

Tripwire's End-user License Agreement

IMPORTANT INFORMATION

TRIPWIRE SOFTWARE IS LICENSED, NOT SOLD. USE OF THIS SOFTWARE IS SUBJECT TO LICENSE RESTRICTIONS. CAREFULLY READ THIS LICENSE AGREEMENT BEFORE USING THE SOFTWARE. USE OF SOFTWARE INDICATES COMPLETE AND UNCONDITIONAL ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. ANY ADDITIONAL OR DIFFERENT PURCHASE ORDER TERMS AND CONDITIONS SHALL NOT APPLY.

END-USER LICENSE AGREEMENT ("Agreement")

Clicking "accept" or installing and/or using the Software (defined below) establishes a binding agreement between Tripwire, Inc. ("Tripwire") and you as the person or entity licensing the Software ("Customer"); provided that if you are accepting this Agreement on behalf of a legal entity, you represent that you have the authority to bind such entity to this Agreement, in which case the term "Customer" refers to such entity. IF YOU DO NOT HAVE SUCH AUTHORITY OR IF YOU DO NOT ACCEPT ALL OF THE TERMS OF THIS AGREEMENT, IMMEDIATELY RETURN, OR IF RECEIVED ELECTRONICALLY, CERTIFY DESTRUCTION OF SOFTWARE AND ALL ACCOMPANYING ITEMS, AND YOU WILL RECEIVE A FULL REFUND OF ANY LICENSE FEE PAID. Unless a separate license agreement has been signed by Customer and an authorized representative of Tripwire since 2010, this Agreement contains the parties' entire understanding relating to the subject matter and supersedes all prior or contemporaneous agreements.

1. ORDERS, FEES AND PAYMENT.

1.1 This Agreement allows Customer to license the software product version in which this Agreement is embedded ("Software") and to purchase support and maintenance for the Software ("Support"). The Software and Support are governed exclusively by the terms of the applicable end-user license agreement embedded in the Software, applicable product-specific terms at www.tripwire.com/terms, and, for orders placed directly with Tripwire, the applicable Tripwire quotation (collectively the "Order"). Purchase orders issued by Customer are for the sole purpose of identifying products, quantities, pricing, and delivery address; any additional or conflicting terms in Customer's purchase order will not be effective and are expressly declined. Terms in this Agreement relating to pricing, discounts and payments do not apply to Orders placed through an authorized reseller or distributor, and will be negotiated between Customer and the reseller or distributor. Distributors and resellers do not have the right to modify this Agreement or to make additional representations, commitments or warranties binding on Tripwire. Notwithstanding any reference to "purchase" in this Agreement or Order, Software is licensed, not sold.

1.2 All fees are non-refundable, except as expressly provided in this Agreement. Any past due invoices are subject to interest charges of one and one-half percent per month or the applicable legal rate, whichever is lower. Fees quoted by Tripwire do not include freight, insurance, customs duties, taxes or other similar charges, which Tripwire will invoice separately. Unless Customer provides proof of exemption to Tripwire, Tripwire will invoice Customer for all applicable sales, value add or similar

transaction-based taxes, itemized separately. Proof of exemption includes a resale certificate, an exemption certificate, a direct-pay permit or a letter from the tax jurisdiction authorizing the exemption.

1.3 All Software is delivered electronically or pre-installed on appliances. "Delivery" means the date on which Software delivered electronically is made available to Customer for download, or on which an appliance is delivered to the carrier. Tripwire's delivery of Software by electronic means is subject to Customer's provision of both a primary and an alternate e-mail address. Ship date is dependent on inventory lead times and order backlog. Tripwire will make reasonable efforts to ship within 30 days of order acceptance, and will provide the estimated ship date on request.

2. OWNERSHIP; GRANT OF LICENSE.

2.1 Software, including all releases provided as part of Support, copies and documentation, is copyrighted, trade secret and Confidential Information of Tripwire or its licensors, who maintain exclusive title to all Software and retain all rights not expressly granted by this Agreement. Tripwire grants to Customer, subject to Customer's compliance with the Agreement terms including but not limited to payment of applicable license fees, a nontransferable, nonexclusive license to use Software solely: (a) in machine-readable, object or executable code form; (b) as specified in the Order; and (c) for Customer's internal business purposes. Each Order for Software will identify the Software, license unit of measure, and any time period restriction, if applicable.

