

## **ATTACHMENT A - IVANTI END USER LICENSE, MAINTENANCE, AND SUPPORT SERVICES AGREEMENT**

### **1. DEFINITIONS.**

“Concurrent Users” means the maximum number of users that may concurrently use or access the Licensed Software.

“Documentation” means the user documentation IVANTI provides with the Licensed Software.

“Infringement Claim” means a claim by a non-affiliated third party against Ordering Activity asserting that Ordering Activity’s use of Licensed Software in accordance with this Agreement violates that third party’s patent, trademark, or copyright rights.

“IVANTI” means:

- Ivanti U.K. Limited, an English company, if Ordering Activity is purchasing any Licensed Software other than Wavelink or Naurtech branded Licensed Software and has its primary office located outside of North America, Central America, South America (excluding Brazil), (collectively, the “Americas”), Japan or the People’s Republic of China.
- Ivanti International Limited, an Irish company, if Ordering Activity is purchasing Wavelink or Naurtech branded Licensed Software and has its primary office located outside of the Americas), Japan or the People’s Republic of China.
- Ivanti, Inc., a Delaware corporation, if Ordering Activity has its primary office located in the Americas.
- Ivanti Comércio de Software Brasil Ltda, a Brazilian company, if Ordering Activity has its primary office located in Brazil.
- Ivanti Software K.K., a Japanese company, if Ordering Activity has its primary office located in Japan.
- Ivanti (Beijing) Information Technology Co., Ltd., a Chinese company, if Ordering Activity has its primary office located in the People’s Republic of China.

“Licensed Software” means the software, in object code form, and any Documentation accompanying this End User License Agreement (EULA) or the software.

“Ordering Activity” means the person or entity licensing the Licensed Software from IVANTI pursuant to this EULA.

“Maintenance” means IVANTI’s provision of Updates and Upgrades to the applicable Licensed Software.

“Node” means each electronic device using the Licensed Software including without limitation (a) a physical device such as a computer, handheld device, workstation, console, Seat, server, or any other electronic device; (b) a virtual machine, such as an operating environment that may be running concurrently with another operating environment on a single physical device; or (c)

for the IVANTI Antivirus for Mail Servers product, an electronic or virtual mailbox (e.g., a mailbox for email).

“Node Count Data” means information periodically generated by the Licensed Software about (a) the quantity and type of current usage of the Licensed Software on a server, and (b) the non-personal, encrypted hardware configuration of that server.

“Seat” means the number of Concurrent Users authorized to use the Licensed Software.

“Support Services” means the services available to Ordering Activity for purchase regarding installation, configuration and usage detailed in Exhibit A attached hereto, which may be updated by IVANTI from time to time upon written notice to Ordering Activity (the “Updated Support Terms”), and Ordering Activity shall have the opportunity to accept or reject such terms. If Ordering Activity accepts the Updated Support Terms, they shall be attached to and become part of this EULA. If Ordering Activity rejects the Updated Support Terms, Ordering Activity shall engage in good faith negotiations with IVANTI to resolve such objections and provide IVANTI thirty (30) days to cure Ordering Activity’s objections. If IVANTI fails to cure Ordering Activity’s objections, Ordering Activity shall have the right to terminate this EULA upon written notice to IVANTI. .

“Update” means content used to update the License Software and includes bug fixes, minor enhancements and patches, but does not include Upgrades.

“Upgrade” means a new version of Licensed Software that replaces a pre-existing version of such Licensed Software.

“User” means a natural person employed by or who otherwise provides services (whether as an independent contractor or otherwise) to Ordering Activity who is supported with or uses the Licensed Software.

2. LICENSES. The licenses that are available from IVANTI include, without limitation, the following:

(A) FULL-USE LICENSE: A “Full-Use License” is a non-exclusive, non-transferable, perpetual, and limited license to copy, install and use the Licensed Software within Ordering Activity’s organization on the total number of Nodes set forth in the purchase order. A Full-Use License does not include Maintenance or Support Services. Maintenance and Support Services must be purchased in addition to the Full-Use License.

(B) SUBSCRIPTION LICENSE: A “Subscription License” is a non-exclusive, non-transferable, timelimited license to copy, install and use certain Licensed Software within Ordering Activity’s organization on the total number of Nodes set forth in the purchase order. Unless a different term is specified in the purchase order to IVANTI, the term of Subscription License or renewal thereof is one (1) year. During the term of the time-limited subscription, Ordering Activity is entitled to receive Maintenance for the Licensed Software (additional Support Services also may be available for purchase by Ordering Activity). If the Subscription License is provided as software as a service (SaaS), the terms and conditions attached hereto as Exhibit B shall also apply in addition to the terms and conditions contained within this EULA, which may be updated by IVANTI from time to time upon written notice to Ordering Activity (the “Updated SaaS Terms”), and Ordering Activity shall have the opportunity to accept or reject such terms. If Ordering Activity accepts the Updated Saas Terms, they shall be attached and become part of this EULA. If Ordering Activity rejects the Updated Saas Terms, Ordering Activity shall engage in good faith negotiations with IVANTI to resolve such objections and provide IVANTI thirty (30) days to cure Ordering Activity’s objections. If IVANTI fails to cure Ordering

Activity's objections, Ordering Activity shall have the right to terminate this EULA upon written notice to IVANTI.

