and/or SaaS Services, if the IP Claim would have been avoided by the use of such Upgrade and the Customer was informed of such; (ii) combination of the Software and/or SaaS Services with any information, design, specification, instruction, software, data, or material not provided by Company; (iii) use of the Software and/or SaaS Services in combination with third party products, including hardware and software; (iv) Customer's use of the Software and/or SaaS Services in any manner not permitted by this Agreement; (v) materials or specifications provided by Customer or its agents; or (vi) modifications or maintenance of the Software and/or SaaS Services by a party not authorized by Company.

10.3 If a final judgment is entered against Customer on any such IP Claim, or if in Company's reasonable opinion Customer is likely to become subject to a successful IP Claim, then Customer shall permit Company, at Company's sole option and expense, either to (i) modify the Software and/or SaaS Services to be non-infringing while providing functionally equivalent performance; or (ii) obtain for Customer a right to continue using the allegedly infringing Software and/or SaaS Services. If Sections 10.3(i) or 10.3(ii) are unachievable, as solely determined by Company, then Company shall require return of the allegedly infringing Software and/or SaaS Services and all rights thereto from Customer whereupon the Customer will be entitled to recover a refund of any unused portion of any prepaid Fees. THE FOREGOING PROVISIONS OF THIS SECTION 10 CONSTITUTE THE ENTIRE LIABILITY OF COMPANY AND THE EXCLUSIVE REMEDY OF THE CUSTOMER WITH RESPECT TO ANY INFRINGEMENT CLAIM.

11. Limited Warranty.

11.1 Company warrants to Customer that: (i) the unmodified Software and/or SaaS Services will perform substantially in accordance with the Documentation in effect at the Effective Date for a period of ninety (90) days from the Delivery Date. The foregoing warranty does not apply to subsequently delivered copies of the same Software product or SaaS Services after this period has passed for the first copy delivered to Customer; (ii) Professional Services, Customer Success Services and Support Services will be performed in a professional and workmanlike manner; and (iii) SaaS Services will be provided in a manner consistent with industry standards throughout the Term set forth on a Work Order. Customer's sole and exclusive remedy and Company's sole and exclusive obligation for a breach of the foregoing warranties shall be for Company to undertake at its own expense to correct the non-conforming portion of the Software or SaaS Services or, in the case of Professional, Support and Customer Success Services, at Company's sole option, to re-perform the Professional, Support or Customer Success Services or refund the fees paid for such, provided Customer (x) notifies Company of the deficiency within the warranty period, and (y) has installed all Updates provided by Company to Customer. THE FOREGOING ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY.

11.2 Company's warranty obligations as set forth above are made to and for the sole benefit of Customer and shall be enforceable against Company only if: (a) the on premise Software has been properly installed and the Software and the SaaS Services have been used only in accordance with the Documentation and this Agreement; (b) Customer has not made or caused to be made modifications, alterations or additions to the Software or SaaS Services; (c) problems with the Software or SaaS Services did not arise out of a product not licensed or

provided by Company; and (d) Customer is not in breach of the Agreement.

11.3 Plug-Ins. ALL PLUG-INS ARE PROVIDED AS-IS", WITHOUT ANY WARRANTY OF ANY KIND. COMPANY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO SUCH PLUG-IN, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY AND ITS PARTNERS, SUPPLIERS AND DISTRIBUTORS DISCLAIM ALL LIABILITY UNDER THIS AGREEMENT WITH RESPECT TO ANY PLUG-IN. The indemnification provisions of Section 10 of this Agreement shall not apply to Plug-Ins.

11.4 OTHER THAN AS PROVIDED IN THIS AGREEMENT, ALL SOFTWARE AND SAAS SERVICES AND ANY THIRD PARTY PRODUCTS OR SERVICES PROVIDED HEREUNDER, ARE PROVIDED "AS IS." THE EXPRESS WARRANTIES IN THIS AGREEMENT ARE IN LIEU OF, AND COMPANY DISCLAIMS, ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN), RELATED TO THIS AGREEMENT, WHETHER ARISING BY LAW, CUSTOM OR USAGE IN THE TRADE, COURSE OF DEALING, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF NON-INFRINGEMENT, TITLE, MERCHANTABILITY, AND FITNESS OR SUITABILITY FOR ANY PURPOSE (WHETHER OR NOT COMPANY OR A THIRD PARTY SOFTWARE, EQUIPMENT OR HARDWARE SUPPLIER IS AWARE OF ANY SUCH PURPOSE). COMPANY MAKES NO REPRESENTATION OR WARRANTY REGARDING, WITHOUT LIMITATION, THE SECURITY, INTEGRITY, OR EFFICIENCY OF THE SOFTWARE OR SAAS SERVICES, THAT THE SOFTWARE OR SAAS SERVICES WILL OPERATE WITHOUT INTERRUPTIONS OR ERRORS OR THAT DEFECTS ARE ALL CORRECTABLE. COMPANY MAKES NO REPRESENTATION OR WARRANTY THAT CUSTOMER'S USE OF THE COMPANY SOFTWARE OR SAAS SERVICES WILL BE IN COMPLIANCE WITH EVERY APPLICABLE LAW OR REGULATION WITH WHICH CUSTOMER MAY BE REQUIRED TO COMPLY. Customer acknowledges that Company is not responsible for and will have no liability for any products or services provided by any person or entity other than Company, including items supplied or services performed by Customer or Customer's agent. Specifically, Company does not provide any warranty that the Software or SaaS Services will discover all open-source or third-party code, potential license conflicts, errors, or vulnerabilities that may reside in the code base.

