

**Trend Micro Security Appliance Agreement
(SMB/Enterprise September 2012 – Multi-country)**

**READ CAREFULLY BEFORE YOU PROCEED – USE OF THE PRODUCT IS SUBJECT TO
THESE LEGAL TERMS**

THIS SECURITY APPLIANCE INCLUDES AND REQUIRES SOFTWARE THAT MUST BE UPDATED ROUTINELY FOR THE APPLIANCE TO OPERATE EFFECTIVELY AND MAY INCLUDE SERVICES THAT OPERATE BY FORWARDING CERTAIN INFORMATION FROM THE APPLIANCE TO TREND MICRO SERVERS FOR SCANNING. TREND MICRO INCORPORATED OR A LICENSED AFFILIATE (“TREND MICRO”) OFFERS TO LICENSE YOU THE TREND MICRO APPLIANCE SOFTWARE (“SOFTWARE”) AND DOCUMENTATION ONLY IF YOU AGREE TO ALL TERMS AND CONDITIONS OF THIS LICENSE AGREEMENT (“AGREEMENT”). YOU SHALL BE DEEMED TO ACCEPT THIS AGREEMENT BY CONNECTING THE APPLIANCE TO A POWER SOURCE. IF YOU ARE ACQUIRING THE APPLIANCE ON BEHALF OF A COMPANY OR OTHER ORGANIZATION, YOU REPRESENT THAT YOU ARE DULY AUTHORIZED TO REPRESENT SUCH ORGANIZATION AND YOU ACCEPT THE TERMS AND CONDITIONS OF THIS AGREEMENT ON BEHALF OF SUCH ORGANIZATION.

IF YOU DO NOT WISH TO ACCEPT THIS AGREEMENT, DO NOT CONNECT OR USE THE APPLIANCE, AND IF YOU HAVE PAID ANY FEES BEFORE RECEIVING NOTICE OF THIS AGREEMENT, CONTACT YOUR SUPPLIER (TREND MICRO OR AN AUTHORIZED RESELLER) WITHIN THIRTY (30) DAYS OF YOUR PURCHASE FOR A REFUND AGAINST RETURN OF THE APPLIANCE. THIS OFFER APPLIES ONLY IF YOU ARE THE ORIGINAL END USER PURCHASER.

- 1. LICENSE GRANT.** The Appliance includes product software and other functionality that allows You to enable certain security services. *For Appliance Software:* Subject to Your purchase of the Appliance and Your acceptance of this Agreement, Trend Micro grants to You a perpetual, non-transferable, non-sublicensable and non-exclusive right to use the Appliance Software on and with the Appliance Hardware for access and use by no more than the maximum number of Users for which license fees are paid (defined below). “Appliance Software” means all Trend Micro or third party firmware or software contained in or accompanying the Appliance (including software that enables any Service). *For Services* (such as Trend Micro Reputation Services and Uniform Resource Locator (URL) checking as and if applicable): Subject to Your purchase of the Appliance and Your acceptance of this Agreement, Trend Micro grants You the right to enable the Services for use on and with the Appliance (i) for access and use by no more than the maximum number of Users for which license fees are paid and (ii) for one (1) year from the date the Appliance was shipped to You or You receive the product registration key(s) or activation code(s), whichever is earlier. “Service” means Appliance functionality that is performed by making outside queries to dedicated Trend Micro servers which employ proprietary data bases, rules and/or heuristics and other technology to identify and screen malicious or potentially unwanted content. “User” means You, if You are an individual. If You are a Company, “Users” means employees and independent consultants who perform work for You. License fees must be paid for each User who uses, or has access to, a computer (including a shared computer) which is connected directly or indirectly to the network on which the Appliance is installed.
- 2. MAINTENANCE/RENEWAL.** Unless Trend Micro has agreed to another term in writing, You are entitled to use the Service(s) and to receive Minor Software Updates, Content Security Updates and local web-based technical support from Trend Micro or an authorized reseller in the country where You purchased the Appliance (collectively “Maintenance”) for one (1) year from the date the Appliance was shipped to You or You receive the product registration key(s) or activation code(s), whichever is earlier. To retain these rights after one (1) year, You may purchase renewal Maintenance from Trend Micro (or an authorized reseller) for up to two (2) additional one year terms, at the end of which time you may be required to replace the Appliance Hardware (for an additional fee) in order to renew Maintenance for any additional one year terms. Trend Micro reserves the right, from time to time, to change the terms and conditions applicable to Maintenance, including fees, upon thirty (30)