(C) **USER-BASED LICENSE:** A "User-Based License" is a non-exclusive, non-transferable, perpetual, and limited license to copy, install and use the Licensed Software within Ordering Activity's organization to support the total number of Users set forth in the purchase order. A User-Based License does not include Maintenance or Support Services. Maintenance and Support Services must be purchased in addition to the User-Based License.

3. **LICENSE GRANT.** IVANTI hereby grants Ordering Activity a non-exclusive, non-transferable, restricted, license to use the Licensed Software in accordance with the type of license and subject to the quantity of Nodes purchased by Ordering Activity. Ordering Activity may make a copy of the Licensed Software only as needed for archival and backup purposes. Ordering Activity may permit third party consultants and contractors (such as third-party supplier(s) of information services) to use the Licensed Software on Ordering Activity's behalf provided that (a) all such use is in accordance with the terms and conditions of this EULA, and (b) Ordering Activity assumes full responsibility and liability for any use of the Licensed Software by such third parties in any violation of this EULA, including without limitation use in excess of the licensed number of Nodes. Ordering Activity agrees not to override or bypass the activation process or any security feature, authorization, activation, or reactivation of the Licensed Software or to assist others in doing the same.

4. **NODE COUNT VERIFICATION AND AUDIT.** Ordering Activity agrees that IVANTI may periodically verify that Ordering Activity's usage of the Licensed Software does not exceed the quantity of Nodes or User-Based Licenses purchased, subject to applicable Government security requirements.

Periodically, the Licensed Software on each server will generate Node Count Data. Each time the

Licensed Software generates Node Count Data on a server, Ordering Activity agrees to send, within thirty (30) days of generation, the Node Count Data to IVANTI either automatically by the Internet or manually by email. If the node count verification process shows that Ordering Activity, including its third party consultants or contractors using the Licensed Software for Ordering Activity, is using more than the number of Nodes or other Licensed Software for which licenses have been purchased, IVANTI shall invoice Ordering Activity for such additional Nodes and/or Licensed Software at the then-current GSA Schedule price. Ordering Activity agrees not to override or bypass this node count verification process or assist others to do the same. With respect to User-Based Licenses, Ordering Activity agrees to provide IVANTI with documentation evidencing the total number of Users within thirty (30) days of IVANTI's request.

5. **USE RESTRICTIONS.** IVANTI reserves all rights not expressly granted to Ordering Activity herein. Without limiting the generality of the foregoing, Ordering Activity shall not and shall not allow others to: (a) copy, modify, adapt, rent, lease, sell, distribute, export, re-export, assign, sublicense, translate, transfer, or reprogram the Licensed Software or any portion thereof except as provided in this EULA; (b) use the Licensed Software in a service bureau, facility management, service provider, timeshare, or other similar type of environment, (c) reverse engineer, decompile, translate, merge, or disassemble the Licensed Software; (d) create derivative works based upon the Licensed Software; (e) use the Licensed Software to perform any activity which is or may be, directly or indirectly, unlawful, harmful, threatening, abusive, harassing, tortious, or defamatory, or to perform any activity which breaches the rights of any third party; (f) take any actions that would cause the Licensed Software to become subject to any open source or quasi-open source license agreement not otherwise applicable; or (g) transfer any Licensed Software or Ordering Activity's license rights under this EULA, in whole or in part without IVANTI's prior written consent, which consent shall not be unreasonably withheld or denied.

THE LICENSED SOFTWARE IS NOT INTENDED OR LICENSED FOR AND ORDERING ACTIVITY SHALL NOT USE THE LICENSED SOFTWARE IN ANY ENVIRONMENT IN WHICH FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

6. OWNERSHIP OF LICENSED SOFTWARE. The Licensed Software is the proprietary property of IVANTI or its licensors. No title to or ownership of any Licensed Software is transferred to Ordering Activity. The Licensed Software is licensed to Ordering Activity, not sold. All rights, title and interest in and to the Licensed Software (including any Update or Upgrade thereto), including all worldwide intellectual property rights, shall remain with IVANTI, its licensors, vendors and/or suppliers, as the case may be. Except as otherwise expressly provided, IVANTI grants no express or implied right under any IVANTI patent, copyright, trademark, or other intellectual property right.

7. COPYRIGHTS, TRADEMARKS, AND PATENTS. The Licensed Software is copyrighted and protected by the laws of the United States and other countries, and by international treaty provisions combined with patents and trademarks. In no circumstance may Ordering Activity remove or alter the copyright notice, trademark notice, or other proprietary notices from the Licensed Software. Ordering Activity agrees to faithfully reproduce and include all copyrights, trademarks, and other proprietary notices on any authorized copy of any Licensed Software. IVANTI is either a registered trademark or trademark of IVANTI, Inc. or its affiliates in the United States and/or other countries. One or more patents, as well as other patent pending technology, may apply to Licensed Software.