12. Limitation of Liability. IN NO EVENT WILL COMPANY OR ITS LICENSORS BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL LOSSES OR DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS, COMPUTER FAILURE OR OTHER BENEFITS) RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY THEORY AT LAW OR IN EQUITY, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES. COMPANY'S MAXIMUM AGGREGATE LIABILITY HEREUNDER (WHETHER IN TORT, CONTRACT OR ANY OTHER FORM OF LIABILITY) FOR DAMAGES OR LOSS, HOWSOEVER ARISING OR CAUSED, WHETHER OR NOT ARISING FROM COMPANY'S NEGLIGENCE, SHALL IN NO EVENT BE GREATER THAN: 100% OF THE FEES RECEIVED BY COMPANY FROM CUSTOMER FOR THE SOFTWARE, SAAS SERVICE, PROFESSIONAL SERVICE OR CUSTOMER SUCCESS SERVICE THAT IS THE SUBJECT OF SUCH LIABILITY IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM FOR SUCH LIABILITY. To the fullest extent permitted by applicable law, except for actions for nonpayment and violations of Company's intellectual property rights, no claim, suit, action or proceeding relating to this Agreement may be brought by either Party more than twelve (12) months after the cause of action has accrued.

13. Audit Rights. Company or its designee shall be entitled to, at Company's sole expense, audit Customer's compliance with the

provisions of this Agreement no more than once each calendar year, during normal business hours by providing written notice to Customer at least ten (10) business days prior to such audit. If any audit reveals a deficiency in any amounts due to Company under this Agreement, Customer will immediately pay these amounts as are required to re-establish compliance with the terms of this Agreement, including fees for the unauthorized use of the Software or SaaS Services, with a minimum charge of one (1) year. If the underpaid fees exceed five percent (5%) of the fees due and payable, then Customer shall also reimburse Company for its audit costs and expenses. Both annually and within thirty (30) days of Company's request, Customer agrees to provide a true and correct written certification signed by a Customer officer that Customer is in compliance with the terms set forth in Section 3 and the applicable Work Orders. Should the Customer not be able to provide such certification, Customer shall promptly notify Company and the Parties will work in good faith to bring Customer into compliance by paying any deficiency in any amounts due to Company. For avoidance of doubt, Customer shall not be permitted to decrease any minimum Software or SaaS Services usage commitment or original scope as a result of an audit.

14. Confidentiality.

14.1 In this Agreement, "**Confidential Information**" means all documents, software, reports, data, records, forms and other materials obtained by one Party (the "**Receiving Party**") from the other Party (the "**Disclosing Party**") (i) that have been marked as confidential; (ii) whose confidential nature has been made known by the Disclosing Party to the Receiving Party; or (iii) that due to their character and nature, a reasonable person under like circumstances would treat such material as confidential.

14.2 Each Party acknowledges that Confidential Information constitutes valuable trade secrets and each Party agrees that it shall use the Confidential Information of the Disclosing Party solely in accordance with the provisions of this Agreement and the Receiving Party agrees that it shall not disclose, or permit to be disclosed, the Disclosing Party's Confidential Information, directly or indirectly, to any third party without the Disclosing Party's prior written consent. Notwithstanding the foregoing, Company may disclose Confidential Information to (1) its employees, subcontractors, agents; (2) those having a need to know the Confidential Information for the purpose for which it was disclosed or otherwise for the benefit of the Customer; (3) entities controlled by, under common control or controlling it; and (4) those who have an obligation not to further disclose the Confidential Information. Each Party agrees to exercise due care in protecting the Confidential Information of the Disclosing Party from unauthorized use.

14.3 Neither Party bears responsibility for safeguarding information that it can document in writing: (a) is in the public domain through no fault of its own, (b) was properly known to it, without restriction, prior to disclosure by Disclosing Party, (c) was properly disclosed to it, without restriction, by another person with the legal authority to do so, (d) is independently developed by Receiving Party without use or reference to Disclosing Party's Confidential Information or (e) is required to be disclosed pursuant to a judicial or legislative order or proceeding in which case the Receiving Party shall provide Disclosing Party with prior notice of the intended disclosure.

14.4 In the event of actual or threatened breach of the provisions of Section 3 (Technology Usage), Section 4 (Restrictions and Representations) and/or Section 14 (Confidentiality), the non-breaching Party will be entitled to immediate injunctive and other equitable relief, in addition to all other remedies, without bond and without the necessity of showing actual damage. These confidentiality obligations shall survive termination of the Agreement.

