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

**IVANTI END USER LICENSE AND SERVICES AGREEMENT**

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

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

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

   a. "**Affiliate**" means any legal entity that controls, is controlled by or is under common control with you or Ivanti (as applicable); where 'control' refers to ownership of more than fifty percent (50%) of voting securities.

   b. "**Device**" means each electronic device using the Software including without limitation (a) a physical device such as a computer, handheld device, workstation, console, server, or any other electronic device; (b) a virtual machine, such as an operating environment that may be running concurrently with another operating environment on a single physical device; or (c) an electronic or virtual mailbox (e.g., a mailbox for email).

   c. "**Documentation**" means, collectively, the official product operation instructions, release notes and user manuals provided by Ivanti for the Software, in electronic or written form, that Ivanti has made publicly available.

   d. "**Professional Services**" means any of Ivanti's deployment, consulting, training, and education services to be performed by Ivanti or its subcontractors to the extent identified in a statement of work signed by both Parties referencing this Agreement.

   e. "**SaaS Offering**" means Ivanti's provision of the Software as a hosted service under this Agreement.

   f. "**Software**" means the object code form of the Ivanti proprietary software product(s) made available by Ivanti under this Agreement, including any Documentation.

   g. "**Support and Maintenance Services**" means those technical support and maintenance services for the Software made available by Ivanti under this Agreement.

   h. "**User**" means an individual employed by or who otherwise provides services (whether as an independent contractor or otherwise) to you who is supported with or uses the Software.

2. **GRANT OF LICENSE**.

   a. Software License. Subject to the terms of this Agreement, to the extent you purchase a license to the Software from Ivanti or an Ivanti authorized reseller, Ivanti hereby grants you a non-exclusive, non-transferable license (except as set forth within this Agreement), without rights to sublicense, to copy and use the Software in accordance with the Documentation for the number of licenses for the applicable License Type for the License Model (defined below) purchased. Use of the Software shall be strictly limited to the number and License Type purchased and paid for by you.

      Users shall use and/or access the Software solely on behalf of and for the benefit of you or your applicable Affiliates and in accordance with the license purchased and the terms of this Agreement. You shall be responsible for all acts and omissions committed by any Users and any actions by such Users that would be a breach of this Agreement if taken by you shall be deemed a breach of this Agreement. You may make one backup, unmodified copy of the Software solely for archival purpose.

      License Models. Software falls into two general license models: perpetual and subscription licenses (the "**License Models**"). A "**perpetual**" license is a license to use the Software that is not time-limited when used in accordance with the terms of this Agreement. A "**subscription**" license is a time-limited license to use the Software that expires at the end of a specified term. **Software licensed under a subscription license may contain disabling code that may disable itself upon the expiration of the subscription period.** Within those two License Models, Ivanti offers the following licenses ("**License Types**"):

      - User-Based. Under the User-Based model, the Software may be used by a specific User on any number of that User's Devices. A license is required for each User.
      - Named User. Under the Named User model, a "named user" is a single User authorized by you to access or use the Software, regardless of whether or not the individual is using the Software, within the previous thirty (30) days. A license is required for each Named User.
      - Concurrent User. Under the Concurrent User model, licenses are required for the maximum number of Users authorized by you to access or use the Software within the previous thirty (30) days (each a "Concurrent User"), regardless of the number of connections used by that individual. A license is required for each Concurrent User.
      - Device-Based. Under the Device-Based model, licenses are required for each Device, whether physical or virtual, on which the Software is deployed.
      - Device-Limited. Under the Device-Limited model, licenses are required for each Device on which the Software is deployed and may only be transferred in the event of accidental destruction to another Device of the same make and model.

   b. Ivanti or an Ivanti authorized reseller or distributor ("**Reseller**") shall provide an invoice that sets forth the SaaS Offering or the License Type and License Model of the Software you are purchasing.

   c. Evaluation. If the Software is for evaluation purposes and provided on a trial use basis then, notwithstanding any contrary provision in this Agreement, you are permitted to use the Software only for internal demonstration, test or evaluation purposes in a non-production environment, and for the period specified on the software license key (if not indicated, this period will be forty-five (45) days from delivery) following which the Software may automatically disable itself. You acknowledge that Ivanti is not obligated to permit further use of the Software past the expiration date. NOTWITHSTANDING ANY CONTRARY PROVISION IN THIS AGREEMENT THE EVALUATION SOFTWARE IS PROVIDED "AS-IS" WITHOUT SUPPORT OR WARRANTY OF ANY KIND,

EXPRESS OR IMPLIED.

