

# SOPHOS APPLIANCE LICENSE AGREEMENT

PLEASE READ THE TERMS AND CONDITIONS OF THIS APPLIANCE LICENSE AGREEMENT CAREFULLY BEFORE USING THE APPLIANCE. THIS IS A LEGALLY BINDING AGREEMENT BETWEEN YOU AND SOPHOS. BY CHOOSING THE "I ACCEPT..." OPTION OR OTHERWISE USING THE SOFTWARE OR APPLIANCE, YOU ACKNOWLEDGE THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE TERMS OF THIS APPLIANCE LICENSE AGREEMENT. IF YOU DO NOT AGREE WITH THE TERMS OF THIS APPLIANCE LICENSE AGREEMENT, SELECT THE "NO, I DO NOT ACCEPT..." OPTION AND DO NOT ACTIVATE THE APPLIANCE AND DO NOT USE THE SOFTWARE OR THE APPLIANCE; AND, PROMPTLY RETURN THE APPLIANCE AND THE ACCOMPANYING ITEMS (INCLUDING ANY WRITTEN MATERIALS AND PACKAGING) TO YOUR SUPPLIER TOGETHER WITH PROOF OF PURCHASE FOR A FULL REFUND. IF YOU DO NOT AGREE WITH ANY OF THE TERMS OR CONDITIONS OF THIS APPLIANCE LICENSE AGREEMENT, YOU ARE NOT AUTHORISED TO USE THE APPLIANCE FOR ANY PURPOSE WHATSOEVER.

ALSO, BY INSTALLING OR OTHERWISE USING UPDATES OR UPGRADES FROM SOPHOS YOU AGREE TO BE BOUND BY ANY ADDITIONAL LICENSE TERMS THAT ACCOMPANY SUCH UPDATES OR UPGRADES. IF YOU DO NOT AGREE TO THE ADDITIONAL LICENSE TERMS THAT ACCOMPANY SUCH UPGRADES, YOU MAY NOT INSTALL OR USE SUCH UPDATES OR UPGRADES. A PRINTABLE VERSION OF THIS AGREEMENT IS AVAILABLE ON THE SOPHOS WEBSITE WHICH YOU MAY WISH TO PRINT FOR YOUR RECORDS.

## 1. DEFINITIONS

**'Appliance'** means the Sophos product described in the Schedule, which consists of the Hardware together with the Licensed Product(s) and included third party software.

**'Appliance License Agreement'** means this Sophos Appliance license agreement and the Schedule.

**'Documentation'** means any documentation provided to You by Sophos (whether electronic or printed) which accompanies the Appliance and/or the Licensed Products.

**'Expiry Date'** means such date as may be set out in the Schedule.

**'Fee'** or **'Fees'** means, collectively, the Hardware Fee, Licensed Products Fee and Support Fee (if any).

**'FRU'** means any field replaceable units made available to You by Sophos, if applicable, comprising : (1) disk drives in carriers, and (2) power supply modules.

**'Hardware'** means the Sophos Appliance hardware itself, together with any related components (including but not limited to FRU, ship kits and rack mount kits).

**'Hardware Fee'** means the sums payable by You in consideration of the transfer to You of title to the Hardware in accordance with the terms and conditions set forth herein.

**'License Term'** means the license term set out in Clause 3.2 of this Appliance License Agreement.

**'Licensed Products'** means all or each (as the context so allows) of those programs which are listed on the Schedule, or if no such programs are listed on the Schedule all programs which are installed on the Hardware, together with the Documentation and any of the Upgrades and Updates to which you are entitled in accordance with Clause 3.

**‘Licensed Products Fee’** means the sums payable by You in consideration of the grant to You of the right to use the Licensed Products for the License Term in accordance with the terms and conditions set forth herein.

**‘Maintenance’** means collectively Upgrades and/or Updates and standard technical support (or enhanced support service levels if available and if You have paid the applicable Support Fee).