days email notice, and to charge additional fees for technical support outside the country where You purchased the Appliance. "Minor Software Updates" are updates to the Software's scan engine and subsequent versions of the Appliance Software that contain bug fixes and minor enhancements, and are typically designated by a change in the version number to the right of the decimal point. "Content Security Updates" or "Updates" are new versions of the Appliance's content security component(s) known as pattern files or definitions. Content Security Updates and updates to the Appliance Software's scan engine must be routinely downloaded from Trend Micro's Website to ensure the effective operation of the Appliance. Nothing in this Agreement will prevent Trend Micro from offering any modified version of the Appliance or Appliance Software as a new product for additional consideration. Trend Micro is only obligated to provide technical support for each version of the Appliance Software for eighteen (18) months after its release and for the Appliance Hardware for three (3) years from the date of purchase.

3. **PRODUCT REGISTRATION.** By accepting this Agreement, You agree to register Your use of the Appliance as a condition of Your use of the Appliance Software and Services, and Your right to Maintenance. Failure to register does not diminish Your warranty rights. Note, however, that Trend Micro cannot provide access to Maintenance without customer registration.
4. **PRODUCT USE.** This Appliance is designed for use with a limited number of Users. Use of the Appliance with more than the licensed number of Users may affect its performance and will void the limited warranty set forth below in Section 11.
5. **TREND MICRO'S SERVICE OBLIGATIONS.** Trend Micro agrees to: (a) provide security as reasonably necessary to protect query traffic while performing the Service; (b) maintain sufficient computing and network capacity to meet traffic volume; and (c) provide online access to the Service in principle twenty-four (24) hours per day, seven (7) days per week, three hundred sixty-five (365) days per year ("24/7"), with 99.0 % availability subject to the following conditions: Scheduled downtime for ongoing maintenance may occur from time to time with at least 24 hours advance email notification. In this event, Service may be temporarily unavailable for up to two hours per occurrence, not to exceed one occurrence per month. Unscheduled downtime for urgent maintenance may occur from time to time without notice. In this event, Service may be temporarily unavailable for up to two hours per occurrence, not to exceed one occurrence per month.
6. **SERVICE ACKNOWLEDGEMENTS.** In performing the Services, the Appliance forwards information required to perform the Service (such as an IP address and the content to be scanned) (collectively "Forwarded Data") and makes applicable queries to designated Trend Micro servers which employ proprietary data bases, rules and/or heuristics and other technology to identify and screen malicious or potentially unwanted content.

As a condition of using the Service and by accepting this Agreement You represent and warrant that: (i) You are legally permitted and authorized to access, and to provide Trend Micro with access to, the Forwarded Data and agree to provide Trend Micro with evidence of such authorization upon request; (ii) You authorize Trend Micro to act as Your data processing agent and at Your discretion when performing the Services; (iii) You undertake to inform the source of the Forwarded Data, to the extent required by local law, of the scope and purpose of the Service, which may entail the transfer of Forwarded Data to servers outside Your jurisdiction (including outside the European Union); (iv) You agree that You are responsible for deciding if and how You use the Services; and (v) You represent that You will otherwise use the Services only in a legal manner. To the extent applicable to You, You agree Trend Micro and You to be bound by the « standard contractual clauses for the transfer of personal data to processors established in third countries », issued by the European Commission in a decision dated February 5, 2010 and available at http://www.cnil.fr/fileadmin/documents/Vos_responsabilites/Transferts/CCT-2010-Ss_Traitants_VE.pdf, which is incorporated hereto by reference and You agree to the transfer of Forwarded Data to servers of Trend Micro and its suppliers outside Your jurisdiction (including outside the European Union). Information relating to data processing and technical and organizational processes are described in the relevant accompanying Documentation. In the event of any breach of the representations and warranties in Section 6, Trend Micro may with prior notice and without prejudice to its other rights, suspend the performance of the Service until You can show to Trend Micro's satisfaction that any such breach has been cured. For additional details on Forwarded Data, see Section 7 of this Agreement.