8. MAINTENANCE AND SUPPORT SERVICES. Nothing in this Agreement entitles Ordering Activity to any Support Services and/or Maintenance of the Licensed Software without purchasing such Support Services and/or Maintenance.

(A) MAINTENANCE: During the term for which Ordering Activity has purchased the applicable Maintenance or subscription for the Licensed Software, Ordering Activity is entitled to Updates and Upgrades as and when they are made generally available to IVANTI's end users.

(B) SUPPORT SERVICES: During the term for which Ordering Activity has purchased the applicable support, Ordering Activity is entitled to support in accordance with IVANTI's points-based support programs. Points expire at the end of each Support Services period and new points are calculated each renewal period. Support levels may be adjusted any time Ordering Activity purchases additional Support Services. For more information on the Ivanti support programs, see the Ivanti service portal at <http://www.ivanti.com/en-US/company/legal/support-terms>.

(C) NO OBLIGATION. IVANTI shall be under no obligation to furnish Maintenance and/or Support Services for the Licensed Software to the extent that such Maintenance and/or Support Services are necessary or desired as a result of: (i) the operation of the Licensed Software in environmental conditions or configurations outside those prescribed in the Documentation; (ii) Ordering Activity's failure to upgrade and update the Licensed Software to the currently supported versions of the Licensed Software or to maintain the Licensed Software in accordance with the standards of Maintenance prescribed in the Documentation or as specified in Maintenance or Support Services received by Ordering Activity from IVANTI; (iii) actions of any third party other than IVANTI or a third party authorized by IVANTI; and (iv) causes unrelated to the Licensed Software as delivered to Ordering Activity by IVANTI, including without limitation, modifications to the Licensed Software made by Ordering Activity or on Ordering Activity's behalf.

9. **THIRD-PARTY SOFTWARE.** The Licensed Software may be bundled with non-integrated hardware or other software programs licensed or sold by a licensor other than IVANTI. IVANTI DOES NOT WARRANT SUCH THIRD-PARTY PRODUCTS. Any and all such third-party products (e.g., drivers, utilities, operating system components, etc.) which may be distributed with the Licensed Software are provided "AS IS" without warranty of any kind, whether express or implied. Use of Microsoft's DCOM software, distributed with the Licensed Software, is conditioned upon Ordering Activity having a valid licensed copy of the applicable Microsoft operating system software on the computer on which the DCOM software is installed. Nothing in this EULA shall restrict, limit or otherwise affect any rights or obligations Ordering Activity may have, or conditions to which Ordering Activity may be subject, under any applicable open source licenses to any open source code contained in any Licensed Software. IVANTI makes no warranty that third-party software which Ordering Activity seeks to access using the licensed software shall be available for downloading to Ordering Activity's system.

10. **LIMITED WARRANTY.** IVANTI WARRANTS THAT FOR A PERIOD OF NINETY (90) DAYS FROM ORDERING ACTIVITY'S INITIAL ACQUISITION OF A LICENSE TO USE THE LICENSED SOFTWARE, THE LICENSED SOFTWARE WILL FUNCTION SUBSTANTIALLY IN CONFORMANCE WITH THE DOCUMENTATION ACCOMPANYING SUCH LICENSED SOFTWARE WHEN USED IN ACCORDANCE WITH THE ACCOMPANYING DOCUMENTATION. ORDERING ACTIVITY'S SOLE REMEDY FOR A BREACH OF THIS WARRANTY SHALL BE THAT IVANTI, IN ITS REASONABLE DISCRETION, WILL EITHER: (i) RESOLVE THE NONCONFORMITY, (ii) REPLACE THE LICENSED SOFTWARE WITH SOFTWARE OF SUBSTANTIALLY THE SAME FUNCTIONALITY, OR (iii) REFUND THE LICENSE FEES PAID BY ORDERING ACTIVITY FOR THE APPLICABLE LICENSED SOFTWARE. THIS LIMITED WARRANTY SHALL NOT APPLY TO UPDATES AND UPGRADES (IF ANY) TO THE LICENSED SOFTWARE OR IF ORDERING ACTIVITY HAS OBTAINED A TRIAL-USE LICENSE.

11. **NO OTHER WARRANTIES.** EXCEPT FOR THE FOREGOING LIMITED WARRANTY, THE LICENSED SOFTWARE, MAINTENANCE AND SUPPORT SERVICES ARE PROVIDED "AS IS", WITHOUT WARRANTY OR REPRESENTATION OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. ANY EXPRESS WARRANTY MADE OUTSIDE OF THIS EULA IS EXCLUDED AND SUPERSEDED. NEITHER IVANTI NOR ITS LICENSORS REPRESENT OR WARRANT THAT THE LICENSED SOFTWARE WILL SATISFY ORDERING ACTIVITY'S REQUIREMENTS OR THAT THE LICENSED SOFTWARE IS WITHOUT DEFECT OR ERROR OR THAT OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR FREE. ORDERING ACTIVITY MAY HAVE OTHER WARRANTY RIGHTS PROVIDED BY LOCAL LAW.