Such limitations may be technically implemented through the use of authorization codes, license keys, or similar devices.

2.2 Customer agrees that purchases under this Agreement are not contingent on the delivery of any future functionality or features, and are not dependent on any oral or written comments made by Tripwire or its representatives regarding future functionality or features. Customer may choose, but is not required, to provide suggestions, data or other information to Tripwire regarding possible improvements in the operation, functionality or use of Software, in the course of receiving Support, evaluating Software or otherwise. Any inventions, product improvements, modifications or developments made by Tripwire are Tripwire's exclusive property.

2.3 Customer shall not loan, rent, lease, distribute, or otherwise transfer Software without Tripwire's prior written consent, except as part of a permanent transfer of the Software as permitted by this Agreement. Customer may copy Software only as reasonably necessary to support the authorized use, as long as the number of licenses in use does not exceed the number of licenses purchased by Customer. Each copy must include all notices embedded in Software as received from Tripwire. All copies remain the property of Tripwire or its licensors. Customer shall not: (a) use the Software or allow its use for developing, enhancing or marketing any product that is competitive with the Software; or (b) disclose to any third party the results of or information pertaining to any testing of the Products against a third party's products for the purpose of competitive comparison.

2.4 Except as otherwise permitted for interoperability as required by applicable law, Customer shall not reverse-assemble, reverse-compile, reverse-engineer or in any way derive source code from Software. If Customer wishes to exercise any rights to reverse-engineer to ensure interoperability in accordance with applicable law, Customer shall first provide Tripwire with written notice and all reasonably requested information to TW-Contracts@tripwire.com. Tripwire shall assess the claim, and may offer alternatives that reduce any adverse impact on Tripwire's intellectual property or other rights.

2.5 Customer may allow third party consultants or contractors (“Authorized Third Parties”) to access and use the Software on Customer’s behalf as long as: (a) the use is solely for Customer’s internal business operations; (b) each Authorized Third Party is under written confidentiality obligations with Customer protecting Tripwire’s intellectual property and Confidential Information with terms no less stringent than this Agreement; (c) Customer ensures that the Authorized Third Party’s use of the Software complies with the terms of this Agreement; and (d) on completion of the Authorized Third Party’s services requiring use of the Software, Customer ensures that the Software are immediately and completely uninstalled from Authorized Third Party’s equipment and/or premises, as applicable.

2.6 Customer may move the Software: (a) from one node to another node of the same type; and (b) from one site to another site, without charge. No transfer under this section shall increase the license scope or number of nodes in use by Customer. Except as provided herein, Customer shall not sublicense, assign or otherwise transfer the Software without Tripwire’s prior written consent and payment of Tripwire’s then-current applicable transfer charges. Except as permitted under this Agreement, any attempted transfer without Tripwire’s prior written consent shall be a material breach of this Agreement and may, at Tripwire’s option, result in the immediate termination of the licenses and this Agreement.

2.7 All Software is commercial off-the-shelf computer software. Pursuant to US FAR 48 CFR 12.212 and DFAR 48 CFR 227.7202, use, duplication and disclosure of the Software by or for the U.S. Government or a U.S. Government subcontractor is subject solely to the terms of this Agreement, except for terms that are contrary to applicable mandatory federal laws. Unless otherwise agreed to in writing by authorized personnel of Tripwire and Customer, no term or condition required in any U.S. Government contract or related subcontract shall be part of an Order or binding upon Tripwire.

3. **BETA CODE.** If Customer chooses to participate in a beta test program, the following terms apply to the beta test Software:

3.1 Tripwire may offer pre-release code for experimental testing and evaluation (“Beta Code”). If Tripwire authorizes Customer to use Beta Code, Tripwire grants to Customer a temporary, nontransferable, nonexclusive license for experimental use to test and evaluate Beta Code in a non-production environment, without charge for up to 60 days unless otherwise specified by Tripwire in writing. Tripwire has no obligation to offer a commercial version of the Beta Code in any form.

