



**APPLIANCE DIFFERING TERMS FOR THE  
DEEP DISCOVERY FAMILY OF APPLIANCES**  
(herein these “Appliance Differing Terms”)

**1. Introduction; Controlling Terms and Conditions.** If Company is procuring a Product from Trend Micro under the Trend Micro Business Software and Appliance Agreement, effective 1 May 2017 (the “Agreement”) that is a Deep Discovery Appliance (as defined below), the Parties agree that such Appliance is provided under the Agreement and these Appliance Differing Terms which are ancillary to, incorporated into, and form a part of the Agreement with respect to such Appliance and together the referenced documents will solely govern and control the license/sale/use/deployment/maintenance/support of such Appliance and the included Integrated Software. In each instance in which the terms and provisions of these Appliance Differing Terms are different than, conflicting or inconsistent with, or additional to, any of the terms and conditions set forth in the Agreement, all such different, conflicting, inconsistent, or additional terms and conditions set forth herein shall modify, amend, and supersede the relevant term or condition set forth in the Agreement with respect to the Appliance, the Integrated Software, and/or Microsoft Components, without the need for specific reference thereto. Unless otherwise noted, section, schedule, attachment or exhibit references in these Appliance Differing Terms shall reference the respective section, schedule, attachment or exhibit of these Appliance Differing Terms. **The terms and provisions of the Agreement, as modified, amended, and/or superseded by these Appliance Differing Terms, shall be the complete statement of the agreement of the Parties with respect to any license, sale, use, or any other right in or to such Appliance (or any component thereof) referenced herein that is made available to Company by Trend Micro for Paid Use or Test Use and any additional, conflicting, or different terms or conditions proposed by Company in any Company-issued document (such as an Order), are hereby rejected by Trend Micro and excluded herefrom by agreement of the Parties.**

**2. Agreed Definitions.** The following additional Agreed Definitions shall apply to the Appliances including the Integrated Software. Any capitalized term used in these Appliance Differing Terms that is not otherwise defined herein shall have the Agreed Definition set forth in the Agreement.

“**Custom Sandbox**” means a secured code execution environment of the Appliance that may be optionally created by Company to meet its specific/unique system/environmental requirements. Each Custom Sandbox requires various Microsoft Components that must be licensed, purchased, installed, and configured by Company (and NOT Trend Micro) for Paid Use in order for Custom Sandboxing to be created, deployed, and utilized by Company in its environment – in other words, Trend Micro does NOT sell the Appliance with Microsoft Components. Each Appliance has a fixed number of Custom Sandboxes that may be created by Company as may be advised by Trend Micro.

“**Deep Discovery Appliance**” or “**Appliance**” as used herein these Appliance Differing Terms, only means Trend Micro’s Deep Discovery family of single-purpose, single-tenant, hardware-based appliances and any additional, renamed, or successor hardware-based appliances that are based on and include a version the Integrated Software. Each Appliance is composed of Hardware, Device Software, Integrated Software, and at the Company’s option, Microsoft Components. When acquired by the Company for any use other than Test Use, the Hardware portion of the Appliance is sold; the Device Software portion is licensed by the Hardware manufacturer; the Integrated Software portion is licensed in accordance herewith by Trend Micro; and the Microsoft Components must be licensed and purchased by Company from Microsoft and/or its resellers based on the needs and uses contemplated by Company.

“**Dell**” means Dell Marketing L.P., or an affiliate.

“**Device Code**” means any operating system, microcode, firmware, utilities and routines, and other sets of object code instructions that are installed on and bundled with the Hardware by Dell. Device Code forms a necessary part of such Hardware and provides, among other things, the necessary instructions for how the Hardware operates and communicates with other Computers. Device Code does not form part of Integrated Software and is not licensed hereunder by Trend Micro to Company.

“**Hardware**” means the Dell-manufactured device (unless another manufacturer of similar capabilities has been notified to Company) that forms a part of the Appliance.

