

This Appgate Master Agreement (this "MA") sets forth terms that apply as between CenturyLink Communications, LLC ("Reseller") and you ("End User") with respect to Appgate Cybersecurity, Inc. ("Appgate") Products and/or Services purchased by End User from Reseller and is effective (the "Effective Date") as of the effective date of the order entered into between End User and Reseller for such Products and/or Services. This MA provides the general terms and conditions applicable to End User's purchase of Appgate products and services ("Products" or "Services") from Reseller, which Products and/or Services will also be governed by the applicable schedule or service schedule(s) (each, a "Schedule" or "Service Schedule").

1. **Services; Service Schedules.** The Schedule incorporated into this MA as Exhibit A shall set forth the terms and conditions relevant to, and the process for ordering, the Products and Services covered thereby.

2. **Term; Termination.**

a. **Term of this MA.** The term of this MA will commence on the Effective Date and continue until terminated in accordance with the terms hereof.

b. **Termination Upon Expiration or Termination of all Services.** The Agreement will automatically terminate following expiration or termination of the last effective Product/Service being provided or to be provided under a Service Schedule.

c. **Termination for Cause.** An "Event of Default" shall be deemed to occur if (i) either party materially breaches the Agreement and fails to cure such breach within thirty (30) days after the defaulting party's receipt of written notice from the non-defaulting party, provided, that, if such breach cannot reasonably be cured within such timeframe, an "Event of Default" shall not be deemed to have occurred so long as the defaulting party (a) commences curing such breach within the required timeframe and (b) uses commercially reasonable efforts to cure such breach as promptly as possible thereafter, or (ii) a party (1) becomes insolvent, (2) becomes subject to any voluntary or involuntary bankruptcy, liquidation, insolvency or similar proceedings (which, with respect to any involuntary bankruptcy, liquidation, insolvency or similar proceeding, is not dismissed within sixty (60) days of the date filed), (3) makes an assignment for the benefit of creditors, (4) appoints or consents or acquiesces to the appointment, of a receiver, liquidator, assignee, trustee or similar person or entity for all or any substantial part of its assets, or (5) admits in writing its inability to pay its debts as they become due. If an "Event of Default" has occurred and is continuing, the non-defaulting party may terminate the Agreement (and all Services being provided under the Agreement) by providing written notice to the defaulting party setting forth: (i) the specific facts and circumstances of the Event of Default and (ii) the effective date of the termination (which shall be no later than thirty (30) days after the date the non-defaulting party sends such notice to the defaulting party).

3. **Confidentiality.** Except as set forth in the Agreement, neither receiving party will, without the prior written consent of the disclosing party, disclose or use the Confidential Information of the disclosing party. For the avoidance of doubt, with respect to End User's obligations under this Section 3, Confidential Information of Reseller includes Appgate Confidential Information. Each receiving party will

protect the disclosing party's Confidential Information using at least the same efforts the receiving party uses to protect its own confidential information of a similar nature, but in no event less than commercially reasonable efforts. Each receiving party agrees to limit disclosure and access to the disclosing party's Confidential Information to those of its officers, employees, contractors, attorneys or other representatives who (a) reasonably require such access in connection with the consummation of the transactions contemplated under the Agreement or prosecuting or defending any claim arising under or with respect to the Agreement, (b) are made aware of the Confidential Information's confidential nature and (c) are subject to confidentiality and non-use obligations at least as restrictive as those set forth herein. Each receiving party agrees not to use the disclosing party's Confidential Information for any purpose other than in connection with the consummation of the transactions contemplated under the Agreement or prosecuting or defending any claim arising under or with respect to the Agreement. Nothing in the Agreement shall be deemed or construed to grant to the receiving party a license to sell, develop, exploit or create derivatives of the disclosing party's Confidential Information. A receiving party may disclose the disclosing party's Confidential Information to the extent required to do so by applicable law, provided, that, (i) to the extent legally permissible, the receiving party notifies the disclosing party prior to making any such disclosure so as to enable the disclosing party to seek such protection as may be available to preserve the confidentiality of such Confidential Information and (ii) the receiving party discloses only such information as its counsel advises is legally required to be disclosed. Notwithstanding the obligations in this Section 3, neither receiving party's obligations under this Section 3 shall apply to information that (1) is at the time of disclosure by the disclosing party to the receiving party in the public domain or, at any time thereafter enters the public domain through no breach of this Section 3 by the receiving party, (2) is already known to the receiving party at the time of its disclosure by the disclosing party to the receiving party, (3) is independently developed by the receiving party without use of or reference to Confidential Information of the disclosing party, or (4) is received by the receiving party from a third party who is not known to the receiving party to be subject to any restriction on disclosure. Promptly following receipt of the disclosing party's written request, the receiving party shall return to the disclosing party or destroy (at the receiving party's option) all of the disclosing party's Confidential Information. Notwithstanding the foregoing, the receiving party shall have no obligation to return or destroy any of the disclosing party's Confidential Information retained in standard archival or computer back-up systems or pursuant to the receiving party's normal document or email retention practices, provided, that, the receiving party's obligations under this Section 3 with respect thereto shall survive for two (2) years following the date such Confidential Information is no longer retained pursuant to this sentence (but no less than two (2) years following expiration or termination of the Agreement). Each party's obligations under this Section 3 shall survive for two (2) years following expiration or termination of the Agreement, provided, that, to the extent any of the disclosing party's Confidential Information constitutes a trade secret, the receiving party's obligations under this Section 3 with respect thereto shall survive until such Confidential Information ceases to so constitute a trade secret (but no less than two (2) years following expiration or termination of the Agreement). Each receiving party acknowledges that a threatened or actual breach by it of this Section 3 may result in immediate, irreparable harm to the disclosing party for

