

Nozomi Networks Product End User License Agreement and Warranty Terms

CAREFULLY READ THE FOLLOWING NOZOMI NETWORKS PRODUCTS END USER LICENSE AGREEMENT (THE OR THIS “AGREEMENT” OR “EULA”). DOWNLOAD, USE, OR INSTALLATION OF NOZOMI NETWORKS PRODUCT(S) AND ANY UPDATES THERETO, INCLUDING HARDWARE APPLIANCE PRODUCTS, SOFTWARE AND FIRMWARE INCLUDED THEREIN BY NOZOMI NETWORKS, STAND-ALONE SOFTWARE PRODUCTS, AND/OR SUBSCRIPTION AND SOFTWARE-AS-A-SERVICES (“SaaS”) PRODUCTS SOLD BY NOZOMI NETWORKS (TOGETHER, THE “PRODUCTS”) CONSTITUTES ACCEPTANCE BY END USER OF THE TERMS IN THIS AGREEMENT, AS AMENDED OR UPDATED FROM TIME TO TIME BY NOZOMI NETWORKS BY PUBLISHING AN AMENDED OR UPDATED VERSION ON ITS WEBSITE

AT: <https://www.nozominetworks.com/eula/>. NOZOMI NETWORKS SHALL NOT BE BOUND BY ANY ADDITIONAL AND/OR CONFLICTING PROVISIONS IN ANY ORDER, ACCEPTANCE OR OTHER WRITTEN CORRESPONDENCE OR OTHER WRITTEN OR VERBAL COMMUNICATION UNLESS EXPRESSLY AGREED TO IN A WRITING SIGNED BY AN OFFICER OR AN AUTHORIZED REPRESENTATIVE OF NOZOMI NETWORKS. IF END USER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, DO NOT START THE INSTALLATION PROCESS OR USE THE PRODUCTS AND IMMEDIATELY, AND IN NO EVENT LATER THAN FIVE (5) CALENDAR DAYS AFTER END USER RECEIPT OF THE PRODUCT, NOTIFY THE NOZOMI NETWORKS LEGAL TEAM IN WRITING

AT LEGAL@NOZOMINETWORKS.COM OF REQUESTED CHANGES TO THIS AGREEMENT.

Trademarks and Copyright Statement

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Product License Agreement

This is a license, not a sales agreement, between End User (as defined) and Nozomi Network, Inc., a Delaware corporation, or its Affiliates (together referred to herein as “Nozomi Networks”).

1. Definitions.

The following capitalized terms shall have the meanings set forth below:

a. **“Affiliate(s)”** means an entity that Nozomi Networks controls by ownership of at least fifty percent (50%) of the voting equity interests of such entity.

b. **“Appliance”** means the Nozomi Networks branded computer hardware on which the Software operates.

c. **“Delivery”** shall mean, (i) in the case of Software, when the Software is made available by Nozomi Networks for End User to electronically download; (ii) in the case of Subscription Services, when the Subscription Service has been provisioned and made available to End User to access; and (iii) in the case of an Appliance, when the Appliance has been tendered by Nozomi Networks for shipment.

d. **“Documentation”** means Nozomi Networks technical specifications that accompany and describe the installation, use and operation of a Product.

e. **“End User”** means the party that has purchased the Products for its own use, either directly from Nozomi Networks or through an authorized third party.

f. **“Hardware”** means the physical Nozomi Networks Appliance on which the Software operates.

g. **“Licensed Volume”** means the volume or other measurement of permitted use for the Products as agreed to by Nozomi Networks.

h. **“Order”** means either a signed Nozomi Networks quotation, Purchase Order referencing a Nozomi Networks quotation number, or other written ordering document accepted by Nozomi Networks identifying the agreed upon Nozomi Network Products and Services to be purchased, pricing arrangements, license period, and other terms and conditions as may be mutually agreed upon by the “Parties.”

i. **“Open-Source Software”** means third party software that Nozomi Networks distributes with the Software pursuant to a license that requires, as a condition of use, modification and/or distribution of such software, that the software or other software combined and/or distributed with it be (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

j. **“Products”** means Appliances, Software, or Subscription Services.

k. **“Professional Services”** means the installation, configuration, and training services that Nozomi Networks may provide to an End User.

l. **“Services”** means Professional Services or Support.

m. **“Software”** means Nozomi Networks (in object code format) or content, any updates or upgrades thereto provided to End User by Nozomi Networks or its Affiliates and any

Documentation pertaining thereto. Software may be delivered to End User on Appliances or on a standalone basis. The term “Software” does not include Open-Source Software.

n. “**SaaS**” means the Nozomi Networks Software-as-a-Service products sold on a term or subscription basis, including but not limited to Nozomi Networks VANTAGE™.

o. “**Subscription Services**” means the subscription services, SaaS services, term license, and hardware/software term license bundles, including content, updates and upgrades thereto, that may be made available to End User by Nozomi Networks directly or through its partners and suppliers. Subscription Services include, without limitation include the OT Threat Feed service, Nozomi Networks VANTAGE™ or other subscription and software services offered by Nozomi Networks on a term basis.

p. “**Support**” means the technical support and maintenance services for the Product and periodic bug fixes and updates to the Software that Nozomi Networks may make generally available at an annual subscription cost to End Users.