**‘Maintenance Term’** means the Maintenance term set out in Clause 4 of this Appliance License Agreement.

**‘RMA’** means return material authorisation, in relation to the Appliance and/or Hardware, as more fully described in Clause 5.3.

**‘Schedule’** means the information provided to You by Sophos from time to time, which sets out certain details in relation to Your use of the Licensed Products, including without limitation Your username and password, and which forms part of this Appliance License Agreement.

**‘Software’** means any computer program or data file supplied to You by Sophos or its resellers, distributors or dealers, including any Upgrades and Updates supplied to You.

**‘Sophos’** means Sophos Plc.

**‘Start Date’** means such date as may be set out in the Schedule.

**‘Support Fee’** means the sums payable by You, if You have elected to purchase optional enhanced support services, in consideration of the provision by Sophos of such enhanced service levels, if available.

**‘Update’** means an update made available to You by Sophos to: the library of spam identification rules where one of the Licensed Products is an anti-spam product; the library of virus identities where one of the Licensed Products is an anti-virus product; and/or other included software filters, including but not limited to updates to any IP address reputation libraries or URL classification libraries, if applicable.

**‘Upgrade’** means any enhancement or improvement to the functionality of the Licensed Product (excluding Updates) made available to You by Sophos at its sole discretion from time to time but excluding any software and/or updates marketed and licensed by Sophos as a new version or new release of the Licensed Product.

**‘User’** means an employee, consultant or other individual who benefits from the Licensed Product licensed to You and ‘Users’ shall be construed accordingly.

**‘User Licenses’** means the maximum number of Users as specified in the Schedule who are permitted to benefit from the Licensed Products.

**‘You’** means the licensee and ‘Your’ means belonging to You or engaged by You or otherwise pertaining to You as the context so allows, whether on a temporary basis or otherwise.

**‘Your Internal Business Purpose’** has the definition set out in Clause 3.3.1.

## **2. COPYRIGHT AND OWNERSHIP**

2.1 Sophos retains title to the Hardware until such time as any evaluation period described in Clause 3.1 (if applicable) expires and You pay the Hardware Fee. Unless and until You have paid the Hardware Fee, You agree to keep the Hardware free and clear of all claims, liens, and encumbrances except those of Sophos, and any act by You, either voluntary or involuntary, purporting to create a claim, lien or encumbrance on the Appliance shall be void. Once You have paid the Hardware Fee, title to the Hardware shall pass to You. Risk of loss passes to You upon shipment of the Appliance to You. Insurance, if any, covering the Appliance shall be Your responsibility. You own only the Hardware on which the Software is installed. You do not own the Software itself. The Appliance, Software and the Documentation are proprietary products of Sophos and its licensors and are protected throughout the world by copyright and other intellectual property rights. No license, right or interest in Sophos’s logos, or trademarks is granted to You under this Appliance License Agreement and You hereby agree not to remove any product identification or notices

of proprietary restrictions. Further, You hereby acknowledge and agree that all Sophos rights, title and interest in the Software and in any modifications made by You to the Documentation, as provided for below, are retained by Sophos. Notwithstanding the foregoing, Sophos and any third party suppliers shall retain any and all intellectual property rights in the Hardware.

2.2 You acknowledge that the Appliance is sold hereunder solely as the medium for delivery and operation of the Licensed Products and, unless otherwise agreed by the parties in writing, Sophos at its option may provide Hardware that is either new or refurbished.

### **3. RIGHTS AND RESTRICTIONS**

3.1 **Evaluation.** You may use the Appliance without payment of a fee for evaluation purposes only, in a test environment, for a maximum of 30 days or such other duration as may be specified by an authorised Sophos representative, at Sophos's sole discretion. You may use the Software for evaluation purposes only upon provision of Your evaluation credentials during the activation of the Appliance. The Software is provided "AS IS" during such evaluation period and Clauses 3.3 and 5 of this Appliance License Agreement do not apply to such evaluation.