3. **SAAS OFFERINGS.**

   a. Right to Use to the Software. If you purchase a subscription to a SaaS Offering, then Ivanti's provision of the SaaS Offering to you is subject to the terms and conditions contained in this Agreement and the Supplemental Terms for the Saas Offering found at https://www.ivanti.com/company/legal/saas.

4. **RESTRICTIONS**. The Software is licensed, not sold. You may not use the Software for any purpose beyond the scope of the licenses granted in this Agreement, and all other rights are reserved by Ivanti or its suppliers. Without limiting the generality of the foregoing and except as expressly permitted in this Agreement, you will not (and will not permit any User or third party to): (i) authorize or permit access to or use of the Software or SaaS Offering by persons other than Users; (ii) assign, sublicense, distribute, sell, lease, rent, novate or otherwise transfer or convey the Software, SaaS Offering, or Documentation to any third party without Ivanti's prior written consent, except as set forth in the assignment provision in this Agreement, or disclose the software license key to the Software or SaaS Offering to any third party; (iii) pledge as security or otherwise encumber the rights granted under this Agreement; (iv) modify, adapt or create any derivative works of the Software or SaaS Offering (or any component thereof); (v) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any component of the Software or SaaS Offering except and only to the extent: (a) that applicable law expressly permits such actions despite this limitation; or (b) such actions are required to debug changes to any third party Open Source Software libraries linked to by the Software; (vi) use the Software as a service provider, application service provider or SaaS Offering for third parties; (vii) circumvent or attempt to circumvent any technical restrictions in the Software or SaaS Offering; or (viii) remove, alter or obscure any proprietary notices or legends from the Software, any copies thereof, or the SaaS Offering.

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

5. **TITLE**. Ivanti and its licensors (if any) retain all rights, title and interest, including all patent, copyright, trade secret, trademark, moral rights and other intellectual property rights, in and to the Software and SaaS Offerings and Ivanti expressly reserves all rights not expressly granted under this Agreement.

6. **SUPPORT AND MAINTENANCE SERVICES**. Support and Maintenance Services are included in the price of the SaaS Offering. You may purchase Support and Maintenance Services for the Software. Except as set forth herein, you have no rights to any updates, upgrades, enhancements or other modifications to the Software (collectively "**Updates**") unless you purchase Ivanti Support and Maintenance Services. If you purchase Support and Maintenance Services for the Software, you are required to purchase and maintain such Support and Maintenance Services at the same level and for all licenses of the Software. All Support and Maintenance Services are subject to Ivanti's then-current Supplemental Terms for the Support and Maintenance Services found at https://www.ivanti.com/company/legal/support-terms and the relevant end-of-life policies found at https://community.ivanti.com/community/end-of-life.

7. **PROFESSIONAL SERVICES AND TRAINING**.

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

   b. You shall provide Ivanti with all necessary co-operation, information and support that may reasonably be required by Ivanti for the performance of the Profeesional Services including, without limitation, access to suitably configured computers, software products and applicable passwords, at such times as Ivanti may request. You shall further perform such other obligations as specified in the SOW (if any).

   c. Unless otherwise agreed by both Parties in writing, if you postpone or reschedule a Professional Services project fewer than ten (10) business days but more than five (5) business days prior to the start date of a project, you shall pay Ivanti fees equal to the fees quoted for one (1) day of Professional Services under the project or $2,500, whichever is less. If you postpone or reschedule a project fewer than five (5) business days prior to the start date of a project, you shall pay Ivanti fees equal to the fees quoted for: (i) the number of days of Professional Services postponed, (ii) one week of Professional Services due for the project as if it had been fully performed, or (iii) $12,500, whichever is less. Any rescheduling of Professional Services under a SOW shall be subject at all times to the SOW's completion criteria and/or any long-stop dates specified in the SOW.