2. License Grant for Purchased Products.

a. **Term Software License.** For the term confirmed by Nozomi Networks in an Order, Nozomi Networks grants End User a non-exclusive, limited, royalty-free license, without the right of sublicense, to execute the Software (“**License**”). The License is non-exclusive, non-transferable and limited to the use of the object code version of the Software program (“**Program**”) for End User’s internal business purposes only in accordance with these terms and conditions, the user manual, registration card and accompanying documents solely in conjunction with End User’s use of the Hardware (except where no Hardware has been delivered).

b. **SaaS Subscription Services.** for the term (“*Subscription Term*”) identified in a purchase order or other ordering document and in accordance these terms and conditions, any Documentation supplied Nozomi Networks, and solely for End User’s and its Affiliate’s internal business purposes, Nozomi Networks grants End User a non-exclusive, non-transferable, non-sublicensable, revocable right to use and access the Subscription Services. For the duration of a Subscription Term, Subscription Services shall also include Nozomi Networks premium (24×7) support. Such support services are governed by Nozomi Networks Support Terms and Conditions <https://www.nozominetworks.com/legal/customer-support-terms-and-conditions>, the Nozomi Networks Support Global Data Sheet: <https://www.nozominetworks.com/resources/data-sheet/global-customer-support/>], and the Terms of Use and Service Level Agreement available at: <https://www.nozominetworks.com/legal/vantage-tsla>.

c. **Third-Party Services.** Nozomi Networks VANTAGE™ Services interoperate with third-party services (e.g., Amazon Web Services or “**Third-Party Services**”) and depend on continuing availability of and access to the Third-Party Services, including application programming interfaces. If for any reason a Third-Party Service ceases to be available for Nozomi Networks VANTAGE™ services on reasonable terms, Nozomi Networks may be unable to continue to provide all of the functions of its Nozomi Networks VANTAGE™ If a Third-Party Service for which End User has purchased Nozomi Networks VANTAGE™

services becomes permanently unavailable for interoperation with Nozomi Networks VANTAGE™ services (other than as a result of an act or omission of End User), then End User may terminate the affected Orders and Nozomi Networks will refund to End User any prepaid and unused fees for such Orders. End User must purchase Third-Party Services separately.

d. **Limitation on Use.** End User may not (i) make unauthorized copies of the Products, (ii) disclose, distribute, transfer or market the Program to third parties, (iii) remove or modify any proprietary notices, labels or marks on or in any copy of the Program, (iv) distribute, sell, sublicense, rent, lease or use the Program(s) or Hardware (or any portion thereof) for time sharing, hosting, service provider or other computer services to third parties or otherwise make the functionality of the Program available to third parties, (v) translate, reverse engineer, decompile or disassemble the Program, or (vi) use a previous version or copy of the Program after having received an upgraded version as a replacement of the prior version. All copies of the prior version must be destroyed by End User.

e. **Hardware.**

i. **Perpetual Products.** End User acknowledges that the Software included with Hardware is licensed and not sold. Such Software is licensed solely in conjunction with such Appliance (and not separately or apart from such Appliance). If End User sells, leases, lends, rents, distributes or otherwise transfers any Appliance to any third party or if Nozomi Networks terminates this Agreement under Section or for a breach of Section 2.c, then End User will erase all Software from the Hardware.

ii. **Subscription Hardware Products.** End User may choose from a select group of Nozomi Networks Hardware options to run its subscription or term-based Software licenses. Term-based license subscription Software is only licensed for the duration of the Subscription Term and must be renewed to maintain functionality. At the expiration of the Subscription Term, the physical Appliance shall be owned by the End User and does not need to be returned. If the physical Appliance reaches the end of its useful life (as described in Nozomi Networks' End of Life Policy available at: <https://www.nozominetworks.com/legal/end-of-life-policy>) at any time during the paid Subscription Term, then Nozomi Networks may upon End User's written request, supply to End User an equivalent and updated hardware appliance. During the Subscription Term, the warranties set forth below in Section 2.1 shall apply.

f. **Proprietary Rights.** All intellectual property rights (including but not limited to copyrights, patents, and trademarks), title, interest, and any other rights to the Software and Products and any copy made thereof by End User and to any Product remain with Nozomi Networks. End User acknowledges that no title to the intellectual property in the Software or other Products is transferred to End User and End User will not acquire any rights to the Software or other Products except for the specific license as expressly set forth in section 2 ("License Grant") above. End User agrees to keep confidential all Nozomi Networks confidential information and only to use such information for the purposes for which Nozomi Networks disclosed it. Any ideas, suggestions, modifications and the like made by End User with respect to a Product will be the property of Nozomi Networks regardless of whether Nozomi Networks chooses to exercise its rights to incorporate such ideas, suggestions or modifications into the Product.