which monetary damages may not be adequate compensation and, consequently, that the disclosing party shall be entitled, in addition to all other remedies available to it at law or equity, to seek (without any requirement to post bond) injunctive or other equitable relief to prevent such threatened or actual breach. The receiving party will be responsible for any violation of the terms of this Section 3 committed by its officers, employees, contractors, attorneys or other representatives.

4. **DISCLAIMER OF WARRANTIES.** EXCEPT AS SET FORTH IN THE APPLICABLE SERVICE SCHEDULE OR ADDENDUM, (A) ALL PRODUCTS AND SERVICES ARE PROVIDED ON AN "AS IS", "AS AVAILABLE" BASIS AND END USER'S USE OF THE PRODUCTS AND SERVICES IS SOLELY AT ITS OWN RISK, (B) APPGATE AND RESELLER DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ALL WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, COMPLETENESS, COMPATIBILITY OF SOFTWARE OR EQUIPMENT OR ANY RESULTS TO BE ACHIEVED THEREFROM, (C) APPGATE AND RESELLER MAKE NO WARRANTIES OR REPRESENTATIONS THAT ANY PRODUCT OR SERVICE WILL BE COMPLETELY SECURE, FREE FROM LOSS OR LIABILITY ARISING OUT OF HACKING OR SIMILAR MALICIOUS ACTIVITY, OR ANY ACT OR OMISSION OF END USER, AND (D) NEITHER APPGATE NOR RESELLER WARRANTS THAT THE PRODUCTS OR SERVICES ARE OR WILL BE ERROR-FREE OR THAT THE USE OR OPERATION OF THE PRODUCTS OR SERVICES WILL BE UNINTERRUPTED.

5. **LIMITATION OF LIABILITY.** NOTHING IN THIS SECTION 5 SHALL BE DEEMED TO LIMIT END USER'S LIABILITY FOR BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, CLAIMS OF GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD OR END USER'S INFRINGEMENT OR MISAPPROPRIATION OF APPGATE'S AND/OR RESELLER'S INTELLECTUAL PROPERTY RIGHTS. APPGATE AND/OR RESELLER SHALL NOT BE LIABLE UNDER THE AGREEMENT FOR ANY INDIRECT, INCIDENTAL, SPECIAL, RELIANCE, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ANY LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, COST OF REPLACEMENT SERVICES, LOSS OF PROFITS OR REVENUE, LOSS OF OR CORRUPTION OF DATA OR DATA USE, OR COMPUTER FAILURE, DELAY OR MALFUNCTION, REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH LIABILITY IS ASSERTED, AND REGARDLESS OF WHETHER APPGATE AND/OR RESELLER HAS/HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITY. APPGATE AND RESELLER'S MAXIMUM LIABILITY FOR ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING FROM OR RELATED TO THE AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE TOTAL FEES AND CHARGES PAID OR PAYABLE BY END USER AND ITS AFFILIATES TO RESELLER AND ITS AFFILIATES UNDER THE AGREEMENT IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DAY THE FIRST EVENT GIVING RISE TO A CLAIM OR CAUSE OF ACTION HEREUNDER OCCURRED (THE "DAMAGE CAP"). NOTWITHSTANDING THE FOREGOING, IF THE FIRST EVENT GIVING RISE TO A CLAIM OR CAUSE OF ACTION OCCURS IN THE FIRST TWELVE (12) MONTHS OF THE TERM OF THIS MA, THE DAMAGE CAP WILL BE THE TOTAL FEES AND CHARGES PAID OR PAYABLE BY END USER AND ITS AFFILIATES TO RESELLER AND ITS AFFILIATES FOR THE FIRST TWELVE (12) MONTHS OF THE TERM OF THIS MA. FOR THE AVOIDANCE OF DOUBT, PURSUANT TO SECTION 7.k, IN NO

EVENT SHALL APPGATE HAVE ANY LIABILITY DIRECTLY TO END USER OR ANY OF ITS AFFILIATES.