12. **INDEMNIFICATION.**

(A) **INDEMNIFICATION BY IVANTI:** IVANTI will, at its own expense, defend or settle any Infringement Claim and indemnify Ordering Activity for any damages finally awarded against Ordering Activity, but only if: (i) Ordering Activity promptly notifies IVANTI of any Infringement Claim; (ii) IVANTI retains control of the defense, negotiations, settlement, or compromise of any Infringement Claim; and (iii) Ordering Activity provides IVANTI with all necessary authority, information, and reasonable assistance (at IVANTI's expense). IVANTI will not be responsible for any costs, expenses or compromise incurred or made by Ordering Activity without IVANTI's prior written consent. If use of Licensed Software is permanently enjoined as the result of an Infringement Claim, IVANTI will, in its sole discretion and expense, procure for Ordering Activity the right to continue using such Licensed Software, replace such Licensed Software with non-infringing product, modify such Licensed Software so that it is no longer infringing, or, if each of

the foregoing is commercially unreasonable or unduly burdensome, IVANTI may elect to refund to Ordering Activity the fees, less depreciation, received by IVANTI for such enjoined Licensed Software. Depreciation shall be determined using a straight line basis over thirty-six (36) months, commencing on the effective date for IVANTI Licensed Software and on the date of first delivery to Ordering Activity of any Licensed Software or Support Services. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

(B) EXCLUSIONS: IVANTI shall not have any indemnification obligations, other responsibility or liability for any costs, expenses, or damages, settlement, or otherwise resulting from: (i) IVANTI's compliance with Ordering Activity's designs, specifications or instructions; (ii) Ordering Activity's modification (whether authorized or not) of Licensed Software; (iii) any Infringement Claim arising from Ordering Activity's combined use of Licensed Software (or any part thereof) with any Ordering Activity or other third party product; or (iv) Ordering Activity's direct or contributory infringement of any business method patent.

(C) ENTIRE OBLIGATION AND EXCLUSIVE REMEDY: The foregoing states the entire obligation and exclusive remedy of each of the parties hereto with respect to any IVANTI indemnification obligation.

13. TERMINATION OF THIS EULA. If Ordering Activity is using the Licensed Software under any timelimited license, including without limitation a Trial-Use License or Subscription License, this EULA shall terminate with regard to such Licensed Software without notice to Ordering Activity on the last day of the specified time period. Upon expiration or termination of this EULA, Ordering Activity shall immediately cease all use of the Licensed Software and uninstall and delete all of the Licensed Software.

14. EXPORT COMPLIANCE. Ordering Activity acknowledges that the Licensed Software is exported from the United States in accordance with the Export Administration Regulations. The Licensed Software, and any product or technical information provided by IVANTI, are subject to applicable import and export regulations of the United States and/or other countries. Diversion contrary to U.S. law is prohibited. Ordering Activity agrees to comply with all applicable import and export regulations as they may be amended from time to time. Regardless of any disclosure made by Ordering Activity to IVANTI of an ultimate destination of the Licensed Software or any product or technical information, Ordering Activity agrees that it will not export, re-export or disclose (directly or indirectly) any of the Licensed Software, any product or technical information provided by IVANTI, or any portion thereof, to any country, entity or person in violation of U.S. export laws or regulations or any other law, regulation, or Government order.

15. U.S. GOVERNMENT RESTRICTED RIGHTS. The Licensed Software is provided with "RESTRICTED RIGHTS" and is deemed "commercial computer software" and "commercial computer software documentation" within the meaning of applicable civilian and military Federal acquisition regulations and any supplement thereto. Use, modification, duplication, or disclosure by the United States Government is subject to restrictions as set forth in DFARS 252.227-7014(a)(1) (JUN 1995) (DOD commercial computer software definition), DFARS 227.7202-1 (DOD policy on commercial computer software), FAR 52.227-14, DFARS 252.227-7015 (NOV 1995) (DOD technical data - commercial items clause); FAR 52.227-14, including Alternates I, II, and III (DEC 2007) (civilian agency technical data and noncommercial computer software clause); and/or FAR 12.211 and FAR 12.212 (commercial item acquisitions), and any successor provisions. Use of the Company Products by the U.S. Government constitutes acknowledgment of IVANTI's proprietary rights therein. The Contractor or Manufacturer is IVANTI, Inc. (or its subsidiaries or affiliates), with an office at 698 West 10000 South, Suite 500, South Jordan, UT 84095, USA.



## EXHIBIT A

### Support Terms

Ivanti offers Support and Maintenance for purchase on an annual basis. Support provides a resource for a customer to receive answers to questions regarding installation, standard product configuration and usage of the Ivanti products. Maintenance entitles the customer to download and use the most recent versions of the Ivanti products it has purchased. The following defined terms are used to describe the Support services and Maintenance:

#### I. Definitions

**"Business Hours"** means regular operating hours, excluding company holidays, where support coverage is available for each geography.

**"Error"** means a reproducible failure of a properly licensed, implemented, and used Ivanti product to perform in substantial conformity with its accompanying documentation.

**"Incident"** means a single Support issue, generally an Error, with an Ivanti product and the reasonable effort needed to resolve it.