- 7. INFORMATION COLLECTION.** In addition to product registration information, Trend Micro may collect and store certain information from Your network and equipment (IP and/or MAC address, geo-location, device ID or name, and comparable system identification information) and other general statistical information to enable Trend Micro to provide the basic functionality of the Service (such as content synchronization, status relating to installation and operation of the Service, device tracking and service improvements, etc.), to provide Maintenance and related support services, to provide the most effective threat protection and features to detect or prevent the latest malicious behavior and potentially fraudulent websites and other Internet security risks, and/or for the continuous improvement of our databases and heuristics. While the Service is not designed or intended to collect personally identifiable information (PII), there may be instances or circumstances whereby the incidental transmission of information including partial or whole PII elements is unavoidable due to the operation of malicious or defective third party code or websites. For example, the Service may collect information on potential security risks and URLs associated with websites, executable files or content identified as potential malware vectors. Some of these malicious or defective URLs, files or content may capture sensitive data. To the extent Trend Micro is exposed to any such data through the analysis of such potentially dangerous websites, files, or content, any PII imbedded therein shall be deemed confidential information and shall be maintained in accordance with Trend Micro's Privacy Policy which can be found at <http://www.trendmicro.com/us/about-us/legal-policies/privacy-statement/index.html>. You agree that Trend Micro and its suppliers may (i) use such uploaded data from the Service to improve its products and services; (ii) share data that has been identified as malicious or unwanted content with affiliates and security partners; and (iii) use and disclose uploaded data for analysis or reporting purposes. Trend Micro reserves the title, ownership and all rights and interest to any intellectual property or work product resulting from its use and analysis of such information.
- 8. SOFTWARE AND SERVICE FACTS; CAUTIONS AND ACKNOWLEDGEMENT.** Trend Micro Content Security Updates and Service databases, heuristics and pattern files and definitions are designed to identify, block and/or remove applications, messages and files that, in Trend Micro's judgment, may compromise productivity or the performance and security of company and organization computers and networks. While Trend Micro uses reasonable efforts to develop and maintain its Services and Content Security Updates, You acknowledge and accept that Trend Micro cannot guarantee that such Services, databases, heuristics and pattern files or definitions are complete or that they will properly detect or only detect messages and files that are malicious or unwanted by You and Your email users. You acknowledge and accept the risk that the Services may cause welcome as well as unwelcome email or URLs or other web content to be screened and blocked and that rejected email may not be recoverable. To prevent the blocking or detection of wanted programs, files or URLs, You must properly configure product settings in accordance with the applicable documentation.
- 9. OWNERSHIP.** The Appliance is protected by copyright, trade secret, United States patent laws and international treaty provisions. You shall not acquire any rights to the Appliance Software except as expressly set forth in this Agreement. To the extent legally permissible, You agree that You will not sublicense, rent, lease, loan, auction, deal in, modify, create derivative works of, adapt, merge, translate, reverse engineer, de-compile, or disassemble the Appliance Software, in whole or in part, use the Appliance or Appliance Software to provide services to third parties, or authorize others to do any of the foregoing. All rights reserved.
- 10. CONFIDENTIALITY.** You acknowledge that the Appliance Software and the Appliance serial number, registration key or activation code constitute valuable trade secrets and confidential information of Trend Micro ("Confidential Information"). You agree not to make available or disclose this Confidential Information to any third party, except (if You represent a Company) to employees or independent consultants on the conditions that they agree to use the Confidential Information only in connection with the services supplied by Trend Micro under this Agreement and that they agree not to disclose the Confidential Information to any third party at any time.
- 11. LIMITED WARRANTY.** Trend Micro warrants that for a period of one (1) year from the original date of purchase (a) the hardware portion of the Appliance ("Hardware") will be free from defects in materials and workmanship under normal, authorized use, consistent with the instructions contained in the enclosed documentation ("Hardware Warranty"); (b) the Appliance Software will perform in