g. **Transfer.** If End User is a Nozomi Networks authorized reseller or distributor of Nozomi Networks Products (“*Authorized Partner*”), Authorized Partner may transfer (not rent or lease unless specifically agreed to in writing by Nozomi Networks) the Software to one End User on a permanent basis, provided that: (i) Authorized Partner ensure that End User receives a copy of this Agreement, is bound by its terms and conditions, and, by selling the Product or Software, Authorized Partner hereby agree to enforce the terms in this Agreement against such End User, (ii) Authorized Partner at all times comply with all applicable export control laws and regulations of the US and corresponding jurisdictions, and (iii) Partner agrees to refund any fees paid by an End User who purchased Product(s) from Authorized Partner but does not agree to the terms contained in this Agreement and therefore wishes to return the Product(s) as provided for in this Agreement. Further, if reseller or distributor are not authorized resellers or distributors of Nozomi Networks Products (“*Unauthorized Party*”), but regardless by selling Product(s) or Software, End User hereby agrees bound by the restrictions and obligations herein. Notwithstanding anything to the contrary, distributors, resellers and other Nozomi Networks partners or suppliers (a) are not agents of Nozomi Networks and (b) are not authorized to bind Nozomi Networks in any way.

2.1 Limited Warranty Terms for Purchased Products.

Nozomi Networks provides this limited warranty for its product only to End User identified in an Order and who is also the original purchaser of the Products and/or Services from Nozomi Networks. Warranties provide limited liability for Nozomi Networks or its designated representative to repair and/or replace manufacturing defects in Nozomi Networks products. They are generally limited in both the duration and the support they offer. It is the responsibility of Nozomi Networks or Nozomi Networks’ designated representative to repair the warranted product as described below.

a. **Hardware.** Except in the European Union or European Economic Community and subject to applicable law in such region, Nozomi Networks warrants for a period of twelve (12) months following receipt by End User (the “*Warranty Period*”), that the Hardware is free from material defects in manufacture and materials (“*Limited Warranty*”). Nozomi Networks is not be liable for defects in the Hardware notified by End User after expiration of the Warranty Period. This Limited Warranty does not apply to Hardware for malfunctions attributable to extrinsic causes, such as: (a) natural disasters including fire, smoke, water, earthquakes or lightning; (b) electrical power fluctuations or failures; (c) abuse, misuse, accident, alteration, neglect, including End User’s failure to maintain the system, improper transport or storage, mechanical or electrical shock or operation outside of the environmental specifications; (d) repair, correction or modification not provided or authorized by Nozomi Networks; (e) the combination or use of the Hardware with software not provided by Nozomi Networks or not authorized by Nozomi Networks, or (f) uses that are not consistent with the Product documentation supplied by Nozomi Networks. Nozomi does not warrant that the Hardware operates without interruption or without error. This limited warranty extends only to the original user of the Product.

i. **RMA Replacement.** Hardware warranty includes replacement or repair for Hardware provided the product is either still under the Warranty Period or End User maintains a valid and current Nozomi Networks Support contract or purchased an applicable subscription product.

Nozomi Networks or its Authorized Partner will either repair or replace the defective Hardware in accordance with its RMA Policy as available at: <https://www.nozominetworks.com/legal/rma-procedures-and-policies>.

ii. **Out of Warranty Hardware**. For Hardware which is not covered by above Limited Warranty but can be reworked (new label, erasure of all data), Nozomi will submit an offer to End User for such reworking. End User's sole and exclusive remedy and the entire liability of Nozomi Networks and its Authorized Partner under this limited warranty will be, at Nozomi Networks' or its service centers' option, shipment of a replacement within the Warranty Period. Nozomi Networks' obligations hereunder are conditioned upon the return of affected Hardware in accordance with Nozomi Networks or its service centers' then-current RMA procedures available at: <https://www.nozominetworks.com/legal/rma-procedures-and-policies>.

b. **Software**. For stand-alone software, Nozomi Networks warrants that the Software will substantially conform to the applicable Documentation for ninety (90) days following the date the Software is made available to End User.

3. Evaluation (Proof of Concept).

a. **Evaluation Products**. Nozomi Networks grants to End User a non-exclusive, worldwide, non-transferable, non-sublicensable license during the applicable Term to install and use the evaluation Software solely at the location identified in writing by End User and solely for End User's internal evaluation of the evaluation Product. Notwithstanding anything to the contrary in this Agreement, Nozomi Networks does not provide maintenance and support, or warranty with respect to Evaluation Software. End User may only grant access to the Evaluation Product to employees, contractors, agents or consultants who are bound to confidentiality and non-use obligations no less protective of Nozomi Networks' proprietary rights in this Agreement. Notwithstanding anything to the contrary as stated in this Agreement, all worldwide right, title and interest to the Evaluation Product, and all intellectual property rights in and to them, are and will remain the exclusive property of Nozomi Networks.

b. **Evaluation Period**. Unless otherwise agreed to by the parties in writing or terminated earlier in accordance with this Agreement, an evaluation shall commence upon delivery of the Evaluation Product and continue for ninety (90) days thereafter or for such length of time as mutually agreed upon between the parties in writing ("Evaluation Period"). Upon the expiration or termination of the Evaluation Period, (i) all licenses granted under this Section 3 for such evaluation will cease, and (ii) End User will immediately return the Evaluation Product to Nozomi Networks and destroy or erase any intangible copies of the Evaluation Product and upon written request certify in a writing signed by an officer of End User and delivered to Nozomi Networks that all such copies of have been returned, destroyed or erased.