“**Integrated Software**” means the object code version (only) of the Trend Micro-published Deep Discovery applications software (and applicable Documentation) that is provided with the Hardware to form the Appliance being provided hereunder when acquired by Company. The Integrated Software is subject to the terms and conditions of the Agreement and these Appliance Differing Terms. The term Integrated Software also includes when purchased as part of paid Maintenance: (a) Updates to the Integrated Software; and (2) access to the Trend Micro Smart Protection Network service that may optionally be used by Company in accordance with the Documentation. Trend Micro does not license in any circumstance, and Integrated Software does not include, any Microsoft Components that may be installed on the Appliance by Company to create Custom Sandboxing or any other third party software that may be licensed to Company that may be installed/deployed (in accordance with the Documentation) on Custom Sandboxes to enhance the capabilities of the Appliance. The license granted in these Appliance Differing Terms to Integrated Software does not grant Company the right to, and Company agrees that Company will NOT (or permit third parties to): (i) make/create a copy of the Integrated Software for any reason, including, without limitation, for backup or failover purposes when the Appliance is inoperative/unavailable; (ii) install, deploy, or use the Integrated Software on any device other than the original Appliance provided by Trend; or (iii) used for any other purpose other than as permitted in the Documentation. Integrated Software is never licensed in any event or circumstance for a Perpetual Period and is always subject to termination on the occurrence of a License Termination Event or in any other event set forth in the Agreement. **Except as amended, modified, and/or superseded in these Appliance Differing Terms, Integrated Software shall be included in the definition of, and treated as, Software for all purposes of the Agreement.**

“**License Termination Event**” means the occurrence of an event or circumstance by which the license for Integrated Software granted to Company under the Agreement will terminate immediately and without notice, it being understood and agreed that such License Termination Event shall be the earliest to occur of the following: (1) the Integrated Software (and/or any Trend Micro-provided Microsoft Component in the case of a Test) is uninstalled from the Appliance; (2) the Appliance, Integrated Software, or Microsoft Component (in the case of any Trend Micro-provided Microsoft Component in connection with a Test) is used for any purpose other than as permitted in the Documentation or the Agreement; (3) any additional/different software is installed on an Appliance other than as specifically permitted by the Documentation with respect to Custom Sandboxing; (4) the Hardware is retired, removed from service, or Repurposed; (5) the Hardware portion of the Appliance is repaired, modified, or the internal works are otherwise accessed by Company without permission of Trend Micro or Dell; (6) the Test Period expires if applicable; or (7) either Party provides notice of termination of a Test to the other Party for any reason or no reason. License Termination Events in these Appliance

Differing Terms are in addition to the rights of the Parties to terminate under Section 7 of the Agreement.

**“Microsoft Components”** means various virtualized versions of Microsoft Windows and of Microsoft Office that must be installed and configured on the Appliance in order for Custom Sandboxing to be created, deployed, and utilized by the Appliance on the election of Company.

**“Non-Production Environment”** means Company’s use of an Appliance and Integrated Software exclusively in a laboratory, test, or research environment (and not in Company’s production environment/systems) that does not access or use live production data at any time or for any reason. Notwithstanding the foregoing, at the written request of Company, Trend Micro may grant Company the right to use a COPY of live production data to conduct the Test in a Non-Production Environment only on the condition that Company first agrees (in a separate written agreement with Trend Micro) that all copies of the live production data so used will be irretrievably destroyed by Company after the Testing is complete and will in no event or circumstance be incorporated by any person back into the live production data or production environment/systems of, or otherwise used in any remediation efforts by, Company.

**“Paid Use”** means any access, deployment, or use of an Appliance/Integrated Software by Company that: (1) has been purchased by Company pursuant to the Agreement; and/or (2) Company in any way or manner deploys and/or uses Appliance/Integrated Software other than in a Non-Production Environment.