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

   e. Training Courses. You may also purchase training courses for the Software. Payment for training courses is due no later than seven (7) days in advance of the training course. Cancellation fees are due for customer cancelled training courses at a rate of fifty percent (50%) of the course fee if cancelled within one (1) week of the start of the course, or one hundred percent (100%) of the course fee if the course is not attended or if notice of cancellation is given less than one (1) week before the start of the course. Orders for training courses and Professional Services expire if not used within one (1) year from the date of order.

8. **PAYMENT**. You agree to pay, without setoff or deduction, the amounts set forth in the relevant Ivanti or Reseller quotation and/or invoice, as applicable. Fees for any Support and Maintenance Services shall be paid in advance of the relevant term covered.

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

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

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

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

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

9. **CONFIDENTIALITY**. Each Party shall keep confidential, and not disclose to any third party (except each Party's respective employees or staff members or as maybe required by law or any legal or regulatory authority) any Confidential Information which may be provided in connection with this Agreement. "**Confidential Information**" means any non-public information disclosed by one Party to the other Party, either directly or indirectly, whether communicated in writing, orally or by inspection of tangible objects (including, without limitation, pricing, trade secrets, product plans, products, services, customers, Software, designs, inventions, processes, drawings, engineering, hardware configuration information, marketing or financial information), which is designated as "Confidential," "Proprietary" or some similar designation. Information communicated orally will be considered to be Confidential Information if such information is identified as Confidential Information at the time of its disclosure, or if such information by its nature should reasonably be understood by the receiving Party to be confidential. Confidential Information will include this Agreement, any and all non-public information relating to any Software and any associated training, Documentation and other related materials, regardless of whether or not such materials are marked as "Confidential," "Proprietary" or some similar designation. Confidential Information may also include information that is disclosed to a Party by one or more third parties. Notwithstanding the foregoing, Confidential Information will not include any information that: (a) was publicly known prior to the time of disclosure by the disclosing Party; (b) becomes publicly known after disclosure by the disclosing party to the receiving Party through no action or inaction of the receiving Party; (c) is already in the possession of the receiving Party at the time of disclosure by the disclosing Party (as shown by the receiving Party's files and records) prior to the time of disclosure; (d) is obtained by the receiving Party from a third party without a breach of such third party's obligations of confidentiality; or (e) is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information (as shown by documents and other competent evidence in the receiving Party's possession). Notwithstanding the obligations set forth above, the receiving Party may disclose the Confidential Information of the disclosing Party to the limited extent such disclosure is required by law to be disclosed by the receiving Party, provided that the receiving Party will promptly give the disclosing Party written notice of such requirement prior to any disclosure so that the disclosing Party may have sufficient time to seek a protective order or other appropriate relief.

10. **INDEMNIFICATION**.

    a. Defense of Infringement Claims. Ivanti will, at its expense, either defend you from or settle any claim, proceeding, or suit brought by a third party against you alleging that your use of the Software or SaaS Offering infringes or misappropriates any patent, copyright, trade secret, trademark, or other intellectual property right ("**Infringement Claim**"). You must (a) give us prompt written notice of the Infringement Claim; (b) grant us full and complete control over the defense and settlement of the Infringement Claim; (c) provide assistance in connection with the defense and settlement of the Infringement Claim as Ivanti may reasonably request; and (d) comply with any settlement or court order made in connection with the Infringement Claim. You will not defend or settle any Infringement Claim without Ivanti's prior written consent. You may participate in the defense of the Infringement Claim at your own expense and with counsel of your own choosing, subject to Ivanti's sole control over the defense and settlement of the Infringement Claim as provided above.

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

    c. Exclusions from Obligations. Ivanti has no obligation for any infringement or misappropriation to the extent that it arises out of or is based upon (a) use of the Software or SaaS Offering in combination with other products or services; (b) any aspect of the Software or SaaS Offering configured specifically for you to comply with designs, requirements, or specifications required by or provided by or on your behalf; (c) use of the Software or SaaS Offering by you, any User, or any third party outside the scope of the rights granted in this Agreement; (d) failure of you, any User, or any third party to use the Software or Service in accordance with instructions provided by Ivanti; (e) failure of you to use the most recent version of the Software (including any updates or upgrades provided to you by Ivanti); or (f) any modification of the Software or SaaS Offering not made or authorized in writing by Ivanti.