c. **Additional Evaluation Terms**. Except for Nozomi Networks indemnity obligation below in Section 14 and notwithstanding anything else to the contrary as contained in this Agreement, End User acknowledges and agrees that the Evaluation Product is provided for evaluation "**AS-IS**" and Nozomi Networks and its suppliers make no representations or warranties of any kind, express or implied, with respect to the Evaluation Product, including, without limitation, any implied warranties of merchantability, title, fitness for a particular purpose, informational

content, system integration, enjoyment, non-infringement or any other warranties arising out of course of dealing, usage or trade shall arise with respect to an Evaluation Product.

4. Free Software.

Nozomi Networks may make certain Software available for license without charge, and such Free Software may have limited features, functions, or other limitations of any kind. Subject to End User's compliance with this Agreement, Nozomi Networks grants to End User a non-exclusive, worldwide, non-transferable, non-sublicensable license during the applicable Term to install and use the Free Software within the Licensed Capacity solely for End User's internal business purposes. Notwithstanding anything to the contrary in this Agreement, Nozomi Networks does not provide maintenance and support, warranty, or indemnification with respect to Free Software.

5. Additional Terms for SaaS Subscription Services.

Accessing and Use of SaaS Subscription Services, including but not limited to Nozomi Networks VANTAGE™ is as explicitly set forth herein. End User is solely responsible for acquiring and maintaining all of the equipment, software, services and items necessary to access and make use of the Subscription Services, including without limitation paying all fees, charges, taxes, and other costs related to internet access and for configuration changes that may be required to route activity to the Products. End User may access the SaaS Subscription Services only through the interfaces and protocols provided or authorized by Nozomi Networks and its partners, and agrees to set up, maintain and use the SaaS Subscription Services in strict compliance with Nozomi Networks' and its partners' instructions. End User is solely responsible for maintaining the confidentiality of any passwords and account information required to access SaaS Subscription Services, for all acts that occur in connection with End User's account and to immediately notify Nozomi Networks of any unauthorized use of End User's account.

6. Fees, Payment Terms, Delivery (Direct Customers Only).

Except for renewals, the following terms in this Section 6 may only apply to End User's or customers ordering directly from Nozomi Networks. If Nozomi Products or Services are purchased through an Authorized Partner, then the payment and delivery terms negotiated between End User/customer and Authorized Partner shall apply as between those parties and not Nozomi Networks.

a. Fees and Payment Terms. For orders accepted directly by Nozomi Networks, End User shall pay to Nozomi Networks the applicable fees and charges designated by Nozomi Networks in an invoice ("Fees"). Any Fees payable to Nozomi Networks are non-refundable and payable in US Dollars. End User shall also pay all sales, use, value-added and other taxes, tariffs and duties of any type assessed against End User, except for taxes based on Nozomi Networks' income. If End User is required under any law or regulation of any governmental entity or authority outside of the United States, to withhold or deduct any portion of the payments due to Nozomi Networks, then End User shall increase the sum payable to Nozomi Networks by the amount necessary to yield to an amount equal to the sum it would have received had no withholdings or deductions been made. Fees shall be invoiced as follows: (a) fees for all Subscription Services, including

term Software licenses and Support shall be invoiced for the entire Subscription Term at the time of the initial order and in advance of each renewal period. Exceptions to payment terms may only be applied upon mutual written agreement between the parties; (b) fees for other Software licenses and Appliance purchases will be invoiced upon Delivery. All payments from End User to Nozomi Networks are due net thirty (30) days after the date of invoice. If End User's account for Subscription Services or Support is thirty (30) days or more overdue, in addition to any of its other rights or remedies, Nozomi Networks reserves the right to suspend such services to End User, without liability to End User, until such amounts are paid in full. Nozomi Networks may conduct and/or direct an independent accounting firm to conduct, during normal business hours and not more than once yearly, an audit of End User's relevant computers and records to confirm End User's use of Products is in compliance with this Agreement. End User shall provide reasonable cooperation with any such audit or at least provide reasonable cooperation in answering written questions provided by Nozomi Networks to assist Nozomi Networks in satisfying its compliance obligations.

b. **Delivery.** For orders placed by End User directly with Nozomi Networks, Nozomi Networks will use commercially reasonable efforts to ship the Appliances and the Software license keys at the times requested in Orders (in partial or full shipments); provided, however, that Nozomi Networks shall in no event be liable for any delay in Delivery or for failure to give notice of delay. Without liability to any person and without prejudice to any other remedy, Nozomi Networks may withhold or delay shipment of any Order if End User is late in payment or is otherwise in default under this Agreement. Title to purchased Appliances and risk of loss shall pass to End User upon Delivery, and Products shall be deemed accepted by End User upon Delivery. Purchased Appliances shall be delivered FCA (Nozomi Networks dock). End User may specify shipping instructions with the Order. In the absence of specific shipping instructions from End User, Nozomi Networks will ship through its common courier. End User shall pay and be exclusively liable for all costs associated with shipping and delivery including without limitation, freight, shipping, customs charges and expenses, cost of special packaging or handling and insurance premiums incurred by Nozomi Networks in connection with the shipment of Appliances to End User. At its discretion, Nozomi Networks may advance shipping charges on behalf of End User on Appliances shipped to End User, and End User agrees to reimburse Nozomi Networks for any such advanced charges and expenses.