14.5 a. Feedback and Analytics. Customer may choose, but is not required, to provide suggestions, data, feedback and other information to Company, its subcontractors or authorized distributors regarding possible improvements in the operation, functionality or use of Company's Software and SaaS Services ("**Feedback**"). Customer hereby grants to Company, its subcontractors and authorized distributors, a non-exclusive, perpetual, irrevocable, royalty-free and

fully paid up license to use, copy, display, modify, create derivative works of and distribute any Feedback, and to make, have made, use, lease, sell, offer for sale, import, export or otherwise transfer any Company product offering covered by any intellectual property rights in such Feedback solely for the purpose of (i) improving the operation, functionality or use of its existing and future product offerings and commercializing such offerings; and (ii) publishing aggregated statistics about software quality, provided that no data in any such publication can be used to specifically identify Customer or Customer's software code.

b. **Aggregated Usage Data.** Company shall not disclose to third parties or use any Transaction Data or Account Information (each as defined below) except as reasonably necessary to perform its obligations under this Agreement (including disclosing Transaction Data to authorized agents of Customer) or to comply with any legal, regulatory, or similar requirement. Customer acknowledges that Company reserves the right to compile and analyze its collective Customer data (including, without limitation, Transaction Data) and to prepare reports, studies, analyses, and other work product resulting from such compilation and analysis on an aggregated, de-identified anonymous basis ("**Compiled Data**"). Further, Company shall have the exclusive ownership rights to, including the exclusive right to use, such Compiled Data for any reasonable business purpose. Nothing herein shall be construed as an assignment or change of ownership of Customer data from Customer to Company. This Section notwithstanding, all Customer data will remain the sole and exclusive property of Customer. For purposes of this Agreement, "**Transaction Data**" shall mean data input (by either party) to or output by, the Software and/or SaaS Services. For purposes of this Agreement, "**Account Information**" shall mean the username, login ID, password, or other registration information provided by Customer in connection with the Software and/or SaaS Services.

15. Data Protection & Security. Company will implement reasonable security measures to comply with applicable laws relating to data protection, privacy and security, when processing Personal Data under this Agreement. For the purposes of this Agreement, "Personal Data" shall mean personal data as defined by applicable country laws. Except to the extent necessary for Company to perform its obligations under the Agreement, Company will keep Personal Data confidential. Additional or differing security obligations, if any, will be expressly set forth in the applicable Schedule, Work Order, or separate written agreement between the Parties. Customer is responsible for Customer data (including Customer Personal Data) as entered into, supplied or used by Customer and its authorized Users in the Software and/or SaaS Services. Further, Customer is solely responsible for determining the suitability of the Software, SaaS Services and/or other Services for Customer's business and complying with any applicable data privacy and protection regulations, laws or conventions applicable to Customer data and Customer's use of the Software, SaaS Services and/or other Services. Customer grants to Company the non-exclusive right to process Customer data in accordance with the Data Processing Addendum found at: [Data Processing Addendum | Black Duck](#), as it may be amended or updated in the future at Company's discretion.

16. Assignment, Divestiture, Acquisition

16.1 The Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. Customer will not assign or sublicense, in whole or in part, by way of a stock or asset sale, any of its rights or obligations under this Agreement without the prior written consent of Company, which consent will not be unreasonably withheld or delayed. Notwithstanding the foregoing, Customer may assign this Agreement in whole without Company's consent, but with notice to Company within 10 days, to an Affiliate or to the surviving entity in a merger, acquisition, or similar transfer of all or substantially all of Customer's stock or assets so long as (a) the assignee agrees in writing to be bound by the terms of this Agreement; (b) any right to use Software and/or Services will be limited to the scope of the Customer's authorized use of such immediately prior to the

assignment; and (c) the assignee is not a Company Competitor. Any prohibited assignment or sublicense of this Agreement is void.

16.2 In the event of a divestiture by Customer of any entity using the Software, SaaS Services, Professional Services or Customer Success Services, Company agrees that the divested entity may continue to use the Software, SaaS Services, Professional Services or Customer Success Services pursuant to the terms of this Agreement for a period not to exceed sixty (60) days from the divestiture date. During this period, Customer and the divested entity shall enter into good faith negotiations to establish a new agreement with Company for the use of the Software, SaaS Services, Professional Services and/or Customer Success Services. If Company and the divested entity do not enter into an agreement within sixty (60) days of the divestiture, the divested party's right to use the Software, SaaS Services, Professional Services and/or Customer Success Services shall immediately cease. Customer agrees to pay the then-applicable fee for any continued use of the Software, SaaS Services, Professional Services and/or Customer Success Services by the divested entity.

17. Publicity. Customer agrees that Company may use its name and logo in press releases, product brochures, financial reports and other promotional materials in any media indicating that Customer is an end user of Company.

18. Notice. Any notice or communication required or permitted to be given hereunder may be delivered by hand, deposited with an overnight courier, sent by email or facsimile (provided delivery is confirmed), or registered or certified mail, return receipt requested, in each case to the address set forth on the initial page hereof or at such other addresses as shall be designated in writing by either Party to the other in accordance with this Section.

19. Trade Restrictions. Customer acknowledges that the Software, SaaS Services, Professional Services, Support Services, Customer Success Services, Documentation and all related technical information, and derivatives thereof are subject to the export control and sanctions laws and regulations of the United States and other countries that may prohibit or restrict access by certain persons or from certain countries or territories ("**Trade Restrictions**"). Each Party shall comply with all applicable Trade Restrictions in performing under this Agreement. Each Party represents that it is not a Restricted Party. "**Restricted Party**" means any person or entity that is: (i) located or organized in a country or territory subject to comprehensive U.S. sanctions (currently including Cuba, Crimea, Iran, North Korea, Syria) ("**Sanctioned Territory**"); (ii) owned or controlled by or acting on behalf of the government of a Sanctioned Territory; (iii) an entity organized in or a resident of a Sanctioned Territory; (iv) identified on any list of restricted parties targeted under U.S., EU or multilateral sanctions, including, but not limited to, the U.S. Department of the Treasury, Office of Foreign Assets Control's ("**OFAC**") List of Specially Designated Nationals and Other Blocked Persons, the OFAC Sectoral Sanctions List, the U.S. State Department's Nonproliferation Sanctions and other lists, the U.S. Commerce Department's Entity List or Denied Persons List located at <https://www.trade.gov/consolidated-screening-list>, the consolidated list of persons, groups and entities subject to EU financial sanctions from time to time; or (v) owned or controlled by, or acting on behalf of, any of the foregoing. Customer acknowledges and agrees that it is solely responsible for complying with, and shall comply with, Trade Restrictions applicable to any of its own or its Affiliates' or authorized Users' content or Customer data transmitted through the Software and/or Services. Customer shall not and shall not permit any authorized User to access, use, or make the Software and/or Services available to or by any Restricted Party or to or from within any Sanctioned Territory.