**"Maintenance"** means the provision of Updates and Upgrades for the Ivanti products.

**"Phone Support"** means Support that is initiated via a call-back feature on the Ivanti Support portal.

**"Priority Level 1" or "P1"** means an Incident where, notwithstanding proper installation and use of the Ivanti product(s): (a) a substantial portion of the Ivanti product(s) does not operate and cannot be restarted; (b) there is an Error in a major program function that renders such major program function completely unusable; or (c) there is an Error that causes a third-party, mission-critical application to be unstable.

**"Priority Level 2" or "P2"** means an Incident where, notwithstanding proper installation and use of the Ivanti product(s), there is an Error in a major program function causing significant impact to the Ivanti product(s) such that the Ivanti product(s) is difficult but not impossible to use.

**"Priority Level 3" or "P3"** means an Incident where, notwithstanding proper installation and use of the Ivanti product(s): (a) there is non-critical degradation of performance or function in the Ivanti product(s); or (b) there are minor intermittent problems in the Ivanti product(s). A commercially reasonable workaround may be available.

**"Priority Level 4" or "P4"** means all requests for an enhancement to, information, questions, or documentation issues concerning one or more Ivanti products or Errors with little or no effect on normal operation of the Ivanti product(s).

**"Support"** means the Ivanti provided customer service designed to resolve Errors and Incidents in the installation, configuration and usage of the Ivanti products, but does not include any type of assisted



deployment, design particular to bespoke requirements, or assistance with third party applications being used in conjunction with the Ivanti products.

"**Support Portal**" means the Support website located at: <https://support.ivanti.com>.

"**Update**" means bug fixes, minor enhancements and patches that are used to update the Ivanti products.

"**Upgrade**" includes major releases of products that replace a prior version of that product. Customers with active Support and Maintenance may install and use any Updates and Upgrades of the products for which they have purchased Support and Maintenance.

## II. Support Levels

The Ivanti Support program has several levels that are determined by the Ivanti products the customer purchases. Each Ivanti product qualifies for a certain number of Support points. The sum of all the Support points of the Ivanti products under active Support and Maintenance determines the level of Support the customer receives. The levels of Support are as follows:

Base	Professional	Enterprise	Enterprise Plus
0–2,999	3,000–49,999	50,000–199,999	200,000 or more

The benefits of each level of Support are as follows:

	Base	Professional	Enterprise	Enterprise Plus	Incident Pack
Updates and Upgrades	Yes	Yes	Yes	Yes	Yes

	Base	Professional	Enterprise	Enterprise Plus	Incident Pack
<b>Online Incident Submission</b>	No	Yes	Yes	Yes	Yes
<b>Phone Support</b>	No	Yes	Yes	Yes	Yes
<b>24 x 7 Phone Support</b>	No	No	Yes	Yes	No
<b>Instructor Led Online Training</b>	0	1	2	3	0
<b>Technical Contacts</b>	0	2	4	10	2
<b>Annual Health Check (Remote)</b>	No	No	No	Yes	No

A customer can access its Support points total through its Ivanti sales representative, reseller, or on any Ivanti sales quote. Customers can also check their current Support program on the customer portal located at:

<https://support.ivanti.com/SupportEntitlement.aspx>

Support points expire at the end of each annual period. For each annual renewal period, Ivanti recalculates the number of Support points for that period. If a customer purchases additional Support and Maintenance, Ivanti will recalculate the Support level to which the customer is entitled.

### **III. Incident Submission & Processing**

A customer may submit Incidents 24 hours per day, 365 days per year via the online Support Portal located at:

<https://support.ivanti.com>

A customer may also report Incidents by phone during Business Hours via the Support Portal.

Business Hours and company holidays for the Ivanti Support centers are located at:

<http://www.ivanti.com/Support/contact>

Ivanti will direct the customer to a Support center within their corresponding geography (Americas, Europe, Middle East, and Africa, or the Asia Pacific region) and responses from Ivanti Support will be delivered during Business Hours for that geographic region.

If an Enterprise or Enterprise Plus level customer reports a Priority Level 1 Incident that is not solved during Business Hours of the office to which the Incident is initially reported and the Incident requires around-the-clock work, Ivanti will transfer the Incident to other Support sites in the United States, Asia, and/or Europe as needed so long as the customer has dedicated resources working on a 24x7 basis to resolve the Incident.

When notifying Ivanti of any Incident, customer must provide Ivanti with detailed information about any suspected Error(s), including an example, the context in which it was encountered, details of customer's system configuration, and the steps necessary to generate or reproduce the Error. The priority level of an Incident shall be determined by Ivanti in its sole discretion (using the priority definitions described in these terms).

### **IV. Technical Contacts**

The customer will provide technical contacts to Ivanti as reasonably required by Ivanti. The customer's designated technical contacts will be responsible for interfacing with Ivanti Support personnel. Each technical contact must be familiar with the Ivanti products and be capable of performing basic network administrative functions. The customer may change its designated technical contacts on written notice to Ivanti. Additionally, the customer may qualify to receive additional technical contacts by having individuals become certified on Ivanti products. Any individual certified by Ivanti as an Administrator (or greater) can be added as an additional technical contact to customer's account.