**“Repurpose”** means for purposes of these Appliance Differing Terms: (1) Company configuring, deploying, and/or using the Hardware in any manner or for any purpose not described and expressly permitted in the Documentation for the Integrated Software/Appliance or the Agreement; or (2) by Company installing additional/different software to the Appliance that is not in accordance with and specifically permitted by the Documentation with respect to Custom Sandboxing.

**“Test Period”** shall have the meaning set forth in Section 3.1 below.

**“Test Use”** or a **“Test”** means the gratuitous right granted to Company on the terms and subject to the conditions hereof, to conduct an evaluation, proof-of-concept, trial, or test of an Appliance, its Integrated Software, and Custom Sandboxing for a Test Period as defined in Section 7.1 of the Agreement.

**3. Test License; Test Use.** For the avoidance of doubt, Integrated Software accessed by Company for a Test is Test Software under Section 7.1 of the Agreement.

**3.1 Test Use – Appliance.** In instances that the Agreement authorizes Company to Test an Appliance, Trend Micro will supply the Appliance without charge to Company for the duration of the Test Period unless earlier terminated by a Termination Event. The Parties agree that the Appliance may ONLY be deployed and used by Company on its premises and by its employees at the location that the Appliance is shipped to by Trend Micro for the purpose of Company performing a Test for no more than thirty (30) days (unless Company is allowed a longer time by Trend Micro in writing) after shipment of the Appliance to Company (the **“Test Period”**).

**3.2 Test Use – Integrated Software.** If Company is permitted to receive a Test of an Appliance, Trend Micro grants Company for such Test Use, a no charge, a non-exclusive, non-transferable, non-assignable, non-sublicensable, revocable Test Use license (only) to the Integrated Software that may ONLY be installed and used on the Hardware forming a part of the Appliance shipped to Company by or on behalf of Trend Micro. Sections 2.1 and 2.2 of the Agreement are merged into and superseded by this Section 3.2 with respect to Integrated Software used in connection with a Test.

**3.3 Test Use – Microsoft Components.** If Company is provided any Microsoft Components that are pre-installed or otherwise made available to Company by a third party such as a Trend Micro Reseller (or a Microsoft reseller) in connection with Custom Sandboxing on the Appliance that is the subject matter of a Test Use, Company understands and agrees that: (1) any such Microsoft software is NOT part of the Integrated Software licensed by Trend Micro hereunder; (2) is NOT licensed or made available to Company by Trend Micro; and (3) Trend Micro shall have no responsibility or liability in connection therewith. Notwithstanding the foregoing, if Company is nevertheless provided an Appliance by Trend Micro for Test Use with MSDN-licensed versions (developer versions that are for use ONLY in a Non-Production Environment) of Microsoft Components installed by Trend Micro that are necessary to permit Company to confirm that the Custom Sandboxes created by Trend Micro (based on Company’s expectations/needs made known to Trend Micro) satisfy Company expectations/needs. On the occurrence of the foregoing, Company agrees that: (a) Company’s possession and use thereof is subject to the Agreement even though it is not Integrated Software or licensed by Trend Micro; and (b) Company’s use and possession of the Integrated Software and any use of Microsoft Components supplied by Trend Micro will terminate immediately and without notice on termination or expiration of the Test even if Company subsequently purchases an Appliance for Paid Use.

**3.4 Test Use – Hardware Loan.** Trend Micro retains all right, title, and interest in and to the Hardware forming part of any Appliance provided hereunder for Test Use. If requested by Trend Micro, the Company will affix any label or marking to the Appliance so requested and will not remove, deface, or obscure any such label or marking. This is a gratuitous loan of the Hardware and is not an asset transfer. Company agrees that it will not (and will not attempt to) sell, transfer, convey, assign, loan, lease, pledge, or in any way encumber (or permit third parties to encumber) an Appliance or its Hardware and, further, the Parties agree that any attempt to do any of the foregoing shall be void. Except as may be specifically agreed in a subsequent writing by Trend Micro, Company agrees it will not, and will not permit third parties to: repair, modify, or otherwise attempt to access the internal works of any Hardware supplied hereunder, it being understood that any such action will be the sole right of Trend Micro or its designee.