3.2 Customer will evaluate Beta Code under normal conditions as directed by Tripwire. Customer acknowledges the experimental nature of Beta Code and agrees not to rely on correct functioning or performance of Beta Code. Customer will contact Tripwire periodically during Customer’s use of Beta Code to discuss any malfunctions or suggested improvements. On completion of Customer’s evaluation, Customer will send a written evaluation, which may be in the form of an email, of Beta Code to Tripwire, including its strengths, weaknesses and recommended improvements.

3.3 Customer agrees to maintain Beta Code in confidence and to restrict access to Beta Code, including any functionality, methods and concepts, solely to those employees authorized to perform Beta Code testing. Any written evaluations and all inventions, product improvements, modifications or developments that Tripwire conceived or made during or after this Agreement, including those based partly or wholly on Customer’s feedback, are the exclusive property of Tripwire, who has exclusive rights, title and interest in all such property.

4. SUPPORT.

4.1 Any Support purchased by Customer will be identified in an Order. Support is generally offered in one-year increments, unless the Order states otherwise. If Customer purchases Support for Software, Tripwire will provide Customer with technical support and new releases that Tripwire makes generally available in accordance with Tripwire's Support Policies in effect at the commencement of each Support term, found at www.tripwire.com/terms. On Customer's installation of a new release of the Software, Customer shall stop using and remove the same number of licenses of the prior release of the Software, so that the total number of licensed copies of the Software remains the same.

4.2 Each Order must include at least one year of Support. Unless the Order states otherwise, the Support term begins on Delivery and the next period's Support renewal fee, if purchased, will not increase by more than 5% over the Support unit price for the initial term. If Support is not renewed by the expiration date of the initial Support term, pricing is subject to renegotiation and reinstatement fees will apply.

5. CONFIDENTIAL INFORMATION.

5.1 "Confidential Information" means: (a) byte code or source code provided by Tripwire; (b) any authorization keys and passwords delivered in order to operate the Software; (c) Documentation, product road maps and development plans, and pricing information; (d) any Tripwire business, technical or training information that, if disclosed in writing, is marked "confidential" or "proprietary" at the time of disclosure, or, if disclosed orally, is identified as "confidential" or "proprietary" at the time of disclosure; and (e) the specific business terms and pricing set forth in any Order or this Agreement. Confidential Information does not include information that: (i) is or becomes generally known or available to the public through no act or omission of Customer; (ii) is rightfully known to or received by Customer prior to receiving such information from Tripwire or its representatives without restriction as to use or disclosure; or (iii) is independently developed by Customer without use of Confidential Information and without a breach of this Agreement. The existence of this Agreement and the nature of the business relationship between the parties are not Confidential Information.

5.2 Customer will not use Confidential Information except as necessary to exercise the rights granted under this Agreement or to evaluate opportunities to license additional Tripwire product offerings. Customer will not disclose Confidential Information to any person or entity except to employees or Authorized Third Parties whose job performance requires access and who are under confidentiality obligations. The foregoing obligations will not restrict Customer's disclosure of Confidential Information to the extent required by an order or requirement of a court, administrative agency, or other governmental body, provided that Customer gives reasonable notice to Tripwire to contest such order or requirement. Customer shall give Tripwire written notice of any unauthorized disclosure or use of the Software as soon as Customer learns or becomes aware of the unauthorized disclosure or use.

6. LIMITED WARRANTY.

6.1 During the warranty period, Tripwire warrants that the unmodified, generally available Software (excluding Beta Code), when properly installed, will substantially conform to the functional specifications in the applicable Tripwire user documentation for the Software, available from the Tripwire Customer Center ("Documentation"). The warranty period is 90 days from the date of Delivery.

Customer must notify Tripwire in writing of any nonconformity within the warranty period. The Software warranty applies only to the initial Delivery of the Software and does not renew with the delivery of additional licenses, new releases or additional authorization codes.