3.2 **License Term.** This Appliance License Agreement is effective from the moment of acceptance as described in the first paragraph of this Appliance License Agreement or from the Start Date, whichever date is earlier, and shall remain in force either until the Expiry Date specified in the Schedule (and if no such date is specified, this Appliance License Agreement shall continue in perpetuity although Your right to use the Licensed Products is dependent upon Your payment of the annual Licensed Products Fee) or until terminated as provided below, whichever is the sooner. If You want to renew Your license You should contact Sophos or Your reseller, distributor or dealer, as applicable. Your obligations under this Appliance License Agreement in respect of the intellectual property and confidential information of Sophos shall survive any expiry or termination of this Appliance License Agreement.

3.3 **Rights.** In consideration of the payment of the Licensed Products Fee by You, Sophos hereby grants to You a non-exclusive right to use the Licensed Products and receive Maintenance for the License Term subject to the terms and conditions contained within this Appliance License Agreement. You are permitted to:

3.3.1 use the Licensed Products for Your internal business purpose, relating specifically to the integrity of Your documents, emails and other data ("Your Internal Business Purpose"). The number of Users must not exceed the number of User Licenses. You are wholly responsible for the compliance by Users with this Appliance License Agreement;

3.3.2 use, copy, reproduce in whole or in part, adapt and modify the Documentation for Your Internal Business Purpose only; and/or

3.3.3 transfer the Appliance and Your rights under this Appliance License Agreement on a permanent basis to another entity, provided that You transfer the Appliance (complete with the Hardware) and Documentation and prior to such transfer: (i) You obtain Sophos's written consent to such transfer; (ii) You pass full contact details for the recipient to Sophos; and (iii) You procure that the recipient agrees to be bound by the terms of this Appliance License Agreement and notifies Sophos in writing of its agreement. Notwithstanding the foregoing, in accordance with Clause 10 of this Appliance License Agreement, You acknowledge and agree that if You choose to exercise Your rights under this Clause 3.3.3, You are solely responsible for compliance with any and all applicable export control and other regulatory requirements with respect to such transfer.

3.4 **Restrictions.** You are not permitted to:

3.4.1 use the Licensed Products for the provision of any service for the benefit of third parties unless You first acquire an application service provider license from Sophos;

3.4.2 modify or translate the Licensed Products except as set out in Clause 3.3.2;

3.4.3 reverse engineer, disassemble (including without limitation, removing the covering plates which bar access to the Hardware ports and/or accessing internal components of the Hardware) or decompile the Appliance or any portion thereof except to the extent and for the express purposes authorised by applicable law;

3.4.4 install and/or run on the Appliance any software applications other than the Licensed Products;

3.4.5 copy the Licensed Products for any purpose, including backup purposes. Such restriction shall not prevent You from backing up or archiving Your data;

3.4.6 transmit or provide access to the Appliance save as provided in this Appliance License Agreement;

3.4.7 use Software other than the Licensed Products;

3.4.8 sub-license, rent, sell, lease, distribute or otherwise transfer the Appliance, save as provided under this Appliance License Agreement, unless You obtain a separate license from Sophos for such purposes;

3.4.9 sub-license, rent, sell, lease, distribute or otherwise transfer the Appliance to any individual who is not acting in the course of business;

3.4.10 use the Appliance in or in association with safety critical applications such as, without limitation, medical systems, transport management systems, vehicle and power generation applications including but not limited to nuclear power applications; and/or

3.4.11 use the Appliance for the purposes of competing with Sophos, including without limitation competitive intelligence.

#### **4. MAINTENANCE**

4.1 This Appliance License Agreement entitles You to receive Maintenance for the License Term.

4.2 You acknowledge and agree that the Appliance and Sophos may directly and remotely communicate for the purposes of, without limitation, verifying Your credentials, issuing reports and alerts such as automated support requests and alert messages, and to provide Maintenance.