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

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

11. **LIMITED WARRANTY AND DISCLAIMER**. Ivanti warrants that: (a) for a period of ninety (90) days from the date of purchase, the Software will perform substantially in accordance with the Documentation, (b) for the duration of the subscription term to the SaaS Offering, the SaaS Offering will perform substantially in accordance with the Documentation, and (c) the Support and Maintenance Services and Professional Services will be provided in a workmanlike manner. If the Support and Maintenance Services or Professional Services are not provided in a workmanlike manner, you have a period of thirty (30) days from delivery to provide written notice of your warranty claim. Ivanti and its Resellers' entire liability and your exclusive remedy under this warranty will be, at the sole option of Ivanti and subject to applicable law, to repair or replace the Software, the SaaS Offering, Support and Maintenance Services and/or Professional Services to perform per the warranty within a reasonable time, or to refund the fees paid for the nonconforming Software, SaaS Offering, Support and Maintenance Services and/or Professional Services and terminate this Agreement (subject to you deleting all copies of the Software within your possession and control and certifying in writing to Ivanti that you have done so). This limited warranty will not apply unless: (i) the Software has been properly installed and used at all times in accordance with the Documentation; (ii) no unauthorized modification, deletion or addition has been made to the Software, SaaS Offering, Support and Maintenance Services, or Professional Services and (iii) Ivanti receives written notice of the non-conformity within the warranty period. Any third party products that are provided by Ivanti and are identified as such in the applicable invoice are provided pursuant to the terms of the applicable third party agreement, and your use of any such third party product constitutes agreement to comply with the terms of the applicable third party agreement. Ivanti assumes no responsibility for, and specifically disclaims any liability or obligation with respect to, any third party products. All such third party products are provided with the third party's warranty and without any additional warranty of any kind, whether express or implied.

    TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR THE ABOVE LIMITED WARRANTY, THE SOFTWARE, SAAS OFFERING, SUPPORT AND MAINTENANCE SERVICES, AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND "WITH ALL FAULTS" AND IVANTI AND ITS LICENSORS MAKE NO WARRANTIES OR CONDITIONS OF ANY KIND OR NATURE, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF OPERABILITY, CONDITION, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, VALUE, ACCURACY OR QUALITY OF DATA, AS WELL AS ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT. IVANTI CANNOT GUARANTEE AND DOES NOT WARRANT THAT THE OPERATION OF THE SOFTWARE OR PROVISION OF THE SAAS OFFERING WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ALL ERRORS CAN BE CORRECTED. THE SOFTWARE AND SAAS OFFERING ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE OR DISTRIBUTION WITH ANY EQUIPMENT, THE FAILURE OF WHICH COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

12. **LIMITATION OF LIABILITY**. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES AGREE THAT NEITHER PARTY, ITS RESPECTIVE AFFILIATES OR ITS OR THEIR LICENSORS OR RESELLERS SHALL BE LIABLE FOR ANY LOSS OF INCOME, LOSS OF OPPORTUNITY OR PROFITS, LOSS OF GOODWILL, LOSS OF DATA OR FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES ARISING FROM USE OF THE SOFTWARE, UPDATES, THIRD PARTY SOFTWARE, SAAS OFFERING, OR OTHERWISE ARISING IN CONNECTION WITH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE DPA, THE SUPPORT AND MAINTENANCE SERVICES AND/OR PROFESSIONAL SERVICES, HOWSOEVER CAUSED AND ON ANY THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE). TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE LIABILITY OF EITHER PARTY, ITS RESPECTIVE AFFILIATES OR ITS OR THEIR LICENSORS OR RESELLERS EXCEED THE AMOUNT PAID FOR THE AFFECTED SOFTWARE OR SAAS OFFERING, OR APPLICABLE SUPPORT AND MAINTENANCE SERVICE OR PROFESSIONAL SERVICE. THIS LIMITATION WILL APPLY EVEN IF A PARTY, ITS AFFILIATES OR ITS OR THEIR LICENSORS OR RESELLERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE PARTIES ACKNOWLEDGE THAT THE FEES REFLECT THIS ALLOCATION OF RISK. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

13. **TERM AND TERMINATION**. The term of this Agreement will be the initial contract period agreed to by the Parties. At the end of each contract period, this Agreement will automatically renew for additional contract periods of one (1) year each or as otherwise agreed by the Parties. Either Party may terminate this Agreement at the end of any contract period (as measured from the Effective Date) on ninety (90) days' prior notice to the other Party or in the event that the other Party breaches this Agreement and the breaching Party fails to remedy such breach (if such breach is capable of remedy) within thirty (30) days from the other Party's written notice. Upon termination of this Agreement, all rights granted herein will terminate and you must immediately remove and destroy all copies of the Software, including all back-up copies. Any obligations to pay fees incurred prior to termination shall survive termination.