6.2 This limited warranty does not apply to nonconformities caused by misuse, modification, abnormal physical or electrical stress, accident or improper installation. TRIPWIRE'S ENTIRE LIABILITY AND CUSTOMER'S EXCLUSIVE REMEDY FOR A BREACH OF THIS LIMITED WARRANTY SHALL BE, AT TRIPWIRE'S OPTION, EITHER (A) MODIFICATION OR REPLACEMENT OF THE SOFTWARE THAT DOES NOT MEET THIS LIMITED WARRANTY, PROVIDED CUSTOMER HAS OTHERWISE COMPLIED WITH THIS AGREEMENT, OR (B) TRIPWIRE SHALL REFUND THE PRICE PAID UPON RETURN OF THE DEFECTIVE SOFTWARE TO TRIPWIRE AND A CERTIFICATION THAT CUSTOMER HAS DESTROYED ALL COPIES OF SUCH SOFTWARE.

6.3 THE LIMITED WARRANTY SET FORTH IN THIS SECTION 6 IS EXCLUSIVE. NEITHER TRIPWIRE NOR ITS LICENSORS OFFER ANY OTHER WARRANTIES, TERMS OR CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SOFTWARE OR OTHER MATERIAL PROVIDED UNDER THIS AGREEMENT. TRIPWIRE OFFERS NO WARRANTY THAT THE SOFTWARE WILL DETECT OR PROTECT AGAINST ALL THREATS OR BE ERROR-FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES. TRIPWIRE OFFERS NO WARRANTIES WITH RESPECT TO: SOFTWARE WHICH IS LICENSED AT NO CHARGE OR BETA CODE, BOTH OF WHICH ARE PROVIDED "AS IS." TRIPWIRE AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, TERMS, CONDITIONS, AND REPRESENTATIONS: (A) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, AND (B) ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE. No oral or written information or advice given by Tripwire or Tripwire's authorized representatives shall create a warranty or other obligations on behalf of Tripwire.

6.4 Customer is responsible for selecting and using the Software to achieve Customers' intended results. Customer will indemnify Tripwire and its licensors from any third-party claims, loss, cost, damage, expense or liability, including attorneys' fees, arising out of or in connection with Customer's failure to maintain a secure or compliant system. As conditions to Customer's obligations under this Section 6.4, Tripwire must: (a) notify Customer promptly in writing of the action; and (b) grant Customer sole authority and control of the defense or settlement of the action.

7. INFRINGEMENT.

7.1 Tripwire will defend or settle any action brought against Customer and pay all costs, damages and reasonable attorneys' fees that are finally awarded against Customer or are included in a settlement to which Tripwire is a party, to the extent those amounts are based upon a claim arising during a Support term, that the Software directly infringes any copyright or misappropriates any trade secret or infringes any U.S. patent. Customer agrees that as conditions to Tripwire's obligations under this Section 7, Customer must: (a) notify Tripwire promptly in writing of the action; (b) provide Tripwire all reasonable information and assistance to settle or defend the action at Tripwire's request and expense; and (c) grant Tripwire sole authority and control of the defense or settlement of the action. Tripwire will not be responsible for any compromise made or expense incurred without its prior written consent.

7.2 If a claim is made under Subsection 7.1, Tripwire shall at its expense either: (a) replace or modify the Software so that it becomes non-infringing; (b) procure for Customer the right to continue using the

Software; or (c) if neither 7.2(a) nor 7.2(b) is commercially reasonable, require the return of the Software or, if obtained electronically, require a certification from Customer that the Software has been destroyed, and refund to Customer (i) for perpetual licenses, any purchase price or license fee paid, less an allowance for use based on a five year straight line depreciation method beginning on the Delivery of the Software; and (ii) for subscription licenses, the fees prepaid for the balance of the current term.

7.3 Tripwire is not liable for claims based on: (a) combination of Software with any product not furnished by Tripwire; (b) modification of Software other than by Tripwire; (c) modifications made by Tripwire in conformance with Customer's specifications; (d) use of other than a current unaltered release of Software; (e) any Beta Code; or (f) Software not used in accordance with this Agreement.