7. Confidentiality

a. As used herein, "*Confidential Information*" means all confidential and proprietary information of a party ("Discloser") disclosed to the other party ("*Recipient*"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information includes, without limitation, the Products, their performance (including any benchmarking information) and Nozomi Networks' pricing of the Products and Services. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Discloser; (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser; (iii) was independently developed by the Recipient without breach of any obligation owed to the Discloser; or (iv) is received from a third party without breach of any obligation owed to the Discloser.

b. The Recipient agrees that it will (i) use Confidential Information for the sole purpose of exercising its rights and performing its obligations under this Agreement, (ii) divulge Confidential Information only to those of its employees, directors, independent consultants or agents who have a need to know such Confidential Information and who are bound by professional duty or in writing (in advance) to confidentiality and non-use obligations at least as protective of such information as this Agreement, and (iii) not disclose any Confidential Information to any third party. The Recipient shall notify and cooperate with the Discloser immediately upon discovery of any unauthorized use or disclosure of Confidential Information of the Discloser. The Recipient may disclose Confidential Information to comply with an order from a court of competent jurisdiction or with a mandatory requirement of a governing regulatory body, provided such party, to the extent permitted by law and as soon as reasonably practicable under the circumstances, informs the Discloser and allows the Discloser the opportunity to object to the disclosure order or to take action to preserve the confidentiality of the information. The Recipient shall cooperate with the Discloser in such party's reasonable efforts to limit the disclosure of the information. End User acknowledges, understands and agrees that Nozomi Networks may, as part of its provision of the Product and/or Services to End User, collect, store and use information obtained from End User, including, but not limited to, information about End User's users and End User ("**Information**") for the purposes of the provision of the Product, Services and other services to End User and may use such information for analysis and improvement of Nozomi Networks' products and services. End User represents and warrants that it has all rights and permissions necessary to transfer such Information and grant Nozomi Networks access to such Information as contemplated herein.

c. Upon termination of this Agreement for any or no reason, the Recipient shall (i) immediately cease all use of the Discloser's Confidential Information, (ii) at the instruction of the Discloser, either promptly destroy all Confidential Information of the Discloser or return all Confidential Information of the Discloser.

d. If the Recipient discloses or uses (or threatens to disclose or use) any Confidential Information of the Discloser in breach of this Section 7, the Discloser shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

8. Professional Services.

Professional Services, if any, to be provided by Nozomi Networks to an End User will be subject to Nozomi Networks Professional Services Terms and Conditions available at: <https://www.nozominetworks.com/legal/professional-services-terms-conditions/> and a separate written statement of work ("**SOW**").

9. Authorization and End User Data.

End User represents and warrants that End User may, under all applicable data protection and privacy regulations, including the General Data Protection Regulation ("**Data Regulations**"), and all applicable written or oral contracts, agreements, commitments, policies or other obligations or representations, transfer any and all personally identifiable information to Nozomi Networks as necessary to allow Nozomi Networks to fulfill its obligations hereunder, including transfer of

such data from the European Union to the United States and vice versa, without obtaining any further consent or approval (whether explicit, unambiguous, express or implied) from any individual, labor organization, government authority, or other third party, and without taking any other steps prior to such transfer. End User shall indemnify and hold Nozomi harmless from any damage or expense (including attorney's fees and costs) resulting from End User's contravention or other violation of these provisions or any applicable Data Regulations.

Nozomi uses any such personally identifiable information solely to perform its obligations under the Agreement and in accordance with its privacy policy as available

at: <https://www.nozominetworks.com/legal/privacy-policy/>. Any End User data or information processed or collected by Nozomi Networks in connection with Nozomi Networks VANTAGE™ shall be subject to and governed by the Nozomi Networks Data Processing Agreement ("**DPA**") which incorporates the Standard Contractual Clauses by reference is available at: <https://www.nozominetworks.com/legal/dpa-addendum>. Nozomi Networks and its partners do not provide backup services for End User data and if End User's use of the Subscription Services terminates for any reason, Nozomi Networks and its partners may, without notice, delete or deny End User access to any of content or meta data that may remain in its/their possession or control. In addition, End User agrees that if, at Nozomi Networks' and its partners' sole determination, End User is using the Subscription Services in a manner that violates laws, rules or regulations or creates an excessive burden or potential adverse impact on Nozomi Networks', its partners' or its suppliers' systems, business or End Users, Nozomi Networks, its partners or its suppliers may suspend or terminate End User's access to the Subscription Services without notice to or liability to End User.