substantial accordance with the enclosed documentation, including updates thereto, “ReadMe” files and release notes available online (“Software Warranty”); and (c) that it will carry out the Service in a professional manner with reasonable skill and care in substantial accordance with the applicable specifications. Trend Micro does not warrant the accuracy of technical details or the suitability of the Service for a particular purpose unless so provided in the applicable specifications. Specifications provided in the applicable documentation or any other documentation shall not be construed to contain any guarantees, express or implicit.

- 12. CUSTOMER REMEDIES.** If the Hardware does not conform to the Limited Warranty in Section 11 above, Trend Micro’s entire liability and Your sole remedy shall be, at Trend Micro’s option, for Trend Micro to (a) to replace the Hardware in whole or in part with new or reconditioned Hardware; or (ii) to fix the reported defect provided that You notify Trend Micro of Your claim under the Limited Warranty within the one year warranty period. If the Appliance Software or Services do not conform to the Limited Warranty in Section 11 above, Trend Micro’s entire liability and Your sole remedy shall be, at Trend Micro’s option, for Trend Micro to (a) to use commercially reasonable efforts to correct the error; (b) help You work around or avoid the error; or (c) to re-perform the Services; provided that You notify Trend Micro of Your claim under the Limited Warranty within the one year warranty period.
- 13. WARRANTY RESTRICTIONS.** The above Hardware and Appliance Software Warranties shall be void (i) if the Hardware defect or Appliance Software nonconformity has resulted from service, maintenance or repair work performed by any party other than Trend Micro or an authorized service representative; (ii) if the Appliance label/serial number has been altered or obscured; (iii) if the defect or nonconformity is attributable to any extrinsic cause, accidental damage, improper use, modification, adaptation, neglect, wear and tear, improper installation, improper connection with any peripheral, thermal or electrical stress or external electrical fault. Trend Micro’s warranty obligations do not include installation support. Any replacement Hardware or Appliance Software will be warranted for the remainder of its original Limited Warranty period or fourteen (14) days whichever is greater.
- 14. USE RESTRICTIONS.** The Appliance is not designed nor intended for use in (i) the design, construction, operation or maintenance of any nuclear facility, (ii) navigational or operating aircraft; or (iii) operating life-support or life critical medical equipment, and Trend Micro disclaims any license right as well as any express or implied warranty of fitness for such uses.
- 15. NO OTHER WARRANTIES OR REMEDIES.** TREND MICRO DOES NOT WARRANT THAT THE SOFTWARE OR HARDWARE IS ERROR FREE AND MAKES NO WARRANTIES WHATSOEVER EXCEPT FOR THE EXPRESS LIMITED WARRANTY IN SECTION 11. THE EXPRESS TERMS OF THIS AGREEMENT ARE IN LIEU OF ALL WARRANTIES (EXPRESS OR IMPLIED), CONDITIONS, UNDERTAKINGS, TERMS AND OBLIGATIONS IMPLIED BY STATUTE, COMMON LAW, TRADE USAGE, COURSE OF DEALING OR OTHERWISE. INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT OF THIRD PARTY RIGHTS, ALL OF WHICH ARE HEREBY EXPRESSLY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW. ANY IMPLIED WARRANTIES RELATING TO THE SOFTWARE WHICH CANNOT BE DISCLAIMED SHALL BE LIMITED TO 30 DAYS FROM THE DATE YOU ACQUIRE THE SOFTWARE.
- 16. NO LIABILITY FOR CONSEQUENTIAL DAMAGES.** (a) TREND MICRO DOES NOT SEEK TO LIMIT OR EXCLUDE ITS LIABILITY IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE; (b) SUBJECT TO SECTION 16(a) AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL TREND MICRO BE LIABLE TO YOU FOR ANY LOSSES WHICH WERE NOT REASONABLY FORSEEABLE AT THE TIME OF ENTERING INTO THIS AGREEMENT OR FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL OR INDIRECT DAMAGES OF ANY KIND OR FOR CORRUPTED DATA, LOST PROFITS OR SAVINGS OR LOSS OF BUSINESS, ARISING OUT OF OR IN RELATION TO THIS AGREEMENT OR THE SERVICES HEREUNDER, EVEN IF TREND MICRO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (c)