**3.5 Hardware Usage.** With respect to the Test of an Appliance, Company shall at all times keep the Appliance and any power cords, sockets or accessories (the **“Accessories”**) supplied by Trend Micro with the Appliance and, further, Company agrees to protect the Appliance and Accessories from loss or physical damage. Company shall promptly notify Trend Micro of any loss or physical damage to the Appliance and/or Accessories and Company agrees to pay Trend Micro for any damage to the Appliance and/or Accessories while in Company’s custody unless such damage resulted from actions of Trend Micro, its employees, or agents.

**3.6 Warranty/Representation Disclaimer.** TREND MICRO MAKES NO PROMISES, REPRESENTATIONS, GUARANTEES, OR WARRANTIES, EITHER EXPRESS, STATUTORY OR OTHERWISE RELATING TO THE APPLIANCE, INTEGRATED SOFTWARE, DOCUMENTATION OR CONFIDENTIAL INFORMATION UNDER THE AGREEMENT, ALL OF WHICH IS PROVIDED TO COMPANY HEREUNDER **“AS IS, WITH ALL FAULTS.”** FURTHER, TREND MICRO SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO: THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. TREND MICRO DOES NOT WARRANT THAT THE APPLIANCE OR INTEGRATED SOFTWARE WILL MEET COMPANY’S NEEDS/REQUIREMENTS OR OTHERWISE OPERATE WITHOUT ERROR OR INTERRUPTION. COMPANY SHALL HAVE THE SOLE RESPONSIBILITY FOR ADEQUATE PROTECTION AND BACKUP OF ANY DATA, SYSTEMS, AND/OR EQUIPMENT USED WITH THE APPLIANCE OR INTEGRATED SOFTWARE TO CONDUCT ANY TEST.

WHERE LEGAL LIABILITY CANNOT BE EXCLUDED BY THE FOREGOING DISCLAIMER, BUT MAY BE LIMITED, TREND MICRO'S LIABILITY AND THAT OF ITS SUPPLIERS AND RESELLERS ARISING FROM OR IN CONNECTION WITH THE TEST OF THE APPLIANCE AND ITS INTEGRATED SOFTWARE, SHALL BE LIMITED IN THE AGGREGATE FOR ALL CLAIMS AND CAUSES OF ACTION, TO THE SUM OF FIVE HUNDRED DOLLARS (USD\$500.00) OR THE EQUIVALENT IN LOCAL CURRENCY.

**3.7 Test Use License - Termination.** Company's possession and use of the Appliance and/or the Integrated Software and the Agreement will terminate immediately and without notice on the occurrence of a Termination Event as to the Appliance that is the subject matter thereof.

**3.7.1 Integrated Software and Other Software – Test Use.** On termination of any Test, Company covenants and agrees that it will immediately uninstall and irretrievably destroy (without retention of any copies thereof of any kind) the Integrated Software and Microsoft Components, if any. Company agrees that it will provide to Trend Micro, if requested, an unqualified certification of irretrievable destruction of the Integrated Software and Microsoft Components, if any, in accordance with the Agreement. For the avoidance of doubt, the foregoing obligation of destruction of the Integrated Software and Microsoft Components on the occurrence of a Termination Event shall apply even if Company decides to purchase the Appliance used for Test Use.

**3.7.2 Hardware Return.** Unless Company elects to purchase the unit of the Appliance that has been the subject of Test Use hereunder on termination of such Test Use, Company shall return the Appliance and Accessories, in good condition (less normal wear and tear), including any Documentation supplied by Trend Micro to the address indicated by Trend Micro within ten (10) calendar days of the Termination Event. Except as otherwise agreed by Trend Micro, all freight/insurance/risk of loss for returning the Appliance, Accessories and Documentation shall be for the account of Trend Micro.