6. **Intellectual Property.** Except as set forth in the applicable Service Schedule or Addendum, nothing in the Agreement or the performance thereof shall convey, license or otherwise transfer any right, title or interest (express, implied or otherwise) in any information, material, technology, trademarks, copyrights, service marks, trade names, patents, trade secrets or other form of intellectual property of (1) a party, its Affiliates or their respective licensors to the other party and/or (2) Appgate, its Affiliates or its respective licensors to End User. Except as set forth in the applicable Service Schedule or Addendum, Appgate's intellectual property and proprietary rights include any skills, know-how, modifications, other enhancements or derivative works developed or acquired by or on behalf of Appgate in the course of configuring, providing or managing the Service for Reseller for resale to End User. End User agrees that it will not, directly or indirectly, circumvent, reverse engineer, decompile, disassemble, reproduce, otherwise attempt to derive source code, trade secrets or other intellectual property, or modify or make derivative works from any information, material, technology, trademarks, copyrights, service marks, trade names, patents, trade secrets or other intellectual property of Appgate, its Affiliates or their respective licensors. End User agrees that it will not disclose or publish performance benchmark results or test results with respect to the Services.

7. **Miscellaneous.**

a. **Amendments.** Except as otherwise set forth in the Agreement, the Agreement may only be amended, modified, supplemented or revoked by an instrument in writing signed by both parties and consented to by Appgate. Appgate may modify this MA and/or any Schedule from time to time by posting an updated MA or Schedule, as applicable, at the website this MA is currently posted at or a successor website.

b. **Waiver.** No waiver by any party of any of the provisions hereof shall be (i) effective unless explicitly set forth in writing and signed by the party so waiving or (ii) construed as a waiver of the same provision at any time in the future or of any other provision. No failure to exercise or delay in exercising any right, remedy, power or privilege arising from the Agreement shall operate or be construed as a waiver thereof.

c. **Headings.** The headings in the Agreement are for reference only and shall not affect the interpretation of the Agreement.

d. **Severability.** If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction and, in the jurisdiction in which such term or provision is invalid, illegal or unenforceable, such term or provision will be modified as nearly as possible to reflect the intentions of the parties so as to no longer be invalid, illegal or unenforceable in such jurisdiction.

e. **Governing Law.** All matters arising out of or relating to the Agreement shall be governed by and construed in accordance with the internal laws of the State of Florida, excluding principles of conflicts of laws, whether of the State of Florida or any other jurisdiction.

f. Venue. Each of the parties agrees that all claims, demands, causes of action, actions, suits or proceedings arising out of, based upon or relating to the Agreement, the subject matter hereof or thereof or the transactions contemplated hereby or thereby ("Legal Proceedings") shall be brought and maintained exclusively in the Federal and state courts of Miami-Dade County, Florida. Each party agrees and submits to the exclusive venue and jurisdiction of such courts and unconditionally and irrevocably waives any objection based on lack of jurisdiction or inconvenient forum. Notwithstanding the foregoing, the provisions of this Section 7.f shall not restrict the ability of any party to enforce in any court any judgment obtained in a Federal or state court of Miami-Dade County, Florida. Notwithstanding anything in the Agreement to the contrary, each party shall have the right to commence and prosecute any action for injunctive or other equitable relief before any court of competent jurisdiction.

g. WAIVER OF JURY TRIAL. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN RESPECT OF ANY LEGAL PROCEEDING, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING AND WHETHER IN CONTRACT OR TORT OR OTHERWISE.

h. Expenses; Attorneys' Fees. In the event that any party institutes any Legal Proceeding against the other party, the prevailing party in the Legal Proceeding shall be entitled to receive, and the non-prevailing party shall pay, in addition to all other remedies to which the prevailing party may be entitled, the reasonable costs and expenses (including, without limitation, those incident to appellate, bankruptcy and post-judgment proceedings) incurred by the prevailing party in conducting the Legal Proceeding, including reasonable attorneys' fees and expenses and court costs.

i. Survival. Notwithstanding anything contained in the Agreement to the contrary, the terms of any sections of the Agreement which by their nature are intended to extend beyond expiration or termination of (i) this MA, (ii) any Service Schedule or (iii) any other document governed by, or that is incorporated by reference into, this MA or a Service Schedule, will survive expiration or termination of this MA, such Service Schedule or such other document, as applicable.