As it relates to any SaaS Services provided to End User by Nozomi Networks, Nozomi Networks will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of End User data, as described in the Documentation. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of End User data (other than by End User or its users). The terms of the DPA at <https://www.nozominetworks.com/legal/dpa-addendum> posted as of the Effective Date are hereby incorporated by reference. To the extent personal data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Nozomi Networks the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, End User and its applicable Affiliates are each the data exporter, and End User's acceptance of this Agreement, and an applicable Affiliate's execution of an Order, shall be treated as its execution of the Standard Contractual Clauses and Appendices.

10. Disclaimer of Other Warranties and Restrictions.

NOZOMI NETWORKS PRODUCTS AND SERVICES ARE OFF-THE-SHELF AND ARE NOT CUSTOMIZED SOLUTIONS DEVELOPED SPECIFICALLY FOR ANY SPECIFIC END USER OR INDUSTRY. EXCEPT FOR THE LIMITED WARRANTY FOR PURCHASED PRODUCTS SPECIFIED IN SECTION 2.1 ABOVE, THE PRODUCT AND SOFTWARE ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY OF ANY KIND, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY, IMPLIED OR EXPRESS WARRANTY OF MERCHANTABILITY, OR WARRANTY FOR FITNESS FOR

A PARTICULAR PURPOSE AND NON-INFRINGEMENT. IF ANY IMPLIED WARRANTY CANNOT BE DISCLAIMED IN ANY TERRITORY WHERE A PRODUCT IS SOLD, THE DURATION OF SUCH IMPLIED WARRANTY SHALL BE LIMITED TO NINETY (90) DAYS FROM THE DATE OF ORIGINAL SHIPMENT FROM NOZOMI NETWORKS. EXCEPT AS EXPRESSLY COVERED UNDER THE LIMITED WARRANTY PROVIDED HEREIN, THE ENTIRE RISK AS TO THE QUALITY, SELECTION AND PERFORMANCE OF THE PRODUCT IS WITH THE PURCHASER OF THE PRODUCT. END USER HEREBY ACKNOWLEDGE AND AGREE THAT NO VENDOR CAN ASSURE COMPLETE SECURITY AND NOTHING HEREIN OR ELSEWHERE SHALL BE DEEMED TO IMPLY A SECURITY GUARANTEE OR ASSURANCE.

The warranties in Section 2.1 (a) through (b) above do not apply if the Software, Product or any other equipment upon which the Software is authorized to be used (a) has been altered, except by Nozomi Networks or its authorized representative; (b) has not been installed, operated, repaired, updated to the latest version, or maintained in accordance with instructions or Documentation supplied by Nozomi Networks; (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident; (d) is licensed for evaluation, testing or demonstration purposes or for which Nozomi Networks does not charge a purchase price or license fee. In the case of evaluation, testing, evaluation, or free Software or Product, the End User acknowledges and agrees that such Software or Product may contain bugs or errors and could cause system failures, data loss and other issues, and the End User agrees that such Software or Product is provided "as-is" without any warranty whatsoever, and Nozomi Networks disclaims any warranty or liability whatsoever.

11. Term and Termination.

a. The term of this EULA commences upon Delivery of the Products to End User and will remain effective for such time as End User continues to have the right to access the Software, Subscription, or other Products or until the expiration of the applicable license or subscription term. Term based licenses shall remain effective for the duration or length of term stated on a purchase order. Subscriptions for any SaaS services, other subscription-based products and/or services, and Support for any Software and/or Appliances will automatically renew at the end of the applicable Support term unless either party give the other at least thirty (30) days' written notice of non-renewal prior to the end of the current term. Upon the renewal of a term or subscription period of any Term License, Subscription Product or Service, and/or Support/Maintenance, Nozomi Networks may increase renewal Fees at least 5% over the previous term or periods' Fees for any such Product, Service and/or separately provided Support/Maintenance related to any hardware or virtual appliance, perpetual software, and/or other unbundled solutions. End User may terminate the EULA at any time by ceasing use of or destroying all copies of Software.

b. This EULA will immediately terminate if End User breach its terms, or if End User fail to pay any portion of the applicable license fees directly to Nozomi or Partner and End User fails to cure that payment breach within thirty (30) days of from the date of a written notice issued to End User by Nozomi Networks. Upon termination of this EULA, End User shall destroy all copies of Software in End User's possession or control. Nozomi Networks may terminate this Agreement and/or all licenses granted to End User hereunder immediately upon written notice to

End User if End User breaches any provision of Section 2 (License & Restrictions), Section 5 (Additional Terms for Subscription Services) or Section 7 (Confidentiality).

12. Governing Law.

This Agreement will be governed in all respects by the laws of the State of California, U.S.A. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The parties hereby consent to the exclusive jurisdiction and venue of the state and federal courts located in San Francisco County, California for resolution of any disputes arising out or relating to this Agreement.