20. Ethics. The Parties agree to comply with all applicable legal and ethical requirements and have each of their respective, contractors employees, suppliers and representatives comply with the same legal and ethical requirements. The Parties agree to maintain and enforce policies requiring adherence to lawful business practices, including

without restriction a prohibition against bribery of any person or government official in violation of the US FCPA of 1977 and the UK Bribery Act 2010.

21. Miscellaneous.

21.1 Neither Party will incur any liability to the other on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if this delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond its control and without negligence of the Parties. Such events, occurrences or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquakes, fire and explosions, but the ability to meet financial obligations is expressly excluded.

21.2 Any waiver of the provisions of this Agreement or of a Party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect or delay by a Party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed to be deemed a waiver of this Party's rights under this Agreement and will not in any way affect the validity of the Agreement or prejudice this Party's right to take subsequent action.

21.3 If any term, condition or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the Parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the Parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

21.4 This Agreement contains the entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all previous agreements, communications, representations and understandings either oral or written between the Parties. This Agreement may be modified only in writing, signed by the authorised representatives of each of the Parties.

21.5 Each Party acknowledges that the other Party's employees are critical to servicing its customers and that each Party has expended substantial resources in recruiting and training its employees. Therefore, each Party agrees not to solicit, employ, or otherwise engage the other Party's employees with whom there was Substantial Contact (as that term is defined below) under this Agreement and for a period of twelve (12) months following the employee's last day of employment with his/her respective employer. "**Substantial Contact**" is defined as a Party's interaction with the other Party's employee where such employee had material involvement with the project plan or Services during the last twelve (12) months prior to the employee's last day of employment with his/her respective employer. Should either Party violate this provision, the violating Party agrees to pay the other Party the greater of one year of the former employee's annual salary or one hundred thousand dollars (\$150,000). The Parties further agree that in the event of any actual or threatened breach of this provision, the non-breaching Party shall be entitled (in addition to any and all other rights and remedies at law or in equity for damages or otherwise) to specific performance or injunctive relief to prevent such breach or contemplated breach.

21.6 No terms, provisions or conditions of any purchase order, acknowledgement or other business form that either Party may use in connection with the acquisition of the Software, SaaS Services or any other Services will have any effect on the rights, duties or obligations of the Parties under, or otherwise modify, this Agreement, regardless of any failure of a Party to object to such terms, provisions or conditions.

21.7 Under no circumstances shall this Agreement be construed or interpreted as an exclusive dealing arrangement. Subject to the

provisions of this Agreement as to confidentiality, Company may provide any service or sell any products to any other parties.

21.8 Provisions concerning the Parties' rights and obligations which by the content of the provision operate after termination or which are necessary to enforce any right will survive termination of this Agreement.

21.9 If a dispute should arise, the Parties agree to first attempt to resolve the dispute during a meeting between both Parties' project representatives. If this meeting does not resolve the dispute, then the dispute will be submitted to the respective senior executive for the functional department of each Party. The senior executives shall meet within ten (10) business days from the date the dispute was submitted to them. If the dispute remains unresolved after this meeting, either Party shall have the right to commence any legal proceeding as permitted by law. If a Party's principal place of business is in the United States, Canada, Mexico, LATAM, Israel, China (for non-Renminbi transactions), Africa, Caribbean, Saudi Arabia and South Korea, this Agreement will be governed by and construed pursuant to the laws of the Commonwealth of Massachusetts without regard to any choice or conflict of law provisions and the Parties irrevocably agree to submit to the exclusive jurisdiction of the federal district courts of the Commonwealth of Massachusetts. If a Party's principal place of business is in Japan, this Agreement shall be governed by and construed in accordance with the laws of Japan and the Parties irrevocably submit to the exclusive jurisdiction of the Japanese courts for the purpose of hearing and determining any dispute arising out of this Agreement and for the purpose of enforcement of any judgment against their respective assets. If a Party's principal place of business is in the a country not named above, this Agreement shall be governed by and construed in accordance with the laws of Ireland and the Parties irrevocably submit to the exclusive jurisdiction of the Courts of Ireland for the purpose of hearing and determining any dispute arising out of this Agreement and for the purpose of enforcement of any judgment against their respective assets. Regardless of forum and venue, Customer and Company hereby irrevocably waive, to the fullest extent permitted by law, all rights to trial by jury in any action, proceeding or counterclaim arising from or relating to this Agreement.