j. Force Majeure. The obligations of a party to perform under the Agreement (other than obligations to pay any sum due under the Agreement) may be temporarily suspended during any period during which such party is unable to carry out its obligations under the Agreement, when and to the extent such failure or delay is caused by or results from acts beyond such party's reasonable control (a "Force Majeure Event"), and such party shall not have any liability or responsibility to the other party or be deemed to have defaulted under or breached the Agreement for failure or delay in performance to the extent resulting therefrom.

k. Third-party Beneficiaries. For avoidance of doubt, subject to Appgate's rights as a third-party beneficiary set forth in this Section 7.k, nothing herein shall establish privity of contract between Appgate and the End User. Appgate shall not be deemed an employee, agent or contractor of End User. Nothing in the Agreement shall be construed to create a joint venture, partnership, association or other form of legal entity or business enterprise between Appgate and End User. End User shall not have any express or implied right or authority to assume or create any obligations on behalf of or in the name of Appgate or to bind Appgate to any contract, agreement or undertaking. Appgate is an

intended third-party beneficiary of this Agreement and has the express right to enforce the Agreement directly against the End User. Appgate disclaims all liability or responsibility to End User. End User waives any and all claims for damages, losses or liability against Appgate. In no event shall any other agreement and/or terms between End User and Reseller or any other agreement and/or terms be deemed to expand, limit or modify Appgate's rights and/or obligations set forth in the Agreement. Except as set forth above in this Section, no person or entity, other than the parties and their respective successors and permitted assigns, shall be a direct or indirect beneficiary of, or shall have any direct or indirect cause of action or claim in connection with, the Agreement.

l. Assignment; Successors and Assigns. The Agreement will be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither the Agreement nor any rights or obligations under the Agreement may be transferred, assigned or delegated, in whole or in part, by End User, without Appgate's prior written consent, and any attempted transfer, assignment or delegation without such consent shall be null and void.

m. Notices. All notices in connection with the Agreement shall be in writing and shall be deemed to have been given: (i) when delivered, if delivered by hand, (ii) on the next business day after the date sent, if sent (for overnight delivery) by nationally recognized overnight courier, (iii) upon the earlier to occur of receipt by the addressee as evidenced by return receipt thereof or five (5) days from the date of mailing, when sent by first class mail, prepaid postage, return receipt requested, or (iv) on the date the transmission was sent if sent during normal business hours of the recipient or on the next business day if sent after normal business hours of the recipient, if sent by facsimile or e-mail. In the event End User sends Reseller a notice in connection with the Agreement, End User shall send a copy of such notice to Appgate at [legal@appgate.com](mailto:legal@appgate.com) (or such other notice address as may be updated by Appgate from time to time).

n. Use of Name and Marks. Appgate may reference End User's status as an end user of Appgate in marketing materials, sales presentations on Appgate's website and for other valid business purposes. Appgate may use End User's tradenames, trademarks and domain names in connection with the foregoing. End User may not take any of the foregoing actions or issue a press release referencing Appgate, directly or indirectly, without Appgate's prior written consent.

## 8. Definitions.

a. "Affiliate" means any entity controlled by, controlling, or under common control with a party, where the term "control" and its correlative terms, "controlling", "controlled by" and "under common control with", means the legal, beneficial or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the aggregate of all voting equity interests in an entity.

b. "Agreement" means (i) this MA and (ii) the Schedule.

c. "Confidential Information" means all information (including, for the avoidance of doubt, information about the disclosing party's Affiliates) that is disclosed by or on behalf of the disclosing party to the receiving party, during the term of the Agreement, whether written, oral, visual or otherwise that (i) is identified as confidential using an appropriate legend, marking, stamp, or other clear and conspicuous

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written identification that unambiguously indicates the information being provided is Confidential Information (or, in the case of information provided in other than written form, is identified as confidential at the time it is first disclosed, with such identification to be

confirmed in writing by the disclosing party to the receiving party promptly following disclosure) or (ii) should reasonably be understood to be confidential or proprietary based on the content of the information and/or the circumstances of its disclosure.

## Exhibit A

### Appgate Software Schedule

This Appgate Software Schedule (this "Schedule") is governed by the MA. This Schedule sets forth terms that apply as between Reseller and End User with respect to Products and Services covered hereunder and purchased by End User from Reseller and is effective (the "Effective Date") as of the effective date of the order entered into between End User and Reseller for such Products and/or Services. Capitalized terms used, but not defined herein, shall have the meaning ascribed thereto in the MA.