**3.7.3 Purchase of Unit of Appliance Tested.** Company understands and agrees that if, after the completion of a Test or otherwise, the Company decides to acquire/purchase for Paid Use the unit of Appliance that is being used for a Test Use by Company, Company agrees that it will uninstall the Integrated Software and all Microsoft Components and enter into the Agreement anew by issuance of its Order with respect to such Paid Use before the Integrated Software can be reinstalled in the Appliance. After acceptance of Company's Order by Trend Micro by issuance of a License Certificate, Microsoft Components may only be installed on the Appliance by Company after it has separately licensed and purchased the appropriate Microsoft Components from Microsoft and/or its resellers since Trend Micro has no ability or right to sell/license/provide any Microsoft Components to Company (or any other person) in connection with a Paid Use of an Appliance.

**3.8 Acknowledgement.** The Appliance and/or Integrated Software or any component thereof is subject to change and modification, including, without limitation, changes and modifications with respect to performance, functionality and appearance at any time at the sole discretion of Trend Micro.

**3.9 Registration and Information Collection.** As a condition to the use and receipt of the Appliance and/or Integrated Software for Test, Company may be required to register with Trend Micro and provide Trend Micro with limited administrative and network data, including, but not limited to, name, address and/or company name as well identity/contact information of Company's systems administrators/technical staff. Company consents to having such limited personal data stored outside the country and/or in jurisdictions where privacy laws may not be as stringent as those in the location that the Appliance is deployed in accordance herewith.

**3.10 Benchmarking.** Company may use the Appliance for comparison with or benchmarking against similar third party products or services being evaluated by Company; *provided, however*, as a condition of Trend Micro granting the foregoing permission, Company agrees that it will not publish, provide, or otherwise make available the results of any comparison/benchmarking or any analysis thereof to any third party without the written permission of Trend Micro which may be withheld at the sole discretion of Trend Micro.

**4. Paid Use License Appliance and Integrated Software.** This Section 4 of these Appliance Differing Terms is applicable to any Paid Use of an Appliance.

**4.1 For Integrated Software.** Sections 2.1 and 2.2 of the Agreement are merged into and superseded by this Section 4 with respect to Integrated Software licensed for Paid Use. On the terms and subject to Company's continuous compliance with the conditions set forth in the Agreement and on the condition precedent of Company making payment as directed in Section 1.3 of the Agreement, Trend Micro grants to Company (solely for the internal business operations and purposes of Company or any of its Affiliates as permitted in Section 2.5 of the Agreement) only until the occurrence of a Termination Event (unless earlier terminated in accordance with Section 7 of the Agreement), and Company accepts, a non-exclusive, non-transferable, non-assignable/non-assumable (by operation of law or otherwise), and revocable (only as permitted in and in accordance with the Agreement) right and license: (1) to activate, execute, deploy, and use (only in accordance with the Documentation) the object code version of the Integrated Software and Updates thereto purchased by Company solely on the unit of Appliance originally shipped to Company by or through Trend Micro or its Reseller; and (2) only if provided as part of paid Maintenance, to (at Company's option) enable, access, and/or utilize only as described in the Documentation, the Smart Protection Network portion of such Integrated Software if SPN is a feature of such Integrated Software. Company understands that Maintenance of the Integrated Software is separate from any maintenance, support, and warranty of the Hardware unless otherwise stated in the License Certificate. For clarity, Maintenance of the Integrated Software is included in the price of the Appliance for the first year, but renewal Maintenance must be purchased by Company each year thereafter in order to continue to receive such Maintenance unless Company has purchased a Subscription Period license to such Integrated Software as evidenced on the License Certificate for a period of two (2) years or less, in which event Maintenance is included for the duration of the Subscription Period. Company acknowledges that the Integrated Software is never licensed for a Perpetual Period.

**4.2 Documentation.** Company is granted a license to reproduce a commercially reasonable number of copies of the Documentation and training materials (if any) for Integrated Software and the Appliance for use only while Company has a valid license to the Integrated Software under these Appliance Differing Terms and the Agreement, provided that all such copies contain the same copyright and proprietary rights notices which appear on the original material provided to Company by Trend Micro and no modifications, deletions, additions or supplements are made to or included with such Documentation and/or training materials except and to the extent as may be authorized in writing by Trend Micro.