7.4. THIS SECTION 7 SETS FORTH TRIPWIRE'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND. EXCEPT AS SET FORTH ABOVE, TRIPWIRE AND ITS LICENSORS DISCLAIM ALL IMPLIED OBLIGATIONS WITH RESPECT TO INTELLECTUAL PROPERTY INDEMNIFICATION.

8. LIMITATION OF LIABILITY.

8.1 Tripwire's liability shall not be limited or excluded in relation to: (a) death or personal injury caused by its negligence or intentional misconduct (or that of its employees or agents); (b) fraudulent misrepresentation; or (c) any other liability that cannot under applicable law be limited or excluded.

8.2 SUBJECT TO SECTION 8.1, NEITHER TRIPWIRE NOR ITS LICENSORS SHALL BE LIABLE FOR: (A) LOSS OF PROFITS; (B) LOSS OF DATA; (C) LOSS OF REVENUE; (D) LOSS OF USE; OR (E) PUNITIVE, EXEMPLARY, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF TRIPWIRE OR ITS LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8.3 SUBJECT TO SECTION 8.1, NEITHER TRIPWIRE'S NOR ITS LICENSORS' LIABILITY UNDER THIS AGREEMENT SHALL EXCEED IN AGGREGATE, THE GREATER OF: (A) THE AMOUNT PAID OR PAYABLE BY CUSTOMER IN THE 12 MONTHS PRIOR TO THE CLAIM FOR THE SOFTWARE GIVING RISE TO THE CLAIM; OR (B) \$10,000.

8.4 The fees reflect the allocation of risk set forth in this Agreement. The parties would not enter into this Agreement without this risk allocation. Some jurisdictions do not allow the exclusion or limitation of liability for incidental or consequential damages, so the above limitation may not apply to the extent prohibited by such local laws.

8.5 Tripwire's Software is developed for general use in a variety of information management environments. They are not designed for use in a situation in which use or failure of the Software could lead to death or serious bodily injury of any person, or severe physical or environmental damage ("High Risk Activities"). Examples of High Risk Activities include, without limitation, the design or operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, or direct life-support systems. If Customer uses the Software in High Risk Activities, Customer shall be solely responsible for taking all appropriate fail-safe, backup, redundancy and other measures to ensure the safe use of such Software. Notwithstanding anything to the contrary in this Section 8, TRIPWIRE

DISCLAIMS ANY LIABILITY FOR ANY DAMAGES CAUSED BY USE OF THE SOFTWARE IN HIGH RISK ACTIVITIES.

9. TERM AND TERMINATION.

9.1 Term and Termination of Licenses. If a Software license or subscription was provided for a limited term ("Term Based License"), such Term Based License will automatically terminate on expiration of the term. Perpetual Software licenses will continue indefinitely under the terms of this Agreement, unless such licenses are terminated pursuant to this Section 9.1. Either party may terminate any license or subscription granted hereunder with 30 days' written notice to the other party if the other party is in material breach of the license or subscription (including non-payment) and fails to cure the breach within the 30-day notice period. In addition, Customer may terminate any license or subscription granted hereunder at any time by written notice to Tripwire. If a license or subscription is terminated, Customer shall stop all use of the affected Software, and shall certify the destruction of all copies of Software that had been subject to the terminated license or subscription, at Tripwire's written request.

9.2 Termination of Support. Support is provided for a specific term, and automatically terminates on expiration of the term. Either party may terminate Support with 30 days' written notice to the other party if the other party is in material breach of the Support (including non-payment) and fails to cure the breach within a 30-day notice period. Termination of Support under this Section 9.2 does not automatically terminate any license.