#### 1. Products; Fees.

a. Products. This Schedule sets forth the terms generally applicable to Products or Services acquired by End User from Reseller including all Software licensed, Hosted Services, Professional Services and Hardware purchased and Support (collectively, the "Products"), as well as terms applicable only to specific Products as noted herein. Appgate's Software-as-a-Service offerings are not covered under this Schedule and require a separate Schedule. Appgate's Hosted Service offerings are covered under this Schedule as supplemented by the Appgate Hosted Service Addendum.

#### 2. License Grant; Grant of Right to Access and Use; Reservation of Rights.

a. License Grant; Grant of Right to Access and Use. With respect to Software licensed (whether or not such Software is to be provided as a Hosted Service) by End User, Reseller grants End User a non-exclusive, non-transferable (except as expressly permitted in the Schedule Agreement) and non-sublicensable license to use such Software during the Software Term with respect thereto, solely for use by Authorized Users in accordance with the Permitted Use. In the event any such Software licensed is to be provided as a Hosted Service, Reseller also grants to End User a non-exclusive, non-transferable (except as expressly permitted in the Schedule Agreement) and non-sublicensable right to access and use such Hosted Service during the Hosted Service Term with respect thereto, solely for use by Authorized Users in accordance with the Permitted Use. A license to use Software or right to access and use a Hosted Service, as applicable, also includes the non-exclusive, non-transferable (except as expressly permitted in the Schedule Agreement) and non-sublicensable right for End User to use the Documentation applicable to such Software or Hosted Service, as applicable, solely in connection with End User's use of such Software or Hosted Service, as applicable.

b. Reservation of Rights. Reseller and Appgate reserve all rights not expressly granted to End User in the Schedule Agreement. Except for the limited rights and licenses expressly granted under the Schedule Agreement, nothing in the Schedule Agreement grants, by implication, waiver, estoppel, or otherwise, to End User or any third party any intellectual property rights or other right, title or interest in or to the Appgate Intellectual Property. Notwithstanding anything in the Schedule Agreement to the contrary, Software is licensed and rights to access and use Hosted Services are granted, in each case for the applicable term set forth herein, and in no event is Software or are

Hosted Services sold, even if for convenience Reseller makes reference to words such as *sale* or *purchase* herein.

#### 3. Use; Restrictions on Use; End User Responsibilities.

a. Use; Restrictions on Use. End User shall not (and shall not allow any Authorized User to) use the Software, Hosted Services or Documentation, as applicable, for any purposes beyond the scope of license or access, as applicable, with respect thereto granted in the Schedule Agreement. End User shall not (and shall not allow any Authorized User to), directly or indirectly, (i) copy, modify or create derivative works of the Software, Hosted Services or Documentation, as applicable, in whole or in part, (ii) rent, lease, lend, resell, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Products (other than Hardware), (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any source code or software component of the Software or Hosted Services, in whole or in part, (iv) remove any proprietary notices from the Software, Hosted Services or Documentation, as applicable, or (v) use the Software, Hosted Services or Documentation, as applicable, in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law. End User acknowledges that a threatened or actual breach by it of this Section 3.a may result in immediate, irreparable harm to Reseller and/or Appgate for which monetary damages may not be adequate compensation and, consequently, Reseller and Appgate shall be entitled, in addition to all other remedies available to it at law or equity, to seek (without any requirement to post bond) injunctive or other equitable relief to prevent such threatened or actual breach. End User understands that the Software and/or Hosted Services may be deployed with license key or other technology that prohibits use of the Software or Hosted Services, as applicable, beyond the applicable Software Term, license parameters, Hosted Service Term or grant of right to access and use.

b. End User Responsibilities. End User is responsible and liable for all uses of the Software, Hosted Services and Documentation, as applicable, resulting from access provided by End User, directly or indirectly, whether such access or use is permitted by or in violation of the Schedule Agreement. Without limiting the generality of the foregoing, End User is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of the Schedule Agreement if taken by End User will be deemed a breach of the Schedule Agreement by End User.

4. Installation; Configuration; Instruction; Support. Unless otherwise specified in an Order Form, neither Reseller nor Appgate have any responsibility for (a) assisting End User in installing or configuring any of the Software or Hosted Services, or (b) providing End User instruction on use of any Software or Hosted Services (except for any such instruction on use set forth in the Documentation with respect to such Software or Hosted Services, as applicable). Unless otherwise specified in an Order Form, Support is included for Software licenses (non-perpetual) and Hosted Services in accordance with the applicable Support Terms with respect thereto. Unless otherwise specified in an

Order Form, neither Reseller nor Appgate have any responsibility for providing End User Support for a perpetual Software license.