21.10 The Uniform Computer Information Transaction Act and the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods are expressly excluded shall not apply to this Agreement. This Agreement shall not be construed in favor of or against either Party on account of drafting. Company and Customer are independent contractors and this Agreement shall not establish any fiduciary relationship or other relationship of partnership, joint venture, employment, franchise or agency between them. Neither Party has the authority to bind the other or incur obligations on the other's behalf without the other's prior written consent.

21.11 To the extent allowed by law, the English version of the Agreement is binding, and other translations are for convenience only.

21.12 This paragraph applies where Customer is a branch or agency of the United States Government or is acquiring Software, SaaS Services or Services hereunder on behalf of any branch or agency of the United States Government. The Software, SaaS Services and Services are comprised of "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212, and are provided to the U.S. Government (a) for acquisition by or on behalf of civilian agencies, consistent with the policy set forth in 48 C.F.R. 12.212; or (b) for acquisition by or on behalf of units of the Department of Defense, consistent with the policies set forth in 48 C.F.R. 227.7202-1 and 227.7202-3.

Schedule 1

Support Services

1. Term & Support Plan. Subject to the terms of this Agreement and payment of applicable SaaS Services and/or Software subscription fees, Customer will receive standard Support Services without the payment of additional fees for the Support Services Term set forth in the applicable Work Order. Customer may purchase Premium Support Services or Premium Plus Support as identified in the applicable Work Order for additional fees.

2. Support Services.

(i) Overview.

Company will provide an English-speaking support helpdesk representative for queries on the day-to-day support issues related to the Software and SaaS Services in the production environment. The Company support center ("**Support Center**") shall provide Support Services to Customer's administrative users responsible for Company's Software and/or SaaS Services. Customer's individual end users may access the Support Portal for informational purposes at any time. Customer may contact the Company Support Center via the Support Portal. For Priority 1 or Priority 2 incidents, Customer should also call the Support Center. The Support Portal allows Customer to log, update and view the progress of any pending issue. Support Services will provide a transparent view wherein Customer may report an issue and follow progress. For avoidance of doubt, Customer may have access to Company's Support Portal as Customer deems necessary to maintain its Software and/or SaaS Services.

(ii) Scope of Coverage. Support Services are as follows:

(a) Support for the current and prior Major Release of the Software and/or SaaS Services for a period of no less than one (1) year from the delivery of each Major Release. Any Upgrades to a Major Release will always be delivered to the then prior Version of that Major Release. Company reserves the right to determine whether or not to make Support Services available for Major Releases other than the then-current and immediately prior Major Release, and, if so, the terms and fees of such Support Services. For purposes of this Agreement a "**Major Release**" means each issuance of the Software and/or Support Services, identified by the numeral to the left of the decimal point (e.g., 3.01). "**Version**" means each issuance of Software and/or SaaS Services between Major Releases, identified by the numeral to the right of the decimal point (e.g., 3.01). Company agrees to provide 60 days prior written notice to Customer in the event of any Support Services changes to the Agreement.

(b) Object code Upgrades of the Software and/or SaaS Services on a medium selected by Company.

(c) Commercially reasonable efforts to address Errors in the Software and/or SaaS Services according to the priority level determined by Company. "**Error**" shall mean any material verifiable and reproducible failure of the Software and/or SaaS Services to conform in any material respects to features and functions as described in the Documentation (specifically excluding any nonconformity resulting from force majeure or Misuse). "**Misuse**" shall mean (a) any improper or unauthorized use of the Software and/or SaaS Services, modification or change of the Software and/or SaaS Services without Company's written consent; (b) use of non-current releases of the Software and/or SaaS Services where use of a non-current release results in a potential IP Claim hereunder and a correction has been made available to address such potential IP Claim; and/or (c) combining or merging the Software and/or SaaS Services with any hardware, software or other intellectual property not manufactured and supplied by Company or not authorized in writing by Company to be so combined or merged by Customer. Any problem caused by the performance or non-performance of content, programming or infrastructure which is not in the control of Company also shall not be considered an Error.

3. Incident Handling Procedure.

(i) Incident Reporting Procedure. Incident reporting by Customer to the Support Center shall be made via the support portal or, for Priority 1 or Priority 2 incidents, Customer should also call the Support Center. Incidents reported will be logged in the Support Center's call tracking software and will be allocated a Unique Identification Number (UIN). All communications regarding the incident shall only be completed within the Support Center's call tracking systems, including any root cause analysis (RCA). RCAs are only executed on Priority 1 incidents at the Company's discretion. At Customer's request, Company will provide an RCA on Priority 1 incidents impacting multiple customers with ten (10) business days of the resolution of the Incident. The Support Center will gather such information as may be necessary to assess or replicate the reported incident and to confirm the appropriate incident priority level with Customer. Notification of incidents by Customer shall include name of user; any applicable reference/UIN; contact details (telephone, fax and email) of the person reporting the incident; full details of nature of incident, and any steps that may assist Company to recreate the incident. The allocated UIN should be quoted by Customer in all subsequent communications with the Support Center in relation to that incident.

Company and Customer shall use reasonable efforts to agree on the assigned incident Priority. Where such agreement is not possible, the escalation process described below shall apply.

(ii) First Response Targets. Company will use reasonable efforts to comply with the following target times for responding to Errors in 90% of instances (calculated on a quarterly basis) where Company is able to replicate and confirm the Error.