## V. Response Times

Ivanti will respond to and set internal resolution priority for each reported Incident within the following initial response time targets in Business Hours:

Business Impact	Professional / Incident Pack	Enterprise / Enterprise Plus
P1—Critical	2	1
P2—High	4	2
P3—Medium	8	4
P4—Low	16	8

To be eligible for the response times above, a customer must submit P1 or P2 Incidents to Ivanti by phone.

Customers with 24 x 7 Phone Support entitlement will have access to Phone Support outside of Business Hours for P1 issues via the online Support Portal. Ivanti will route calls via a follow-the-sun model and initial response time targets will apply 24x7.

## VI. Renewal of Support and Maintenance

Support and Maintenance is offered on an annual basis and must be renewed prior to the expiration of the then-applicable Support and Maintenance term. If payment for a renewal term is not received

prior to the expiration date of the existing term, Ivanti reserves the right to suspend access to Support and Maintenance until payment is received.

A customer must purchase Support and Maintenance for the total number of licenses of the Ivanti products the customer owns and may not purchase Support and Maintenance for a subset or partial set of licenses. For example, a customer purchasing 1000 licenses of Ivanti products may not purchase Support and Maintenance for only 500 licenses, unless agreed to in writing by Ivanti.

## **VII. Reinstatement of Support and Maintenance**

If a customer has terminated or allowed Support and Maintenance to lapse or expire and would like to reactivate Support and Maintenance, the customer must pay a fee equal to the total fees retroactive to the date of lapse or termination, a reinstatement fee, and a fee for the then commencing Support and Maintenance term.

## **VIII. Termination of Support and Maintenance**

If a customer elects to not renew Support and Maintenance, the customer must provide thirty (30) days written notice prior to the end of the then-applicable Term.

## **IX. Incident Packs**

For customers purchasing Incident Packs, Ivanti Support will provide online Incident submission via the Support Portal located at:

<https://support.ivanti.com>

Phone Support is also available during Business Hours for each Incident up to the total number of Incidents purchased by the customer. If an Incident is reported by a customer with an Incident Pack which is found to have been caused by a defect in an Ivanti product, the Incident will not be subtracted from the number of Incidents purchased by the customer.

## **X. Legacy Wavelink, Shavlik, AppSense, Lumension, HEAT and RES Branded Products**

*Wavelink Branded Products:* The Wavelink Support program had one level of Support available for purchase. The benefits and features of the Wavelink Support program match the Ivanti Professional level above.

*Shavlik Branded Products:* The Shavlik Support program had one level of Support available for purchase. The benefits and features of the Shavlik Support program match the Ivanti Enterprise level above except that no ILO training is included for Shavlik branded products.

*AppSense Branded Products:* The legacy AppSense Support program had two levels of Support: Silver and Gold Support. The benefits and features of the AppSense Silver Support program generally match the Ivanti Professional level above while the AppSense Gold Support program match the Ivanti Enterprise level above. No ILO training is included for AppSense branded products.

*HEAT/FrontRange/Goldmine Branded Products:* The legacy Heat/FrontRange/Goldmine program had one level of Support. The benefits and features of the legacy Support program match the Ivanti Enterprise level above except that no ILO training is included for Heat/FrontRange/Goldmine branded products.

*Lumension Branded Products:* The legacy Lumension program had two levels of Support – Standard and Premium. The benefits and features of the Lumension Standard Support program match the Ivanti Professional level above. The benefits and features of the legacy Lumension Premium Support program match the Ivanti Enterprise level above and also included an annual health check (remote), designated account manager contact, and account reviews. No ILO training is included for legacy Lumension branded products.

*RES Branded Products:* The RES Support program had two levels of Support – Standard and Premium Solution Assurance. The benefits and features of the RES Standard Solution Assurance program match the Ivanti Professional level above. The benefits and features of the Premium Solution Assurance program match the Ivanti Enterprise level above. No ILO training is included for RES branded products.

## **XI. Support Exceptions**

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

## **XII. Instructor Led Online Training**

Customers may redeem Instructor Led Online training (ILO) vouchers for either a full day or half day ILO training class. ILO vouchers are available beginning the first day of the Support and Maintenance period and expire after 1 year. ILO vouchers must be redeemed for an ILO class which takes place before the voucher expires. If the Support and Maintenance period is greater than one (1) year, then any ILO vouchers granted will expire and new vouchers will be granted. A customer can register for ILO classes online at:

### XIII. Technical Relationship Manager (TRM)

Ivanti also offers the services of Technical Relationship Managers (TRM) on an annual basis as set forth below:

TRM Type	Basic	Premier	Enterprise	Dedicated
TRM Days	Up to 12 days annually	Up to 24 days annually	Up to 48 days annually	Up to 200 days annually
Number of Training Vouchers	1	2	3	4
Onsite Days Percentage	Up to 25%	Up to 25%	Up to 25%	Up to 100%

Each TRM offering includes a specific number of TRM days available to the customer on an annual basis. The customer may use a certain percentage of the TRM days for onsite consultation. Onsite days must be used in at least 2 consecutive day increments. Travel costs are included.

Each TRM offering also includes vouchers for additional training that entitle one of the customer's personnel per voucher to attend regularly scheduled training sessions at an Ivanti facility (the customer is responsible for all travel and expenses) or via the online learning system.