## 5. Professional Services.

a. End User's Obligations. End User must: (i) provide Reseller personnel with such information, cooperation and support as may reasonably be required for Reseller personnel to provide the professional services ("Professional Services"), (ii) permit Reseller personnel to access such of End User's systems, networks, premises and property as is necessary to perform the Professional Services, and ensure that Reseller is granted sufficient consents, authorizations and licenses to access and use any third party systems, programs, or networks necessary to provide the Professional Services, (iii) ensure that all necessary consents, authorizations and licenses have been obtained so that Reseller's provision of the Professional Services does not breach any statutory or regulatory provisions (of whatever jurisdiction) relating to the use of and access to personal data or otherwise breach any applicable law, and (iv) ensure the health and safety of Reseller personnel engaged in providing the Professional Services at End User's premises.

b. Work Product. Each Order Form may specify "Work Product" to be provided by Reseller personnel. Once Appgate has received full and final payment for "Work Product" from Reseller, anything specified in an Order Form as "Work Product" will become the property of End User at the moment such item is fixed in a tangible medium, all rights, title and interest therein will vest in End User and Appgate and Reseller shall permanently assign and transfer to End User any and all of Appgate's or Reseller's, as applicable, right, title and interest in the Work Product, provided, that, Appgate retains all right, title and interest in any Appgate Intellectual Property incorporated into Work Product. To the extent any Appgate Intellectual Property is incorporated into Work Product, End User is hereby granted a perpetual, worldwide, non-transferable (except as expressly permitted in the Schedule Agreement), non-exclusive, royalty-free, fully paid-up license to use such Appgate Intellectual Property solely in conjunction with the Work Product.

## 6. Term; Termination; Effect of Expiration or Termination.

a. Term of this Schedule. The term of this Schedule will commence on the Effective Date and continue until terminated in accordance with the terms hereof.

b. Termination Upon Expiration or Termination of all Products. The Schedule Agreement will automatically terminate following expiration or termination of the last effective Product/Service being provided or to be provided under this Schedule.

c. Term of Order Forms and Products. Software licenses (non-perpetual), Hosted Services and Support services have a minimum term which begins on the term commencement date ("TCD") and continues for the period set forth in the relevant Order Form (the "Initial Term"). With respect to a Software license (non-perpetual), the Initial Term and any renewal terms of such Software license are collectively referred to as the "Software Term". With respect to a Software license (perpetual), the "Software Term" is perpetual. With respect to a right to access and use a Hosted Service, the Initial Term and any renewal terms of such Hosted Service are collectively referred to as the "Hosted Service

Term". With respect to a Support service, the Initial Term and any renewal terms of such Support service are collectively referred to as the "Support Term".

d. Effect of Expiration or Termination. Upon expiration or earlier termination of a Product for any reason, the license or right to access and use, as applicable, such Product granted to End User will also terminate. Upon termination of the license or right to access and use, as applicable, End User must immediately cease using the applicable Software, Hosted Service and Documentation and, to the extent applicable, return, delete or destroy all copies thereof as well as all other Appgate Intellectual Property relating thereto (in each case, in whatever form). Upon Reseller's request, End User will certify in writing to Reseller that End User has performed the foregoing obligation.

7. **Term Commencement Date (TCD) (Software (non-perpetual), Hosted Services and Support).** The TCD for a Software license (non-perpetual), Hosted Service or Support service, as applicable, is the earlier to occur of (a) the later to occur of (i) if applicable, the date specified in the Order Form as the date on which the Software Term, Hosted Service Term or Support Term, as applicable, commences and (ii) the date the Software, Hosted Service or Support service, as applicable, is made available to End User for use and (b) the date that the Software, Hosted Service or Support service, as applicable, is used by End User. In the event an Order Form specifies a date range for the Initial Term of the Software license, Hosted Service or Support service (e.g., January 15 of year 1 to January 14 of year 2), as applicable, as opposed to a set term (e.g., one (1) year), but the TCD for such Software license, Hosted Service or Support service, as applicable, is a different date than the date specified in the Order Form as the date on which the Initial Term of the Software license, Hosted Service or Support service, as applicable, commences (e.g., the TCD is January 5 of year 1 instead of January 15), the Initial Term of such Software license, Hosted Service or Support service, as applicable, shall commence on the TCD for such Software license, Hosted Service or Support service, as applicable, and continue for the period of time that the Initial Term of such Software license, Hosted Service or Support service, as applicable, was intended to be for (e.g., one (1) year commencing on January 5 of year 1 and ending on January 4 of year 2).