Priority	Description	First Response Service Level Objectives (SLOs)
P1	Critical Business Impact: Software and/or SaaS Services are not functioning or are stopped or severely impacted so that Customer cannot reasonably continue use of same, and no workaround is available.	1 business day
P2	Major Business Impact: Software and/or SaaS Services are functioning inconsistently causing significantly impaired Customer usage and productivity, such as periodic work stoppages and feature crashes.	1 business day
P3	Minor Business Impact: Software and/or SaaS Services are functioning inconsistently causing slightly impaired Customer usage and productivity, but Customer can work around such inconsistency or impairment.	2 business days
P4	No Business Impact: Software and/or SaaS Services are functioning consistently but Customer requests minor changes in same such as Documentation.	3 business days

(iii) Case Escalation

If Customer's expectations in terms of response or resolution time are not met, Customer should request an escalation. A duty manager will respond within 60 minutes to work with Customer to create a suitable action plan. The duty manager will execute the action plan by enlisting the help of internal resources of Company as necessary.

Escalation Path

Level	Management Level	P1	P2	P3
Level 1	Managers	0-1 hour	0-1 hour	0-1 hour
Level 2	Directors	4 hours	2 days	5 days
Level 3	VP	8 hours	4 days	10 days

Escalations will continue progressing to the next level as noted until Company provides an action plan, including a clear path to resolution or effective workaround.

(iv) Escalation Process. In the event Customer has a complaint regarding the provision of the Support Services or priority level assignment, the escalation process within Company will sequentially be: Support Center, Support Team Leader, Regional Support Leader and Global Support Leader.

4. Additional Support Services. Support Services are solely remote and exclude the following Additional Support Services:

- System set-up, Software and configurations modified by Customer and/or any third party not authorized or approved by Company;
- Problems caused by the internet browser or any third party software, hardware and/or infrastructure;
- Software or support problems created by Customer's or Customer's agent's misuse, omission, negligence or fault (i.e. no virus protection);
- Services required to maintain or support a back-up or disaster recovery copy of the Software, unless otherwise obtained;
- Issues due to modifications of third party software, systems, protocols or connectivity paths;
- Any situation caused by a force majeure event;

- Errors and/or malfunctions arising from failure by Customer, or its agents, to comply with the terms of the Agreement;
- The end user not being sufficiently trained or qualified on the use of the Software;
- Software integration problems relating to the exchange of data with third party systems;
- Changes required to any of Customer's unique modifications in order to have them interface with Upgrades to the Software;
- Issues arising from the use of Customer's infrastructure that negatively affects performance of the Software or use on a computer system or at a site not authorized by Company;
- A malfunction arising from use of the Software with other software not authorized by Company; and software that is not validly licensed;
- Retrieval of lost or corrupted database files, database maintenance, or database tuning;
- Designing, programming, or testing of custom Software enhancements;
- Problem diagnosis of Software problems where the Software enhancement or change was not developed by Company, or where non-Company software caused Company developed or supplied software to malfunction;
- Changes required to any of Customer's unique modifications in order to have them interface with updates to the Software;
- Setting up of new features that were not part of the initial system install;
- Services related to communications with governmental agencies;
- Operating system upgrades or system configuration of new hardware;
- Restoration of systems;
- Diagnosis and/or resolution of problems caused by or associated with Customer's network; with computer viruses (regardless of how received) or by disaster;
- Diagnosis and/or resolution of computer hardware problems related to equipment not purchased from Company;
- Diagnosis and/or resolution of problems associated with non-Company software running on Customer's clients or servers that negatively affect performance of the Software;
- Government mandates or regulatory changes that require extraordinary modifications be made to the Software or Services;
- Integrated testing of periodic Upgrades as they relate to custom software; and
- Any support not expressly included herein.

If Customer desires to have Company perform Additional Support Services as described above, then Customer shall be assessed a fee from Company calculated on a time and materials basis at Company's then-prevailing Additional Support Services rate for the time spent and for all reasonable expenses incurred in performing such work for Customer.

5. Customer Responsibilities. In order for Company to provide Support Services Customer shall:

- Must be running a supported version of the Software and/or SaaS Services and must install Upgrades within previously agreed days of availability (2 days if the Upgrade contains time sensitive data);
- Designate a qualified liaison who can effectively operate the Software and/or SaaS Services to act as Customer's primary contact with Company Support to provide efficient handling of Errors for all Sites and Users;
- Maintain a current backup copy of the Software, store historic data in a secure location, keep adequate space available on the computer drives, and ensure all infrastructure is properly maintained for reliable performance and data recovery purposes;
- Provide all first level Software support to Customer's end users;
- Provide Company with information necessary to replicate Software problems and cooperate in the resolution thereof;
- Maintain the release level of third party products required for the proper operation of the Software and SaaS Services;
- Operate the Software on a computer system consistent with standard requirements and Upgrades; and
- Company reserves the right to increase Support Services Fees or terminate Support Services should Customer fail to implement Upgrades within designated times after publication of such Upgrades.

6. Contact Information and Hours of Support

Phone Support (Country Specific)

*U.S. +1 415.321.5239

*APAC +91.80.4018.5502

Email Support (Language Specific)

Standard support is English only accessible at the link below. Foreign language-speaking support helpdesk is available for additional languages at an additional cost.

English: tech-support@blackduck.com

Japanese: tech-support-japan@blackduck.com

Korean: tech-support-korea@blackduck.com

Mandarin: tech-support-china@blackduck.com

Please note: Any support inquiry received through the above emails will be **automatically prioritized as a P3**. Priority cannot be changed until a support agent has been assigned.