14. **AUDIT**. During the term of this Agreement and for two (2) years after termination of the Agreement or Support and Maintenance Services for the applicable Software, you shall maintain accurate and complete records regarding your use of the Software and/or SaaS Offering.Within thirty (30) days of written request, you shall (a) permit Ivanti (or persons authorized by Ivanti) to inspect such records and your computer equipment in order to verify that your use of the Software or SaaS Offering is in compliance with this Agreement; (b) if so requested by Ivanti, certify through a director or officer of the company, that your use of the Software or SaaS Offering is in accordance with this Agreement; and (c) permit Ivanti (or persons authorized by Ivanti, including third party accounting firms) to audit your use of SaaS Offering or the Software using such tools and/or software available to Ivanti from time to time. Ivanti may not conduct an audit more than once per calendar year and such audits shall take place during normal business hours and on reasonable prior notice. Without prejudice to any other rights and remedies, where such audit reveals any underpayment, you shall immediately pay such underpayment to Ivanti and where any underpayment is more than five percent (5%) of the amounts payable by you for the audited period, you shall promptly reimburse Ivanti for the reasonable costs of the audit. If you fail to comply with Ivanti's requests, you will be in material breach of this Agreement and Ivanti may reduce the functionality of or render the SaaS Offering or Software inoperative in addition any other rights and remedies under this Agreement.

15. **GENERAL**.

    a. Applicable Laws. Each Party will comply with any statutes and regulations that apply to its performance under this Agreement, including but not limited to those applicable to the privacy and security of personal information, including trans-border data transfers and data breach notification requirements as required by law.

    b. Data. Ivanti uses and handles your data in accordance with its privacy policy located at: https://www.ivanti.com/company/legal/privacy-policy.

    c. European Union Personal Data. If you are located or have a data subject in the European Union, you will be subject to Ivanti's then-current Data Processing Addendum found at https://rs.ivanti.com/legal/dataprocessingaddendum.pdf (the "DPA").

    d. Export Restriction. You will not, directly or indirectly export or re-export or knowingly permit the export or re-export of any Software or SaaS Offering in breach of any applicable export and import control laws and regulations including regulations of the United States Bureau of Industry and Security, the United Kingdom Department for Business, Innovation & Skills and other applicable

agencies. You agree not to export any Software out of your country of domicile as to do so would be in direct violation of this Agreement.

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

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

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

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

i. Entire Agreement; English Language Agreement Controls. This Agreement, including without limitation the Supplemental Terms or DPA represent the complete and exclusive statement of the agreement between Ivanti and you with respect to the Software, SaaS Offering, Support and Maintenance Services, and Professional Services, and supersedes all prior or contemporaneous oral or written communications and arrangements concerning the subject matter contained herein. Any printed or other terms and conditions on a purchase order or similar order document conflicting with, or purporting to add to, the terms and conditions of this Agreement or its exhibits and addenda will be of no force or effect. In the event of any inconsistency between this Agreement in English language and any translation of it into another language, the English language version of the Agreement shall control. Unless the Parties have a different agreement signed by both Parties, all use of the Software, SaaS Offering, Support and Maintenance Services, and Professional Services are subject to the terms of this Agreement.

j. No Waiver. No failure or delay to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other rights or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right shall preclude or restrict the further exercise of that or any other right or remedy.

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

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

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

n. Variation. Any variation to the Agreement shall only be binding when agreed in writing and signed by both Parties.

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

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

q. Contact Information. Please direct legal notices or other correspondence, if to Ivanti, Inc., to 698 West 10000 South, South Jordan, UT 84095, Attention: Legal Department.

Version: April 2018