#### **5. LIMITED WARRANTY AND REMEDY**

5.1 In consideration of the payment of the Fee by You, Sophos warrants to You only that:

5.1.1 For a period of ninety (90) days from the date of purchase (the "Licensed Products Warranty Period"): (i) the Licensed Products will perform substantially in accordance with the Documentation provided that they are operated in accordance with the Documentation on the designated operating system(s); and (ii) the Documentation adequately describes the operation of the Licensed Products in all material respects; and

5.1.2 For a period of three (3) years from the date of purchase (the "Hardware Warranty Period") and provided always that You have a valid, fully paid up, unexpired license for a Licensed Product, Sophos warrants that the Hardware shall be free of defects in materials and workmanship under normal use and service and substantially conform to the Documentation.

5.2 If Sophos is notified in writing of a breach of the warranty for the Licensed Products described in Clause 5.1.1 or the warranty for the Hardware described in Clause 5.1.2 during the applicable Warranty Period, Sophos's entire liability and Your sole remedy shall be (at Sophos's option) to correct, repair or replace the Hardware, Licensed Products and/or Documentation, as applicable, within a reasonable time or provide or authorise a refund of the Fee following the return of the Appliance accompanied by proof of purchase. Any items provided as replacement under the terms of this warranty will be warranted for the remainder of the original Warranty Period.

5.3 If You have purchased an Appliance which includes an advance replacement warranty, upon discovery of any failure of the Hardware, or any component of the Hardware, to conform with the warranty described in Clause 5.1.2 during the Hardware Warranty Period, You are required to contact Sophos and seek an RMA number. Sophos will promptly issue the requested RMA as long as Sophos determines that this is a valid warranty claim in accordance with the terms of this Appliance License Agreement. Upon confirmation of Your eligibility for the warranty rights described herein and Sophos's provision to You of an RMA (which RMA may be provided, at Sophos's sole discretion, in response to Sophos's receipt of an automated notification from the Appliance), Sophos will ship You replacement Hardware ("Advance Replacement Hardware"). Such Advance Replacement Hardware may, at Sophos's sole discretion, be new or refurbished. Upon receipt of the replacement Hardware (and in any event within 15 days from the date the RMA was issued), You will return the allegedly defective Hardware or component part(s) of the Hardware to the return location indicated by Sophos, securely and properly packaged in the packaging provided with the Advance Replacement Hardware (if supplied), carriage (and insurance at Your option) prepaid with the RMA number prominently displayed on the exterior of the packaging.

5.4 If You have purchased an Appliance which does not include an advance replacement warranty, upon discovery of any failure of the Hardware, or any component of the Hardware, to conform with the warranty described in Clause 5.1.2 during the Hardware Warranty Period, You are required to return the Appliance to the return location indicated by Sophos securely and properly packaged, carriage (and insurance at Your option) prepaid. Upon receipt of a valid warranty claim in accordance with Clause 5.2 and receipt of the Appliance at the return location indicated by Sophos, Sophos will ship You a replacement Appliance. Such replacement Appliance may, at Sophos's sole discretion, be new or refurbished and may be the returned Appliance repaired by or on behalf of Sophos.

5.5 Title to the allegedly defective Hardware or component part shall pass to Sophos upon receipt by You of the Advance Replacement Hardware, if applicable, or on shipment by You of the Appliance to the return location indicated by Sophos, whichever is the sooner. Should the Hardware or component part(s) of the Hardware returned by You: (i) be deemed not to be defective or 'no fault found' (NFF); or (ii) should a returned Appliance be missing any Hardware, Sophos will invoice You and You agree to pay the cost of the Hardware or component part of the Hardware, as applicable. If You fail to return allegedly defective Hardware or any component part(s) of the Hardware to the return location indicated by Sophos within the referenced time limit, You will be responsible for the cost of returning such item to the return location and Sophos will be entitled to enter Your premises to repossess such item(s) at Your sole cost. SOPHOS SHALL NOT BE RESPONSIBLE FOR MAINTAINING OR PROTECTING ANY CONFIGURATION SETTINGS OR DATA FOUND ON THE RETURNED APPLIANCE OR COMPONENT PART OF THE APPLIANCE. Title to the Advanced Replacement Hardware or any replacement Hardware provided to You in accordance with Clauses 5.3 and 5.4 respectively shall pass to You on shipping or payment of the Hardware Fee, whichever is the later. Risk of loss in relation to the Advanced Replacement Hardware or any replacement Hardware provided to You in accordance with Clauses 5.3 and 5.4 respectively passes to You upon shipment of such Appliance to You. You shall be responsible for any insurance for the replacement Hardware.