**4.3 Custom Sandboxing.** Company understands and agrees that while the Integrated Software/Deep Discovery Appliance gives Company the option to create Custom Sandboxes that meet Company's specific system requirements, the Integrated Software when shipped to Company as part of the Appliance does NOT include ANY licensed Microsoft Components that are licensed to Company by Trend Micro under the Agreement; *provided, however*, if the Appliance is delivered to Company by any third party (such as a Reseller) with any Microsoft Components installed, then Company understands and agrees that such components are NOT licensed hereunder or otherwise provided to Company by or on behalf

of Trend Micro and are not part of the Integrated Software. While Trend Micro may provide information (including the number and types/versions/editions of Microsoft Components necessary to create the Custom Sandboxes) and instructions to Company in the Documentation regarding the creation and configuration of Custom Sandboxes in Company's Appliance, Company acknowledges and agrees that it is solely Company's responsibility to purchase and compliantly license (based on such things as Company's intended use and deployment) all Microsoft Components necessary for Company's creation/deployment of Custom Sandboxing. **Further to the foregoing, Company agrees that no Trend Micro employee (such as a sales engineer or sales executive) is trained or authorized to provide Company with any information or guidance on any of Microsoft's licensing/policies/rules/requirements for Microsoft Components and, Company further agrees that, Company will not rely on any information on Microsoft Components that may nevertheless be gratuitously provided to Company by any such individual.** Except for the Integrated Software licensed under the Agreement, Company covenants that Company will separately obtain and maintain all rights and licenses necessary for each third party software component (whether Microsoft Components or products of another software publisher) Company installs or accesses in connection with its creation of Custom Sandboxing.

**4.4 Additional License Rights/Limitations.** The license granted in this Section 4 does not grant Company the right to, and Company agrees that Company will not: (1) remove, add, or substitute any third party software from or to the Appliance except and only to the extent permitted in the Documentation with respect to the creation of Custom Sandboxing; (2) separately sell, lease, rent, license, sublicense or otherwise transfer in whole or in part, the Integrated Software or related Documentation to any third party; (3) notwithstanding anything contained in the Agreement to the contrary, make/create a copy of the Integrated Software for backup or failover purposes for use when the Deep Discovery Appliance is inoperative/unavailable; or (4) use Integrated Software to provide services of any kind to a third party. The Parties agree that except as set forth in this Section 4, it is agreed that the rights, restrictions, and limitations set forth in the Agreement (other than Sections 2.1 and 2.2 of the Agreement) with respect to Software also apply to the Integrated Software.

**4.5 Paid Use License Warranty – Integrated Software.** For Paid Use licenses of Integrated Software, Trend Micro warrants only to Company that for one (1) year following Company's first use of a registration key or activation code (whichever comes first) for the Integrated Software ONLY, the Integrated Software will materially conform with the applicable Documentation, as Updated from time to time, including "ReadMe" files and release notes that may be made available therewith. The Parties expressly acknowledge that Company's exclusive remedy for non-conformance with the foregoing warranty and Trend Micro's sole liability with respect thereto, is set forth in Section 11.1 of the Agreement.

**4.5 Maintenance of Integrated Software.** When licensed by Company for a Paid Use in accordance herewith, Maintenance of Integrated Software is provided by Trend Micro in accordance with Section 4.1 above and Section 5 of the Agreement.

## **5. Additional Hardware Specific Terms.**

**5.1 No Trend Micro Hardware Warranty.** Notwithstanding anything to the contrary in the Agreement, since the Hardware is manufactured and warranted by Dell and Trend Micro is only acting as a OEM reseller thereof, Trend Micro makes no representation, warranty, or guarantee of any kind or nature with respect to Hardware (or its Device Code), INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR OR SPECIFIC PURPOSE, TITLE, OR NON-INFRINGEMENT, EACH OF WHICH IS SPECIFICALLY DISCLAIMED BY TREND MICRO. IN ADDITION, THE PARTIES AGREE THAT SECTION 13 OF THE AGREEMENT (INTELLECTUAL PROPERTY INDEMNITY) DOES NOT APPLY TO HARDWARE (OR ITS DEVICE CODE).