## 8. Warranties.

a. Software Warranties. Subject to Section 14.j, Reseller warrants to End User that Software will function materially in accordance with the Documentation for a period of thirty (30) days from commencement of the Software Term with respect thereto (the "Warranty Period"). Any failure of the Software to function materially in accordance with the Documentation during the Warranty Period for such Software (except as set out in Section 14.j) shall be a "non-conformity". In the event End User sends written notice to Reseller during the Warranty Period notifying Reseller of any non-conformity with respect to the Software (the "Non-Conformity Notice"), Reseller will use commercially reasonable efforts to remedy such non-conformity. Except as set forth in the Support Terms with respect to the Software, if any, this Section 8.a states Reseller's sole obligation, and End User's sole and exclusive remedy, in connection with any failure of the Software to function in accordance with the Documentation.

b. Professional Services Warranties. Reseller warrants that (i) it and the Reseller personnel performing the Professional Services have

the necessary knowledge, skills, experience, and qualifications to perform the Professional Services in accordance with the applicable Order Form(s), and (ii) the Professional Services will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards.

c. **Support Warranties.** Reseller warrants that (i) it and its personnel performing the Support have the necessary knowledge, skills, experience, and qualifications to perform the Support in accordance with the applicable Support Terms, and (ii) the Support will be performed in a professional and workmanlike manner in accordance with generally accepted industry standards.

g. **Hardware.** Neither Reseller nor Appgate are the manufacturer of any Hardware resold by Reseller to End User hereunder. Notwithstanding anything in the Schedule Agreement to the contrary, Hardware is resold "as is" without indemnification, support or warranties of any kind, provided, that, Reseller will use commercially reasonable efforts to assign to End User all assignable warranties and indemnities granted to Reseller by the party that Reseller or Appgate purchased such Hardware from. In no event will Reseller or Appgate be liable for any losses, costs, expenses or damages whatsoever, including, without limitation, direct, incidental, special, indirect, or consequential damages, loss of business, loss of profits, loss of data, or tortious conduct relating to, or arising from the Hardware.

## 10. Intellectual Property Ownership.

a. **Appgate Intellectual Property.** End User acknowledges that, Appgate owns all right, title and interest, including all intellectual property rights, in and to Appgate Intellectual Property.

b. **Feedback.** Appgate encourages End User to provide suggestions, proposals, ideas, recommendations and other feedback (collectively, "Feedback") regarding changes or improvements (including, without limitation, new features or functionality relating thereto) to Appgate Intellectual Property. To the extent End User provides such Feedback, notwithstanding the definition of "Confidential Information" in the Agreement to the contrary, in no event shall any such Feedback be deemed to be End User's Confidential Information. Appgate shall have the right to make, use, sell, offer for sale, import and otherwise exploit such Feedback (including by incorporation of such Feedback into Appgate Intellectual Property) without restriction. End User hereby assigns to Appgate on End User's behalf, and on behalf of its employees, contractors and/or agents, all right, title and interest in, and Appgate is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Appgate is not required to use any Feedback.

11. **Auditing Rights and Required Records.** End User agrees to maintain complete and accurate records in accordance with generally accepted accounting principles during the term of the Schedule Agreement and for a period of two (2) years after termination or expiration of the Schedule Agreement with respect to matters necessary for accurately determining amounts due by End User hereunder and End User's compliance with the Schedule Agreement. Reseller and/or Appgate may, at their own expense, on reasonable prior notice, periodically inspect and audit End User's records with respect to

matters covered by the Schedule Agreement. Such inspection and auditing rights will extend throughout the term of the Schedule Agreement and continue for a period of two (2) years after the termination or expiration of the Schedule Agreement.

12. **Uniform Computer Information Transactions Act and United Nations Convention on Contracts for the International Sale of Goods.** Notwithstanding anything in the Schedule Agreement to the contrary, including, for the avoidance of doubt, the "Governing Law" and "Venue" sections of the MA, in no event shall the Uniform Computer Information Transaction Act or the United Nations Convention on Contracts for the International Sale of Goods apply to the Schedule Agreement.

13. **Export Regulation.** The Products, the underlying software and technology and the Documentation may be subject to US export controls and sanctions laws and regulations, including, without limitation, the US Export Administration Regulations and the various economic sanctions measures administered by the US Department of the Treasury's Office of Foreign Assets Control ("OFAC"). End User shall not, directly or indirectly, sell, export, re-export, transfer, re-transfer, provide or release the Products, the underlying software or technology or the Documentation to, or make the Products, the underlying software or technology or the Documentation accessible from, any jurisdiction, country, person or entity without first securing all applicable U.S. government export authorizations, nor will End User sell, export, re-export, transfer, re-transfer, provide or release the Products, the underlying software or technology or the Documentation to any jurisdiction, country, person or entity, or for any end-use, that is prohibited by applicable law, rule, or regulation. End User shall not, directly or indirectly, sell, export, re-export, transfer, re-transfer, provide or release the Products, the underlying software or technology or the Documentation to any party named on OFAC's Specially Designated Nationals list or any other U.S. government list of prohibited parties, or to any entity owned 50% or more in the aggregate by any sanctioned party or parties, nor shall End User use the Products, underlying software or technology, or the Documentation, directly or indirectly, in connection with any prohibited party. End User shall comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, transferring, re-transferring, providing or releasing, or otherwise making the Products or the underlying software or technology or the Documentation available outside the US.