9.3 Effect of Termination. Termination of any license, subscription, or Support will not affect Customer's obligation to pay for licenses granted or Support provided prior to the termination, which amounts shall immediately be payable at the date of termination. The following sections will survive any termination of this Agreement: 1.2 (Orders, Fees, and Payment), 2 (Ownership, Grant of License), 3.3 (Beta Code), 4 (Support), 5 (Confidential Information), 6 (Limited Warranty), 7.4 (Infringement), 8 (Limitation of Liability), 9 (Term and Termination), 10 (Additional Terms).

10. ADDITIONAL TERMS.

10.1 Export. Customer shall comply with all international and national laws that apply to the Software, including U.S. Export Administration Regulations, economic sanctions regulations administered by the Office of Foreign Assets Control, as well as similar restrictions issued by U.S. and other governments, which prohibit the provision of Software to specified destinations, end-users and end uses. Customer specifically represents and warrants that it will not export, re-export, sell, supply or transfer the Software in violation of local laws or to any country or person to which the United States has embargoed or restricted the provision of the Software, including, but not limited to, Cuba, Iran, North Korea, Sudan (North) or Syria, nationals of those countries, or to any other embargoed or restricted destination or person.

10.2 Review of License Usage. On Tripwire's written request, Customer will furnish to Tripwire: (a) a certification signed by an officer indicating whether the Software is being used in accordance with this Agreement; and (b) a copy of any usage reports generated from the Software, if applicable. If Customer usage exceeds the number licenses purchased, then Customer will promptly pay Tripwire for actual usage based on Tripwire's then-current list price. With prior written notice, Tripwire may engage an independent auditor to review Customer's Software usage and related records during Customer's

normal business hours to confirm compliance with this Agreement (a "Review"). Customer will provide the auditor with access to the relevant records and facilities for the Review. Tripwire will treat all information disclosed during the Review as confidential information and will only use or disclose such information as required by law or to enforce its rights under this Agreement.

10.3 Third Party Code. The Software contains or is accompanied by certain third party software components ("Third-Party Code") identified at www.tripwire.com/terms ("Third-Party Notices"). The Third Party Notices may include important licensing and liability disclaimers from the Third-Party Code licensors. Customer's use of Third-Party Code in conjunction with the Software in accordance with this Agreement is permitted under all such Third-Party Notices. Customer acknowledges that Sections 6.1 and 7.1 of this Agreement do not apply to the Third-Party Code.

10.4 Governing Law; Venue. This Agreement shall be governed by and construed under the laws of the State of Oregon, USA, excluding choice of laws rules. Any action or proceeding arising from or relating to this Agreement, must be brought in a federal court in the District of Oregon or in state court in Multnomah County, Oregon, and each party irrevocably submits to the jurisdiction and venue of any such court in any such action or proceeding. This Section 10.4 shall not restrict Tripwire's right to bring an action against Customer in the jurisdiction where Customer's place of business is located. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

10.5 Assignment. Any assignment or transfer of this Agreement by the Customer is prohibited without the prior written consent of Tripwire, and any attempted transfer or assignment without such consent shall be void and without force or effect. The terms of this Agreement shall be binding on permitted successors in interest and assigns.

10.6 Force Majeure. Neither party shall be liable for default or delay in performing its obligations due to causes beyond its reasonable control, as long as such causes continue and the party continues to use commercially reasonable efforts to resume performance. If any such default or delay extends for more than 60 days, the other party shall have the right, without obligation or liability, to cancel any Order or portion thereof affected by such default or delay.

10.7 Severability; Modification; Notice; Waiver. If a court of competent jurisdiction finds any provision of this Agreement invalid or unenforceable, that provision will be enforced to the maximum extent permissible and the other provisions of this Agreement will remain in full force and effect. This Agreement may only be modified in writing by authorized representatives of the parties. All notices required or authorized under this Agreement must be in writing and shall be sent, as applicable, to the other party's legal department at the address set forth above, or to such other notice address as the parties specify in writing. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse.

Part Number: TW1135-06

TRIPWIRE CONTACT

This is the website for Tripwire, Inc. Our postal address is:

Tripwire Headquarters

308 SW Second Ave, Ste. 400

Portland, OR 97204

We can be reached via e-mail at webmaster@tripwire.com or you can reach us by telephone at 503.276.7500