**5.2 Dell Warranty; On-Site Support.** At no additional cost to Company with respect to an Appliance acquired for Paid Use (but not for Test Use) other than instances that the Appliance and Hardware provided to Company is subject to loan, lease, or rental agreement as specifically set forth in a License Certificate, all Hardware forming a part of each unit of such Appliance purchased by Company hereunder is provided with the following Dell services/programs: (1) Dell's Limited Hardware Warranty (which is available at <http://www.dell.com/learn/us/en/uscorp1/terms-of-sale-commercial-and-public-sector-warranties> or from Trend Micro) for a period of thirty-six (36) months from date the Appliance is shipped to Company by Trend Micro; and (2) Dell's on-site (four hour response in the limited geographical areas designed by Dell and such longer period of time in other areas as specified by Dell) support contract (which is available at <http://www.dell.com/learn/us/en/uscorp1/legal-service-descriptions-en/documents-dell-prosupport-us.pdf> or from Trend Micro) for a period of thirty-six (36) months from date the Appliance is shipped to Company by Trend Micro. Company understands that Dell may modify terms applicable to the foregoing services/programs from time-to-time. After the expiration of the thirty-six (36) month period set forth above, extended warranty or on-site support agreements for such Hardware may be available from Trend Micro or directly from Dell. **If Company is purchasing the Hardware from Trend Micro in United States of America or Canada, Company agrees to initially contact Trend Micro (and NOT Dell) with respect to any Hardware support/warranty service requests as well as Software Maintenance requirements related to Company's Appliance at 866-787-8677. In other regions of the Territory, please contact Trend Micro support for local assistance.** For the avoidance of doubt, if the Hardware forming a part of any Appliance provided to Company hereunder is subject to loan, lease, or rental agreement as specifically set forth in the applicable License Certificate, then Trend Micro will have the responsibility to procure and provide all warranty, maintenance, and support services from Dell with respect to the Hardware.

**5.3 New Versions.** For the avoidance of future confusion, the Parties agree that the term New Versions that may be made available as part of paid Maintenance then-in-effect at the time of release ONLY refers to such that are made available with respect to Integrated Software and DOES NOT refer to a new or improved version or model of the Appliance or Hardware component.

**5.4 Repurpose of the Hardware – Paid Use.** Notwithstanding anything to the contrary in these Appliance Differing Terms, since Company is the owner of the Hardware purchased for Paid Use, Company may determine to Repurpose the Hardware component of any unit of Appliance purchased by Company at any time by giving Trend Micro written notice of Company's intention to undertake such action. In the event the Hardware is Repurposed by or on behalf of Company, such action is a License Termination Event with respect to the Integrated Software and the license therefor will immediately terminate without notice and or credit of amounts paid with respect thereto. The Parties agree that if any Hardware is Repurposed, Integrated Software may in no event or circumstance be reinstalled in the original Hardware or transferred to any other device.

**5.5 Paid Use Title; Hardware Ownership; Assignment.** Title and risk of loss for the Hardware component of an Appliance that is sold to Company for Paid Use is transferred to Company at Trend Micro's (or its manufacturer's or systems integrator's) dock when loaded onto the first carrier for shipment to Company. For the avoidance of doubt, transfer of title to the Hardware also includes the transfer of Dell's then-current Limited Hardware Warranty and on-site support contract referenced in Section 5.2 above for such Hardware, and if such be necessary, Trend Micro hereby assigns contemporaneously with the transfer of title to the Hardware to Company, and Company hereby accepts such assignment on an ongoing basis of, the referenced Limited Hardware Warranty and on-site support contracts.