5.6 The warranties contained in this Appliance License Agreement do not apply to repair or replacement caused or necessitated by: (i) accident; unusual physical, electrical or electromagnetic stress; neglect; misuse; fluctuations in electrical power beyond those set out in the specifications; failure of air conditioning or humidity control; improper maintenance, or any other misuse, abuse or mishandling; (ii) force majeure including without limitation natural disasters such as fire, flood, wind,

earthquake, lightning or similar disaster; (iii) governmental actions or inactions; (iv) strikes or work stoppages; (v) Your failure to follow applicable use or operations instructions or manuals; (vi) Your failure to implement, or to allow Sophos or its agents to implement, any corrections or modifications to the Appliance made available to You by Sophos; or (vii) such other events outside Sophos's reasonable control.

5.7 THE ABOVE WARRANTIES ARE NULL AND VOID IF ANY WARRANTY STICKERS ARE TAMPERED WITH OR ARE MISSING, IF THE COVERING PLATES WHICH BAR ACCESS TO THE HARDWARE PORTS ARE REMOVED, OR, EXCLUDING THE REPLACEMENT OF FRU, IF THE APPLIANCE WAS REPAIRED OR ALTERED BY PERSONNEL OTHER THAN THOSE AUTHORISED BY SOPHOS.

## **6. DISCLAIMER OF WARRANTIES**

6.1 EXCEPT FOR THE EXPRESS WARRANTIES CONTAINED IN CLAUSE 5 ABOVE, SOPHOS MAKES NO WARRANTIES, CONDITIONS, UNDERTAKINGS OR REPRESENTATIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE IN RELATION TO THE APPLIANCE INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE. SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU AND YOU MAY HAVE OTHER LEGAL RIGHTS THAT VARY FROM STATE TO STATE OR BY JURISDICTION.

6.2 WITHOUT LIMITATION TO THE FOREGOING, SOPHOS DOES NOT WARRANT THAT THE APPLIANCE WILL MEET YOUR REQUIREMENTS OR THAT THE OPERATION OF THE APPLIANCE WILL BE ERROR FREE OR UNINTERRUPTED OR THAT DEFECTS IN THE APPLIANCE (OTHER THAN HARDWARE DEFECTS WITHIN THE WARRANTY PERIOD) WILL BE CORRECTED. SOPHOS DOES NOT WARRANT THAT THE LICENSED PRODUCTS WILL DETECT AND/OR CORRECTLY IDENTIFY AND/OR DISINFECT ALL THREATS, MALICIOUS PROGRAMS OR OTHER HARMFUL COMPONENTS.

## **7. LIMITATION OF LIABILITY**

7.1 YOU USE THE APPLIANCE AT YOUR OWN RISK. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW OR AS OTHERWISE SET OUT IN THIS APPLIANCE LICENSE AGREEMENT, IN NO EVENT SHALL SOPHOS OR ANY OF ITS THIRD PARTY LICENSORS AND SUPPLIERS OR THE CONTRIBUTORS OF INCLUDED SOFTWARE BE LIABLE TO YOU FOR OR TO THOSE CLAIMING THROUGH YOU FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR SPECIAL DAMAGE OR LOSS OF ANY KIND INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF CONTRACTS, BUSINESS INTERRUPTIONS, LOSS OR DAMAGE ARISING FROM THE TRANSMISSION OF DATA, LOSS OF OR CORRUPTION OF DATA HOWEVER CAUSED AND WHETHER ARISING UNDER CONTRACT OR TORT, INCLUDING NEGLIGENCE, EVEN IF SOPHOS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7.2 IF ANY LIMITATION, EXCLUSION, DISCLAIMER OR OTHER PROVISION CONTAINED IN THIS APPLIANCE LICENSE AGREEMENT IS HELD TO BE INVALID FOR ANY REASON BY A COURT OF COMPETENT JURISDICTION AND SOPHOS BECOMES LIABLE THEREBY FOR LOSS OR DAMAGE THAT MAY LAWFULLY BE LIMITED, SUCH LIABILITY WHETHER IN CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE LOWER OF THE FEE PAID BY YOU AND SOPHOS'S LIST PRICE FOR THE APPLIANCE.