SUBJECT TO SECTIONS 16(a) AND 16(b), IN NO CIRCUMSTANCES SHALL TREND MICRO'S MAXIMUM LIABILITY TO YOU ARISING FROM OR RELATING TO THIS AGREEMENT EXCEED THE FEE THAT YOU PAID FOR THE APPLIANCE.

17. TERMINATION. This Agreement is effective until terminated. You may terminate it at any time by notifying Trend Micro in writing. In addition to any other remedy available under this Agreement, at law or in equity, Trend Micro may terminate this Agreement if You commit a material breach or if You fail to cure any other breach within ten (10) days after receipt of a request to cure. Sections 8 – 14 and 15 – 20, 22 and 24 shall survive any termination of this Agreement.

18. LICENSOR/GOVERNING LAW.

North America: If You are located in the United States or Canada, the Licensor is: Trend Micro Incorporated, 10101 N. De Anza Blvd., Cupertino, CA 95014. Fax: (408) 257-2003 and this Agreement is governed by the laws of the State of California, USA.

Latin America: If You are located in Spanish Latin America (other than in any countries embargoed by the U.S.), the Licensor is: Trend Micro Latinoamérica, S. A. de C. V., Insurgentes Sur No. 813, Piso 11, Col. Nápoles, 03810 México, D. F. Tel: 3067-6000 and this Agreement is governed by the laws of Mexico. If You are located in Brazil, the Licensor is Trend Micro do Brasil, LTDA, Rua Joaquim Floriano, 1.120 – 2º andar, CEP 04534-004, São Paulo/Capital, Brazil and this Agreement is governed by the laws of Brazil.

Europe, Middle East and Africa: If You are located in the United Kingdom, this Agreement is governed by the laws of England and Wales. If You are located in Austria, Germany or Switzerland, this Agreement is governed by the laws of the Federal Republic of Germany. If You are located in France, this Agreement is governed by the laws of France. If You are located in Italy, this Agreement is governed by the laws of Italy. If You are located in Europe, the licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373.

If You are located in Africa or the Middle East (other than in those countries embargoed by the U.S.), or Europe (other than Austria, France, Germany, Italy, Switzerland or the U.K.), the Licensor is: Trend Micro EMEA Limited, a company incorporated in Ireland under number 364963 and having its registered office at IDA Business and Technology Park, Model Farm Road, Cork, Ireland. Fax: +353-21 730 7 ext. 373 and this Agreement is governed by the laws of the Republic of Ireland.

Asia Pacific (other than Japan or any countries embargoed by the U.S.): If You are located in Australia or New Zealand, the Licensor is: Trend Micro Australia Pty Limited, Suite 302, Level 3, 2-4 Lyon Park Road, North Ryde, New South Wales, 2113, Australia, Fax: +612 9887 2511 and this Agreement is governed by the laws of New South Wales, Australia.