TRMs are product specific and customer may select TRM specialists for the following products: Ivanti Service Manager, Ivanti Process Manager, Ivanti Management Suite, Ivanti DesktopNow, Ivanti Environment Manager, Ivanti DataNow, Ivanti Performance Manager, Ivanti Endpoint Security, Ivanti IT Asset Management Suite

TRM offerings are generally provided to customers on an annual basis and the initial period for TRM coverage begins on the purchase date and ends one (1) year thereafter. To ensure uninterrupted use

of any TRM offering purchased by a customer, the TRM services shall automatically renew for additional one (1) year periods unless either party provides written notice not to auto-renew the TRM offering to the other party at least sixty (60) days before the end of any TRM period. Any unused TRM days and training vouchers expire at the end of each annual period.

**Version: September 2017**

## **EXHIBIT B**

### **SAAS TERMS**

#### **Ivanti Supplemental Terms for the SaaS Offering**

In conjunction with Ordering Activity's (herein "you" or "your") purchase of a subscription for the SaaS Offering, you agree to these Supplemental Terms which are hereby incorporated into the End User License Agreement between Ivanti and you (the "Agreement").

1. **ACCESS.** Subject to the terms and conditions contained in this Agreement, Ivanti hereby grants to you a non-exclusive, non-transferable right to access the features and functions of the applicable SaaS Offering during the Term in accordance with the limits of the applicable License Type.

2. **RETAINED RIGHTS; OWNERSHIP.**

**Ownership and Use of Content.** You retain all right, title and interest in and to the Content, and Ivanti acknowledges that it neither owns nor acquires any additional rights in and to the Content not expressly granted by this Agreement. Ivanti further acknowledges that you retain the right to use the Content for any purpose in your sole discretion. Subject to the foregoing, you hereby grant to Ivanti a non-exclusive, non-transferable right and license (a) to use the Content during the Term for the limited purposes of performing Ivanti's obligations under this Agreement, and (b) to create anonymous profiles or insights from an analysis of or otherwise based on anonymized, aggregated Content, provided, however, in no event will you or any User be personally identifiable.

3. **CUSTOMER RESPONSIBILITIES.**

3.1 **User Access.** You may permit any Users to access and use the SaaS Offering in accordance with the Agreement. You will only allow Users who have been assigned a unique user identification ("**User ID**") to access the SaaS Offering. User IDs cannot be shared or used by more than one User. If you wish to add additional User IDs, you may order such additional User IDs at any time by providing written notice to Ivanti, detailing the number of additional User IDs. Upon written acceptance by Ivanti and payment of any additional fees, Ivanti shall make the SaaS Offering available to the additional Users. You shall use commercially reasonable efforts to prevent unauthorized access to, or use of, the SaaS Offering, and notify Ivanti promptly of any such unauthorized use known to you.

3.2 **Responsibility for Content and Security.** You and your Users shall have access to the Content and shall be responsible for all changes to and/or deletions of Content and the security of all passwords and other access protocols required in order to access the SaaS Offering. You shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of the all Content.

3.3 **Content.** You will procure all rights and privileges to obtain and transfer Content to Ivanti under the terms of this Agreement. The provision of such Content from you to Ivanti shall be in compliance with all applicable laws and regulations, including but not limited to all privacy laws and regulations. You understand and agree that the SaaS Offering does not require any



Content that reveals personal information such as race, ethnic origin, political opinions, religious or philosophical beliefs, trade union membership, information about an individual's health or sex life, government-issued identification numbers, or financial information. You agree that the use of any such Content is at your discretion and incidental to the use of the SaaS Offering. You hereby represent and warrant that you own or otherwise have sufficient rights to grant Ivanti access to and use of the Content in accordance with the terms of these Supplemental Terms.

**3.4 Service Rules and Guidelines.** You shall not use the SaaS Offering to: (i) send any form of duplicative and unsolicited messages; (ii) harvest, collect, gather or assemble information or data regarding other users without their consent; (iii) transmit through or post on the SaaS Offering unlawful, immoral, libelous, tortious, infringing, defamatory, threatening, vulgar, or obscene material or material harmful to minors; (iv) transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (v) interfere with or disrupt the integrity or performance of the SaaS Offering or the data contained therein; (vi) attempt to gain unauthorized access to the SaaS Offering, computer systems or networks related to the SaaS Offering; or (vii) interfere with another user's use and enjoyment of the SaaS Offering.

**3.5 Suspension of Service.** If you breach any terms of this Agreement, Ivanti shall have the right, in addition to any of its other rights or remedies, to suspend the SaaS Offering to you.