## **8. OPTIONAL DATA SHARING**

8.1 If You do not choose to enable: (i) sharing of data with Sophos in order to improve threat protection; or (ii) remote assistance, this Clause 8 does not apply to You.

8.2 If You choose to enable sharing of such supplementary data with Sophos or remote assistance (in the relevant settings of the Appliance), You have agreed to implement optional functions which allow the Appliance to provide Sophos with various data. While Sophos does not intend that such data shall include proprietary, confidential or user-identifiable data, by enabling this option You acknowledge that it may be possible for such data to include proprietary, confidential or user-identifiable data and You represent to Sophos that You have obtained all necessary permissions to share such data with Sophos.

## **9. U.S. GOVERNMENT RESTRICTED RIGHTS**

If You are an agency or other part of the U.S. Government, the Appliance contains commercial computer software and commercial computer software documentation and their use, duplication and disclosure are subject to the terms of this Appliance License Agreement per FAR 12.212 or DFARS 227.7202-3 (as amended).

## **10. EXPORT CONTROL AND OTHER REGULATORY REQUIREMENTS**

The Appliance is classified as an encryption item under the United States Export Administration Regulations ("EAR"). Export of the Appliance is controlled by the United States EAR and may also be controlled by other national regulations. You hereby agree that You will use, disclose and/or transport the Appliance in accordance with any applicable export control laws and other regulatory requirements and that You are solely responsible for fulfilling any such applicable requirements, including without limitation those that relate to the EC Directive on Waste Electrical and Electronic Equipment (2002/93/EC) ("WEEE") and The Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment Regulations (2002/95/EC) ("RoHS") (as amended), in connection with any use, disclosure, transfer, transport and/or disposal by You of the Appliance. You agree to indemnify and hold Sophos harmless from and against any claim, loss, liability or damage suffered or incurred by Sophos resulting from or related to Your violation of this Clause.

## **11. TERMINATION**

This Appliance License Agreement and Your rights under it will terminate immediately if: (i) You fail to pay the Fee (or any applicable part of it) in accordance with the agreed payment terms; or (ii) You fail to comply with any of the terms and conditions of this Appliance License Agreement; or (iii) if You take or suffer any action on account of debt or are insolvent. All fees paid or payable are non-refundable. In the event that You fail to pay the Fee as set out in subsection (i) above, You are required to return the Appliance to the return location indicated by Sophos, securely and properly packaged, with carriage (and insurance at Your option) prepaid. If You fail to promptly return the Appliance to the location indicated by Sophos, Sophos will be entitled to enter Your premises to repossess such Appliance. Notwithstanding any provision of this Clause 11, Your right to use, and Your access to, the Licensed Products will automatically terminate on expiry of the License Term unless and until You renew Your license for the Licensed Products.

## **12. CONFIDENTIALITY**

12.1 The Appliance may include confidential information that is secret and valuable to Sophos. You are not entitled to use or disclose that confidential information other than strictly in accordance with the terms of this Appliance License Agreement.

Sophos reserves the right to disclose details of the Appliance License Agreement to third parties for publicity and promotional purposes and:-

12.1.1 You expressly give Sophos permission to include and publish Your name and logo on lists of Sophos's customers; and

12.1.2 You agree that Sophos may send emails to You to provide information and goods and services to You and to let You know about other goods and services in which You may be interested.

12.2 If You do not wish to give Sophos permission under Clause 12.1.1 and/or 12.1.2, You must notify Sophos by the date no later than seven days after the Start Date specifying which permission is not granted.