## 14. Definitions.

a. "Authorized User" means an employee, representative or agent of End User who is authorized by End User to access and use the Software licensed hereunder or Hosted Services purchased hereunder, as applicable, and Documentation applicable to such Software or Hosted Service, as applicable, solely in connection with the use of such Software or Hosted Service, as applicable. In the event an Order Form sets forth limitations on the number and/or type of Authorized Users permitted with respect to the Software licensed thereunder or Hosted Service purchased thereunder, as applicable, End User shall be required to comply with all such limitations. Each Authorized User shall be required to have a unique username and password. Such username and password shall be personal to such Authorized User and End User shall

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not permit an Authorized User to, and an Authorized User shall not, share its username and password with other Authorized Users.

b. "Appgate Intellectual Property" means the Software, Hosted Services, Documentation, any and all intellectual property provided to End User or any Authorized User in connection with the foregoing and any other Appgate intellectual property.

c. "Documentation" means the then-current user manuals, handbooks, training materials, technical manuals and guides relating to the Software or Hosted Services, as applicable.

d. "Hosted Service" means Software licensed by End User under an Order Form which will, in whole or in part, be hosted by Reseller on behalf of End User and made available for access by End User via the Internet as a service.

e. "Order Form" means an order form, quote, statement of work or other ordering document that is signed by End User, or an Affiliate thereof, and Reseller and includes the types and details of the specific Products ordered by End User and agreed to be provided by Reseller.

f. "Permitted Use" means use of the Software or Hosted Service, as applicable, solely in accordance with the Documentation and by an Authorized User for the benefit of End User in the ordinary course of its internal business operations and in accordance with all of the applicable terms and conditions of the Schedule Agreement, including, without limitation, any terms, conditions and limitations set forth in the Order Form with respect to the Software or Hosted Service, as applicable (e.g., maximum number of computers that the Software may be installed on or that may access the Hosted Service, limitation on locations that the Software may be used at or the Hosted Services may be accessed from).

g. "Schedule Agreement" means (i) the MA (but only to the extent the MA applies to this Schedule) and (ii) this Schedule.

h. "Software" means the Appgate software, in object code format, licensed by Reseller to End User under an Order Form, and, in the event End User is entitled to receive Support for such Software, includes all updates, bug fixes, patches, error corrections and other minor enhancements or improvements thereto that are generally

makes available free of charge to all licensees of the Software during End User's Support Term therefor.

i. "Support" means the maintenance and support services specified in the Support Terms.

j. "Support Terms" means the support terms located at <https://www.Appgate.com/legal/product-and-service-terms-and-conditions/cybersecurity-terms-and-conditions>, if any, applicable to the Software or Hosted Services licensed or purchased by End User from Reseller which may be modified from time to time by posting updated Support Terms at such website or a successor website. Notwithstanding anything in (a) the Support Terms to the contrary, in no event shall Reseller or Appgate have any obligation to provide Support to the extent the issue for which Support is being requested resulted from one of the items in the immediately following sentence and (b) Section 8.a to the contrary, the warranty shall not apply to any non-conformity to the extent resulting from one of the items in the immediately following sentence. (1) Any use of the Software or Hosted Services, as applicable, other than in accordance with the Documentation and the Schedule Agreement, (2) a modification to the Software or Hosted Services, as applicable, made or caused by End User or any other party acting on behalf of End User, (3) any customer data, (4) use of the Software or Hosted Services, as applicable, in violation of applicable law, (5) use of the Software or Hosted Services, as applicable, in combination with any hardware, software, application, equipment, technology or material that was not provided by Reseller or Appgate, (6) End User's or any Authorized User's failure to use any new or corrected version of the Software or Hosted Services, as applicable, made available by Reseller or Appgate to End User (provided, that, Support will continue to be provided for an older version if the Support Terms expressly state that Support will be provided for such older version), (7) a defect in the version of the Software or Hosted Service, as applicable, being used by End User that has been corrected in a new or corrected version of the Software or Hosted Service, as applicable, that has been made available by Reseller or Appgate to End User (regardless of whether the Support Terms expressly state that Support will be provided for such version of the Software or Hosted Service, as applicable, being used by End User), or (8) End User's or any Authorized User's negligence or willful misconduct.