If You are located in the People's Republic of China, the licensor is Trend Micro (China) Inc., 8th Floor, Century Ba-shi Building, No. 398 Huai Hai Zhong Road, Shanghai, China 20020, and this Agreement is governed by the laws of the People's Republic of China laws, and You agree that any dispute related to this Agreement must be submitted to the Beijing Arbitration Commission, Tel: 86-21-63848899. If You are located in Hong Kong, India, Indonesia, Malaysia, the Philippines, Singapore or Thailand, the Licensor is: Trend Taiwan Incorporated, 8F, No.198, Tun-Hwa S. Road, Sec. 2, Taipei 106, Taiwan, Republic of China. If You are located in Hong Kong, this Agreement is governed by the laws of Hong Kong. If You are located in India, this Agreement is governed by the laws of India. If You are located in Indonesia, Malaysia, the Philippines, Singapore, or Thailand, this Agreement is governed by the laws of Singapore. If You are located in Taiwan, this Agreement is governed by the laws of Taiwan.

Japan: If You are located in Japan, the licensor is Trend Micro Incorporated, Shinjuku MAYNDS Tower, 1-1 Yoyogi 2-Chome, Shibuya-ku, Tokyo 151-0053, Japan and this agreement is governed by laws of Japan.

The United Nations Convention on Contracts for the International Sale of Goods and the conflict of laws provisions of Your state or country of residence do not apply to this Agreement under the laws of any country.

- 19. ASSIGNABILITY.** You may not sell, transfer, or assign this Agreement without the prior written consent of Trend Micro. Any act in derogation of the foregoing shall be null and void, and You will remain obligated under this Agreement. This Agreement shall benefit and be binding upon the parties to this Agreement and their respective permitted successors and assigns. Any other purported assignment by You shall be null and void. Trend Micro may assign this Agreement and any rights hereunder, and delegate any obligations hereunder to qualified third parties or Trend Micro affiliates and/or subsidiaries, provided that no delegation of obligations shall relieve Trend Micro of its obligations under this Agreement.
- 20. BACK-UP.** For as long as You use the Appliance, You will regularly back-up Your computer system(s) on a separate media. You acknowledge that any failure to do so may significantly decrease Your ability to mitigate any harm or damage arising from any problem or error in the Appliance.
- 21. AUDIT.** Upon reasonable notice and during regular business hours, Trend Micro shall have the right to audit Your use of the Appliance. If the audit reveals unlicensed Users, You shall, within thirty (30) days of notice, pay to Trend Micro the then-current license fees and/or Maintenance fees for all such unlicensed Users. If the fees payable for such unlicensed use exceed five percent (5%) of fees actually paid for the audited time period, You shall reimburse Trend Micro for its costs and expenses incurred in the audit.
- 22. EXPORT CONTROL.** You shall not export nor re-export the Appliance or any confidential information related thereto without the appropriate United States and foreign government licenses, and You are responsible for any violation of such export control laws. By accepting this Agreement, You confirm that You are not a resident or citizen of any country currently embargoed by the U.S and that You are not otherwise prohibited under the export laws from receiving the Appliance. A list of embargoed countries is available at the official Website of the Office of Foreign Assets Control of the U.S. Department of the Treasury at <http://www.treas.gov/ofac/>.
- 23. WEEE DIRECTIVE.** Trend Micro complies with the WEEE regulations. For information on the disposal of electronic waste, visit <http://uk.trendmicro-europe.com/recycle>.
- 24. GENERAL.** This is the entire agreement between You and Trend Micro and it supersedes any prior agreement or understanding, whether written or oral, relating to the subject matter of this Agreement. If a court or other competent tribunal in any jurisdiction finds any provision of this Agreement invalid, such invalidity shall not affect the remaining provisions of the Agreement, which shall remain in full force and effect.

THE APPLIANCE IS PROTECTED BY TRADE SECRET RIGHTS, COPYRIGHTS AND UNITED STATES PATENT LAWS, AND INTERNATIONAL TREATY PROVISIONS. UNAUTHORIZED REPRODUCTION OR DISTRIBUTION IS SUBJECT TO CIVIL AND CRIMINAL PENALTIES.