Business Hours

For Standard Support Services:

*U.S./Canada: Monday–Friday, 8 am–5 pm, local time

*Other countries: Monday–Friday, 9 am–5 pm, local time

(Premium Support and Premium Plus Support has extended hours up to 24/7.)

*Closed on all public holidays

*Coverage hours are in local time. Global and multi-region customers must select a designated time zone to determine their local support hours. Closed on public holidays.

7. Premium Support and Premium Plus Support

Premium Support and Dedicated Support Engineer Programs

Premium Support and Dedicated Support Engineer programs are available to customers in need of a higher level of availability and responsiveness or that require specialized technical, tactical, and operational knowledge.

Premium Support Programs

For customers with mission critical or distributed development environments, Company can provide additional support coverage through the Premium Support program.

In addition to the capabilities delivered by Standard Support, Premium Support provides greater levels of coverage, enhanced SLO for critical (P1) issues, and optional access to a Designated Support Engineer.

Premium Support	Premium Plus Support
Increased coverage to 24/5	Increased coverage to 24/7
P1 SLO 4 Hours	P1 SLO 4 Hours

Support plan comparison

Tasks and Activities	Standard	Premium	Premium Plus
Coverage	9 a.m. - 5 p.m. M-F*	24/5 M-F	24/7
P1 SLO	24 hours	4 hours	4 hours
Phone support	●	●	●

Case tracking and monitoring	Case management via community	Case management via community	Case management via community
Access to documentation	•	•	•
Access to knowledgebase	•	•	•
Access to support community	•	•	•
Prioritized case routing		•	•
Best practice guidance		Access to an internal subject matter expert	Access to an internal subject matter expert
Expedited response times		<ul style="list-style-type: none"> • 24/5 access • Follow-the-sun approach for critical issues • Expedited case escalation to engineering 	<ul style="list-style-type: none"> • 24/7 access • Follow-the-sun approach for critical issues • Expedited case escalation to engineering
Performance monitoring		Proactive management of day- to-day operations	Proactive management of day- to-day operations
VPN remote access		•	•

*Global and multi-region customers must select a designated time zone to determine their local support hours.

Schedule 2

SaaS Services

1. **Hosting.** During the Term set forth in the applicable Work Order, in consideration of the fees paid by Customer, Company shall be responsible for hosting, operating and maintaining the SaaS Service on servers owned, leased or otherwise available for use by Company.

2. **Use Restrictions.** Customer covenants and agrees that its use of the SaaS Services will be in a manner consistent with this Agreement, the reasonable directions and policies of Company and with all applicable laws and regulations. Without limiting the generality of the foregoing, Customer shall not, nor shall it permit or assist others, (i) to abuse or fraudulently use the SaaS Services; (ii) to process or permit to be processed the data of any third party that is not expressly authorized herein to access and use the SaaS Services; and (iii) to access, alter, or destroy any information of any customer of Company by any fraudulent means or device, or attempt to do so. Furthermore, Customer agrees that (a) as between Customer and Company, it is Customer's sole responsibility to update and maintain, as applicable, its applications, APIs (application programming interface(s)), and/ or code bases= including without limitation, fixing any security vulnerabilities; (b) the reports are not guaranteed to show all vulnerabilities in the applications, APIs, and/ or code bases; (c) it is Customer's sole responsibility to test, vet and confirm that any proposed remedial measures referenced in the Reports or otherwise referenced by Company to Customer are appropriate for Customer's purposes; and (d) Customer's use of the SaaS Services does not render or guarantee that the applications, APIs, and/ or code bases will be invulnerable or free from unauthorized access. Customer is responsible for providing to Company all configuration data (hostnames, user accounts, API documentation, etc.) needed to perform the SaaS Services. Failure to provide configuration data does not release Customer from any responsibility in this Agreement. Customer agrees that Customer's and its Users' use of the SaaS Services may be dependent upon access to telecommunications and Internet services. Customer shall be solely responsible for acquiring and maintaining all telecommunications and internet services and other hardware and software required for its access and use of such SaaS Services, including, without limitation, any and all costs, fees, expenses, and taxes of any kind related to the foregoing. Company shall not be responsible for any loss or corruption of data, lost communications, or any other loss or damage of any kind arising from any such telecommunications and internet services.

3. **Security.** Customer shall be solely responsible for acquiring and maintaining technology and procedures for securing its link to the internet. As part of the SaaS Service, Company shall implement reasonable security procedures consistent with Section 15 of the Agreement. Provided that Company is in compliance with Section 15, the Parties agree that Company shall not be held liable for situations (i) where data or transmissions are

accessed by third parties through illegal or illicit means, or (ii) where the data or transmissions are accessed through the exploitation of security gaps, weaknesses, or flaws unknown to Company at the time. Within a reasonable amount of time after confirming any access to Customer data by unauthorized third parties, Company will report such to Customer and Company will use reasonable efforts to remedy any breach of security that permitted such unauthorized access.

4. **Business Resumption and Contingency Plan** (for Continuous Dynamic customers only). Customer further acknowledges and agrees that each of the applications, APIs, and/ or code bases which Customer may request to be tested or evaluated as part of the SaaS Services are fully protected and have a business resumption and contingency plan fit for the SaaS Services (the "**Plan**"). At a minimum, such Plan must provide for Customer's responsibility for backing up and otherwise protecting the programs and data files, protecting equipment, and maintaining disaster recovery and contingency plans. Customer acknowledges that some SaaS Services are inherently dangerous and could cause significant effects or interruptions to the applications, APIs, and/ or code bases which Customer is requesting Black Duck to test and evaluate as part of the SaaS Services.