12.3 The Appliance may provide Sophos with information from time to time regarding Your use of the Appliance. It is intended that any such information provided to Sophos by the Appliance be non-user-identifiable data. However, if You select the Optional Data Sharing as set out in Clause 8 above, the Appliance will provide Sophos with various data or communications, which may contain user-identifiable data, for use by Sophos for its business purposes.

### **13. GENERAL**

13.1 Any reseller, distributor or dealer from whom You may have purchased the Product is not appointed or authorised by Sophos as its servant or agent. No such person has any authority, either express or implied, to enter into any contract or provide You with any representation, warranty or guarantee with or to You or to translate or modify this Appliance License Agreement in any way on behalf of Sophos or otherwise to bind Sophos in any way whatsoever.

13.2 You agree that Sophos may use any technical information, including without limitation information provided under the terms of the Optional Data Sharing in Clause 8, provided by You for its business purposes, including without limitation for product support and development.

13.3 You agree to pay the Fee in full in accordance with an invoice from Sophos, or an authorised reseller, distributor, or dealer, if applicable. Unless otherwise stated, the Fee is exclusive of any federal, state, municipal or other governmental taxes, duties, licenses, fees, excises or tariffs. You agree to pay such taxes or, in lieu thereof, to provide an exemption certificate acceptable to Sophos and the applicable authority. Invoices may provide for interest to be paid on any sums not remitted by the due date.

13.4 You shall permit Sophos or an independent certified accountant appointed by Sophos access on written notice to Your premises and Your books of account and records at any time during normal business hours for the purpose of inspecting, auditing, verifying or monitoring the manner and performance of Your obligations under this Appliance License Agreement including without limitation the payment of all applicable license fees. Sophos shall not be able to exercise this right more than once in each calendar year. If an audit reveals that You have underpaid Fees to Sophos, You shall be invoiced for and shall pay to Sophos within 30 days of the date of invoice an amount equal to the shortfall between the Fees due and those paid by You. If the amount of the underpayment exceeds 5% of the Fees due or the audit reveals a violation of any license restrictions pursuant to this Appliance License Agreement then, without prejudice to Sophos's other rights and remedies, You shall also pay Sophos's reasonable costs of conducting the audit.

13.5 Sophos may at its sole discretion subcontract any of its rights or obligations hereunder to any of its subsidiaries, resellers, distributors or dealers, as applicable.

13.6 Sophos may amend the terms and conditions of this Appliance License Agreement at any time by reasonable notice, including without limitation by posting revised terms on its website at the URL [www.sophos.com/legal](http://www.sophos.com/legal), which amended terms and conditions shall be binding upon You.

13.7 Failure by Sophos to enforce any particular term of this Appliance License

Agreement shall not be construed as a waiver of any of its rights under it.

13.8 The illegality, invalidity or unenforceability of any part of this Appliance License Agreement will not affect the legality, validity or enforceability of the remainder.

13.9 If You and Sophos have signed a separate written license agreement covering the use of the Appliance, the terms of such signed license agreement shall take precedence over any conflicting terms of this Appliance License Agreement. Otherwise this Appliance License Agreement and the Schedule constitute the entire agreement between the parties in relation to the Appliance and its licensing and supersedes any other oral or written communications, agreements or representations with respect to the Appliance, save for any oral or written communications, agreements or representations made fraudulently.

13.10 The construction, validity and performance of this Appliance License Agreement shall be governed by and submitted to the laws of England and Wales and the non-exclusive jurisdiction of the courts of England and Wales.

Notwithstanding the foregoing, Sophos shall have the right to seek injunctive, or similar, relief in any courts of competent jurisdiction. If there are any inconsistencies between the English language version of this Appliance License Agreement and any translated version, then the English language version shall prevail. **Any notices required to be given in writing to Sophos or any questions concerning this Appliance License Agreement should be addressed to The Company Secretary, Sophos Plc, The Pentagon, Abingdon Science Park, Abingdon, OX14 3YP, United Kingdom.**