13. Limitation of Liability.

TO THE MAXIMUM EXTENT PERMITTED BY LAW AND NOTWITHSTANDING ANYTHING TO THE CONTRARY, NOZOMI NETWORKS IS NOT LIABLE UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY LOSS OF USE OF THE PRODUCT OR SERVICE OR ANY DAMAGES OF ANY KIND WHATSOEVER, WHETHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF GOODWILL, LOSS OF PROFIT, LOSS OF OPPORTUNITY, LOSS OR DAMAGE RELATED TO USE OF THE PRODUCT OR SERVICE IN CONNECTION WITH HIGH RISK ACTIVITIES, DE-INSTALLATION AND INSTALLATION FEES AND COSTS, DAMAGE TO PERSONAL OR REAL PROPERTY, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, COMPUTER SECURITY BREACH, COMPUTER VIRUS INFECTION, LOSS OF INFORMATION OR DATA CONTAINED IN, STORED ON, OR INTEGRATED WITH ANY PRODUCT INCLUDING ANY PRODUCT RETURNED TO NOZOMI NETWORKS FOR WARRANTY SERVICE) RESULTING FROM THE USE OF THE PRODUCT, RELATING TO WARRANTY SERVICE, OR ARISING OUT OF ANY BREACH OF THE LIMITED WARRANTY IN SECTION 2.1 ABOVE, EVEN IF NOZOMI NETWORKS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE AGGREGATE LIABILITY OF NOZOMI EXCEED THE TOTAL AMOUNT ACTUALLY PAID OR PAYABLE BY END USER TO NOZOMI IN THE 12 MONTHS PRECEDING THE CLAIM FOR THE SPECIFIC PRODUCT OR SERVICE THAT DIRECTLY CAUSED THE DAMAGE. THE SOLE REMEDY FOR A BREACH OF THE LIMITED WARRANTY IS REPAIR, REPLACEMENT OR REFUND OF THE DEFECTIVE OR NON- CONFORMING PRODUCT AS SPECIFICALLY STATED IN SECTION 2.1 ABOVE.

14. Indemnification.

Nozomi shall indemnify, defend and hold End User harmless against any and all liabilities, losses, settlement costs, fines, penalties, damages, judgments, costs and expenses, including reasonable attorneys' fees and costs (collectively, "**Losses**") actually awarded by a court of competent jurisdiction arising from or in connection with any claim, demand, suit, cause of action or legal proceeding (each, a "**Claim**") brought by a third party alleging that the Hardware or the Software or the use thereof according to this Agreement and any user documentation infringes any intellectual property right of a third party. If Hardware or Software, or any part

thereof, is or may be held to infringe third party's rights and its use is or may be enjoined, Nozomi shall, at its option and expense: (i) procure for End User the right to continue using the Hardware or the Software, (ii) replace or modify the Hardware or the Software so they are non-infringing or, if neither (i) nor (ii) is reasonably practicable, (iii) accept return of the applicable Hardware or Software and refund to End User the amounts paid for such Hardware and/or Software less depreciation based on a 5-year straight-line depreciation schedule. Nozomi shall have no indemnity obligation to End User under this Section 14 if the Claim results from: (i) Nozomi's compliance with End User's designs, specifications or instructions, (ii) modification of the Hardware or the Software by End User or a third party, (iii) use of the Hardware or Software in a manner not authorized or intended by Nozomi, or (iv) the combination, operation or use of the Hardware or the Software with products or items not furnished by Nozomi (collectively, the "Excluded Activities"). NOZOMI'S OBLIGATIONS IN THIS SECTION 14 SHALL BE ITS SOLE AND EXCLUSIVE LIABILITY TO END USER, AND END USER'S SOLE AND EXCLUSIVE REMEDY, WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS INVOLVING THE PRODUCTS.

End User shall indemnify, defend, and hold Nozomi harmless from and against any and all Losses actually awarded by a court of competent jurisdiction arising from or in connection with any Claim brought by a third party arising from (a) End User's breach of Section 15, or (b) any Excluded Activities.

A party seeking indemnification will provide the indemnifying party with prompt written notice of the relevant claim (provided that the failure to provide prompt notice will only relieve the indemnifying party of its obligations to the extent it is materially prejudiced by such failure) and permit the indemnifying party to control the defense, settlement or compromise of such claim. The indemnified party may employ counsel at its own expense to assist it with respect to such claim; provided, however, that if such counsel is necessary because the indemnifying party does not assume control, the indemnifying party will be responsible for the expense of such counsel. The party not controlling such defense may participate at its own expense. The party controlling such defense shall keep the other party advised of the status of such claim and the defense thereof. Neither party shall have authority to settle any claim on behalf of the other.

15. Import / Export Requirements; FCPA Compliance.

End User is advised that the Products may be subject to the United States Export Administration Regulations and other import and export laws; diversion contrary to United States law and regulation is prohibited. End User agrees to comply with all applicable international and national laws that apply to the Products as well as End User, end-use, and destination restrictions issued by U.S. and other governments. For additional information on U.S. export controls see www.bis.doc.gov. Nozomi Networks assumes no responsibility or liability for End User's failure to obtain any necessary import and export approvals, and Nozomi Networks reserves the right to terminate or suspend shipments, services and support in the event Nozomi Networks has a reasonable basis to suspect any import or export violation. End User represents that neither the United States Bureau of Industry and Security nor any other governmental agency has issued sanctions against End User or otherwise suspended, revoked or denied End User export privileges. End User agrees not to use or transfer the Products for any use relating to nuclear, chemical or biological weapons, or missile technology, unless authorized by the United States

Government by regulation or specific written license. Additionally, End User agrees not to directly or indirectly export, import or transmit the Products contrary to the laws or regulations of any other governmental entity that has jurisdiction over such export, import, transmission or use. Furthermore, End User represents that End User understands, and End User hereby agrees to comply with, all requirements of the U.S. Foreign Corrupt Practices Act and all other applicable laws. Further, End User represents and warrants the Products and/or Services are not being received for the benefit of, and are not being transferred to, any government entity, representative or affiliate.