5. **Content.** Each of the Parties grants to the other (to the extent it is able to do so) a license to use Content (as defined in Section 6 below) for the purposes of complying with its obligations and rights hereunder. Company has no obligation to monitor the Content provided by Customer however Company may do so and may remove any objectionable Content or prohibit any use of the SaaS Services it believes may be (or which is alleged to be) in violation of the Agreement.

6. **Content Indemnity and Business Resumption and Contingency Plan Indemnity.** Customer agrees to indemnify and hold Company harmless from and against costs, fees and damages, arising out of a claim by a third party arising out of or related to: (i) any data, information, video, graphics, sound, photographs or any other information in any form published or otherwise made available, directly or indirectly, by the Customer through use of the SaaS Services (the "**Content**") infringes or violates the intellectual property rights of any third party and (ii) the failure of the Plan under Section 4 for Continuous Dynamic customers. For the indemnification to be effective, Company must inform the Customer in writing within a reasonable period of time after receipt of such claim. Company shall furnish Customer with a copy of each communication or notice relating to the claim and shall give authority, information and reasonable assistance necessary for Customer to defend or settle such claim.

7. **Use of the SaaS Services.** Customer shall provide and maintain all facilities and functions outside the scope of the SaaS Service, including but not limited to the provision, access to and use of all relevant software, hardware and connectivity relating to the use of, but not included in, the SaaS Services. Company shall not be a

party to any contractual relations between Customer and any third party SaaS Services user. Customer hereby agrees to release Company (and its agents and employees) from all claims, demands and damages (actual, direct and consequential) of every kind and nature arising out of or in any way connected with any dispute Customer may have with a third party SaaS Services user.

8. Service Levels.

8.1 Uptime and Service Credits - Company shall use commercially reasonable efforts to assure that the SaaS Services will be available for use in the Company hosted environment for no less than 99.5% of the time per month ("**Uptime**"). Company's failure to meet the monthly Uptime shall not constitute a material breach and shall not provide Customer with the ability to terminate the Agreement or this Schedule. As Customer's sole and exclusive remedy for Company's failure to meet the monthly Uptime, Customer may be eligible to receive Fee Credits as set forth below which will be credited upon Customer's renewal of the SaaS Services term. For avoidance of doubt, the Downtime Exclusions set forth below shall not be counted against Uptime. Company shall have no liability for the unavailability of or delays relating to the SaaS Services arising from any delays, acts or omissions of any internet or connectivity service provider, errors in third party software or hardware, products not provided by Company, delays or interruption arising as a result (in part or in whole) of causes beyond Company's reasonable control. Company reserves the right to make changes and Upgrades to the functionality of the SaaS Service from time to time.

MONTHLY SYSTEM UPTIME PERCENTAGE	FEE CREDITS TO CUSTOMER
>=99.5%	No Fee Credit
From 99.4% to 99.1%	Fee Credit of 5% of previous month's fees paid by Customer
From 99% to 98.0%	Fee Credit of 10% of previous month's fees paid by Customer
Below 98%	Fee Credit of 15% of previous month's fees paid by Customer

8.2 Downtime – Downtime means the SaaS Services, including without restriction, the hardware, operating software and any interconnectivity provided by Company is not live and able to fulfill the core scanning capabilities. For clarity, downtime does not include any workaround that has been implemented. Downtime is only attributable to the infrastructure and connectivity provided by Company and does not include any third party infrastructure over which Company exercises no control, including, without limitation, the internet or Customer user networks, connections or connectivity.

8.3 Downtime Exclusions. Downtime shall not include time that is attributable to: scheduled system maintenance downtime (known as planned maintenance); negligence or other conduct of Customer; failure or malfunction of any equipment or services not provided by Company; circumstances beyond the control, and not the result of the gross negligence or willful misconduct of Company; general Internet

operations problems; and other mutually agreed upon pre-scheduled system downtime.

9. Customer Responsibilities. Customer acknowledges that adherence to the following conditions is important for the proper use and performance of the SaaS Services and Customer's failure to abide by them may be deemed a material breach of this Agreement.

- The SaaS Services should not be used by anyone except Customer's authorized employees; or any agent identified in advance and in writing to Company.
- Any password issued to you by Company should be disclosed only to your authorized employees and agents.
- Customer must have the provision of, and responsibility for all costs relating to, all hardware, software and connectivity required to access the SaaS Services. Customer agrees to comply with all applicable laws, treaties and regulations in connection with its use of the SaaS Service, including without limitation those related to privacy.
- Designate a qualified liaison, who can effectively operate the SaaS Services to act as Customer's primary contact with Company Support to provide efficient handling of Errors for all Sites and Users;
- Provide all first level SaaS Services support to Customer's end users;
- Provide Company with information necessary to replicate SaaS Services problems and cooperate in the resolution thereof; and
- Operate the SaaS Services on a computer system consistent with standard requirements and Upgrades.

10. Periodic Upgrades to SaaS Services. Company will periodically conduct Upgrades and maintenance to the SaaS Services during which times access to the SaaS Services may be interrupted. Company will use reasonable efforts to notify Customer in advance when such maintenance is to be performed and to select times and frequencies that have minimal impact on Customer operations as possible.