#### **4. IVANTI OBLIGATIONS.**

##### **4.1 Availability and Service Level Credits.**

(a) **Availability.** The SaaS Offering shall be available 99.9% of the time during each calendar quarter, except for: (i) the time during which the SaaS Offering is unavailable so that Ivanti or its hosting provider can perform maintenance for security and system integrity purposes and provide upgrades ("**Planned Maintenance Downtime**"); (ii) downtime caused by circumstances beyond Ivanti's control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, acts of terror, war, third party strikes and other labor problems, or other events of force majeure; (iii) general Internet outages, failure of your infrastructure or connectivity, computer and telecommunications failures, and delays not within Ivanti's control; (iv) network intrusions or denial-of-service attacks; and (v) use of the SaaS Offering in sandbox, trial, beta, staging, pilot, demo and debugger accounts and other nonproduction or test environments. If the SaaS Offering is not available (i.e., you are unable to access the material features and functions of the SaaS Offering), you shall notify Ivanti during the period of unavailability upon discovery of the unavailability so that Ivanti can confirm and determine the cause of the unavailability. As part of the notification, you shall provide (A) your name and contact information; (B) beginning time of the outage; (C) a description of the characteristics of the outage; (D) end user location; (E) URL(s) affected; (F) the internet service provider used to access the SaaS Offering; (G) network traceroutes; and (H) any attempts made by you to resolve the outage.

(b) **Planned Maintenance Downtime.** Planned Maintenance Downtime shall generally not exceed four (4) hours per calendar quarter. However, in the exceptional case that Planned Maintenance Downtime will exceed four (4) hours per calendar quarter, Ivanti shall give you notice by e-mail to the e-mail address provided by you. Planned Maintenance Downtime is regularly scheduled if it is communicated in accordance with the notice section set forth below at least five (5) days in advance and will be planned for between 8:00 pm to midnight, Coordinated Universal Time, as much as practicable.

(c) **Service Credits.** In the event that Ivanti fails to maintain the foregoing availability of the SaaS Offering during any calendar quarter of the subscription, your sole and exclusive remedy shall be to request a service credit in the following percentages of the prorated monthly fees paid for the SaaS Offering: a) for availability less than 99.9%, but greater or equal to 99.5%, a service credit of 10%; b) for availability less than 99.5%, but greater or equal to 99.0%, a service credit of 25%; or c) for availability less than 99.0%, a service credit of 50%. Service credits may be used only to extend the SaaS Offering and shall be applied to

your account at the end of the license term. The terms of this section relating to service credits constitute a genuine pre-estimate of the loss or damage that you might suffer as a result of any unavailability of the SaaS Offering and are adequate compensation for any loss or damage caused by any unavailability of the SaaS Offering. To qualify for a service credit, you must notify Ivanti of the unavailability and file a claim with Ivanti within five (5) business days of the end of the calendar month in which the unavailability occurred. As part of its notification, you shall provide the date and the beginning and end time of each instance of unavailability. Within thirty (30) days of your request, Ivanti will either deny the request or issue a credit memo acknowledging the credit or extension. Availability will be calculated using Ivanti's system logs and other records.

(d) **Service Credit Exclusions.** Service credit exclusions include, but are not limited to failures caused by the following: (i) factors outside of Ivanti's reasonable control; (ii) your or a third party's hardware or software; (iii) actions or inaction by you or any third party; (iv) your failure to modify your use of the SaaS Offering after being advised to do so; (v) use of beta or trial services; or (vi) acts or omissions of you, your employees, agents, or contractors, or anyone gaining access to the services by means of your passwords or equipment.

**4.2 Support and Maintenance.** Support and Maintenance Services are included as part of the SaaS Offering.

**4.3 Updates.** Within ninety (90) days of availability to Ivanti's general user base, Ivanti will target your instance of the SaaS Offering to be automatically updated to the latest version or patch. Updates are provided to you at no additional fee, including all Documentation describing the purpose and function of the Updates. Ivanti reserves the right to determine how and when to develop and apply any Updates.

**4.4 Content File.** Within thirty (30) business days after the effective date of any termination of these Supplemental Terms, Ivanti shall make available to you a comma-separated text file of Content. After such thirty (30) day period, Ivanti shall have no obligation to maintain or provide any Content to you.

**5. REPRESENTATIONS AND WARRANTIES.** Ivanti represents and warrants that it will provide the SaaS Offering and perform its other obligations under these Supplemental Terms in a workmanlike manner consistent with general industry standards. Ivanti does not warrant any Software underlying the SaaS Offering will be error free or will operate without interruption.

**6. DISCLAIMERS, EXCLUSIONS AND LIMITATIONS OF LIABILITY.**

**6.1 Internet Delays.** THE SAAS OFFERING MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. IVANTI IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

**6.2 Disclaimer.** EXCEPT AS EXPRESSLY REPRESENTED OR WARRANTED IN SECTION 6 OR IN THE AGREEMENT, IVANTI MAKES NO REPRESENTATIONS OR WARRANTIES UNDER THESE SUPPLEMENTAL TERMS, AND CUSTOMER ACKNOWLEDGES THAT THIS ADDENDUM IS SUBJECT TO ALL DISCLAIMERS AND LIMITATIONS OR LIABILITY SET FORTH IN THE AGREEMENT. The foregoing limitation of liability shall not apply to (1) personal injury or death resulting from Licensor's negligence; (2) for fraud; or (3) for any other matter for which liability cannot be excluded by law.

**7. SURVIVAL.** The provisions of Sections 3.3, 5, 6, and 7 will survive the termination of these Supplemental Terms.