16. U.S. Government End Users.

The Software and accompanying documentation are deemed to be “commercial computer software” and “commercial computer software documentation,” respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and accompanying documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement and its successors.

17. Survivability.

Sections 2, 7, 9, 10, 11(b), 12-15, 19 shall survive the termination of this Agreement for any reason.

18. General Provisions.

The parties are independent contractors under this Agreement and nothing in this Agreement authorizes a party to act as an agent of the other or bind the other to any transaction or agreement. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign or transfer this Agreement in whole or in part by operation of law or otherwise, without the other party's prior written consent. Any attempt to transfer or assign this Agreement without such written consent will be null and void. Notwithstanding the foregoing, however, Nozomi Networks may assign this Agreement without consent to the acquiring or surviving entity in a merger or acquisition in which Nozomi Networks is the acquired entity (whether by merger, reorganization, acquisition or sale of stock) or to the purchaser of all or substantially all of Nozomi Networks' assets. In the event any provision of this Agreement shall be determined to be invalid or unenforceable under law, all other provisions of this Agreement shall continue in full force and effect. Except as specifically provided in this Agreement, the exercise by either party of any rights and remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. End User agrees not to assign this Agreement or transfer any of the rights or obligations under this Agreement without the prior written consent of Nozomi Networks. This Agreement shall be binding upon, and inure to the benefit of, the successors and permitted assigns of the parties. The United Nations Convention on Contracts for the International Sales of Goods is expressly excluded. Except as specifically provided in this Agreement, the exercise by either party of any rights and remedies under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. This Agreement may be modified or waived

only in a written instrument signed by both parties. Waiver of any breach under this Agreement shall not constitute a waiver or any other breach or future breaches. This Agreement and other Nozomi Networks agreements may be amended or supplemented only by a writing that refers explicitly to the agreement signed on behalf of both parties, or, for this Agreement, as otherwise expressly provided in the lead-in above Section 1 above, provided, notwithstanding anything to the contrary and except for this Agreement which may be amended or updated as expressly provided in the lead-in above Section 1 above, for any amendment or other agreement to be binding on Nozomi Networks, such amendment or other agreement must be signed by an authorized officer of Nozomi Networks. No waiver will be implied from conduct or failure to enforce rights nor effective unless in a writing signed on behalf of the party against whom the waiver is asserted. If any part of this Agreement is found unenforceable, that part will be enforced to the maximum extent permitted and the remainder shall continue in full force and effect. End User acknowledges it has read this Agreement, understands it, and agrees to be bound by all of its terms and conditions.

19. Open-Source Software.

Nozomi Networks' products may include software modules that are licensed (or sublicensed) to the user under the GNU General Public License, Version 2, of June 1991 ("GPL") or GNU Lesser General Public License, Version 2.1, of February 1999 ("LGPL") or other open source software licenses which, among other rights, permit the user to use, copy, modify and redistribute modules, or portions thereof, and may also require attribution disclosures and access to the source code ("Open Source Software"). The GPL requires that for any Open-Source Software covered under the GPL, which is distributed to someone in an executable binary format, that the source code also be made available to those users. A list of open-source technologies utilized or employed by Nozomi Networks products, may obtained by contacting Nozomi Networks' Legal Department at: legal@nozominetworks.com. None of the Open-Source software utilized by Nozomi shall require End User to either disclose or make available its proprietary data or information to the public domain.

20. NO WARRANTY FOR OPEN-SOURCE.

BECAUSE THE PROGRAM IS LICENSED FREE OF CHARGE, THERE IS NO WARRANTY FOR THE PROGRAM, TO THE EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT WHEN OTHERWISE STATED IN WRITING THE COPYRIGHT HOLDERS AND/OR OTHER PARTIES PROVIDE THE PROGRAM "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT UNLESS REQUIRED BY APPLICABLE LAW OR AGREED TO IN WRITING WILL ANY COPYRIGHT HOLDER, OR ANY OTHER PARTY WHO MAY MODIFY AND/OR REDISTRIBUTE THE PROGRAM AS PERMITTED ABOVE, BE LIABLE TO END USER FOR DAMAGES, INCLUDING ANY GENERAL, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OR INABILITY TO USE THE PROGRAM (INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR DATA BEING RENDERED INACCURATE OR LOSSES SUSTAINED BY END USER OR THIRD PARTIES OR A FAILURE OF THE PROGRAM TO OPERATE WITH

ANY OTHER PROGRAMS), EVEN IF SUCH HOLDER OR OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH