END-USER LICENSE AGREEMENT
HackerGuardian Acquirer PCI Control Center

THIS AGREEMENT CONTAINS A BINDING ARBITRATION CLAUSE. PLEASE READ THIS AGREEMENT CAREFULLY BEFORE ACCEPTING ITS TERMS AND CONDITIONS.

IMPORTANT – PLEASE READ THESE TERMS CAREFULLY BEFORE USING THE SERVICES. BY USING THE SERVICES, OR BY CLICKING ON "I ACCEPT" BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, YOU UNDERSTAND IT, YOU AGREE TO BE BOUND BY ITS TERMS, AND YOU ARE AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF SUBSCRIBER. IF YOU DO NOT AGREE TO THE TERMS HEREIN, DO NOT SUBSCRIBE TO OR USE THE SERVICES, OR CLICK ON "I ACCEPT".

This end-user license agreement (this "Agreement") is a legal contract between the legal entity you represent ("Subscriber") and Comodo CA Ltd., with its principal place of business at 3rd Floor, 26 Office Village, Exchange Quay, Trafford Road, Salford, Manchester, M5 3EQ, United Kingdom ("Comodo").

In exchange for Subscriber's use of the Services, Subscriber agrees as follows:

1. License.

1.1. Grant of License. Subject to the terms herein, Comodo grants Subscriber a limited, non-exclusive, non-transferable, and revocable license to use Comodo's HackerGuardian Acquirer PCI Control Center, including any accompanying documentation and files, (collectively the "Services") to support Subscriber's business operations for the term that Subscriber has paid for. Comodo shall host the Services and Subscriber may access and use the Services over the Internet using Subscriber's account login name and password. Subscriber shall access the Services only by connecting remotely over the Internet to Comodo's servers and shall not attempt to recreate, install, or develop the Services. Subscriber shall not resell, lease, sell, modify, reverse engineer, decompile, or create derivative works of the Services, and shall not attempt to unlock or by-pass any access prevention device in the Services or have anyone else do so. All rights not expressly granted herein are reserved to Comodo.

1.2. Restrictions. The licenses granted herein are only valid if:

(i)   the Services are NOT modified by Subscriber in any manner,

(ii)   the Services are used in accordance with Subscriber's network security policies,

(iii)   Subscriber possesses the necessary authority and power to use the Services,

(iv)   Subscriber promptly pays all license fees when due, and

(v)   this Agreement is accepted without modification and has not been breached.

1.3. Account. Comodo shall create an account that Subscriber may use to manage Subscriber's customer's PCI compliancy. Access to the account is Confidential Information, and Subscriber shall not allow any third party to access the account. Subscriber shall be responsible for any license ordered through the account, regardless of whether the order was approved or authorized by it. Subscriber shall keep all account login credentials confidential. Subscriber must notify Comodo immediately of any unauthorized use of its account.

1.4. Limited License. The licenses granted herein are only for the account for which Subscriber paid for the Services.

1.5. Updates. Comodo is not obligated to provide updates to the Services. If an update is provided and the update is not accompanied by an additional agreement, this Agreement applies to Subscriber's use of the update.

1.6. Trial, Free, Evaluation, and Beta License. If this Agreement pertains to a trial, free, beta, or evaluation version, the licenses granted herein terminate at the end of the trial or evaluation period or

when Comodo disables access to the Services. For a trial version of the Services if no term is agreed or specifically set forth in the documentation that Subscriber receives with this Services, then the term for the licenses granted herein shall be for the term that Subscriber purchased. Any Limited Guarantee which may be set forth herein is not offered with any Trial, Free, Evaluation or Beta Services. All trial, evaluation, and beta licenses are limited to one per customer. Generally, credit card information is required to access a free trial. However, Comodo shall not charge Subscriber's credit card until the trial period has ended. At the end of the trial period, Comodo may bill the credit card for the Services without further notice. Participants in a free trial are not entitled to a 30 day refund period. Subscriber's termination of this Agreement prior to the end of the free trial is required to avoid fees for the Services. Annual subscriptions expire one year from the end of the trial period. Comodo may deny or revoke a free trial for any reason.

2. **Ownership.**

   2.1. <u>No Ownership Rights</u>. The Services are being licensed, not sold. Comodo retains all ownership rights in and to the Services, including any intellectual property rights therein.

   2.2. <u>Copyright</u>. The Services contain material that is protected by United States and foreign intellectual property laws, including copyright, trade secret, and patent law. All rights not granted herein are expressly reserved by Comodo. Subscriber may not remove any copyright or other proprietary notice of Comodo from the Services.

   2.3. <u>Content</u>. Content, including files, links, images, and text, made available or accessible through the Services is the sole responsibility of the person or entity from whom it originated and is the property of the applicable owner. This Agreement does not give any rights to such content. Comodo does not endorse any such content. Subscriber accepts all responsibility for security risks and any damage resulting from any content viewed or accessed through the Services, and Comodo is not responsible for any damage or loss caused by Subscriber's use or reliance on any of the content, goods or services, or information available through third party sources regardless of how presented.

   2.4. <u>Submissions</u>. Any communications sent to Comodo are the property of Comodo or its affiliates. Unless stated otherwise herein, submissions are not considered confidential, and Comodo is not liable for any use or disclosure of a submission. Except as noted herein, Comodo is entitled to unrestricted use of any submissions for any purpose whatsoever without compensation to the provider of the submission.

3. **Payment.**

   3.1. <u>Fees</u>. Subscriber must pay all fees listed on the applicable Comodo website for use of the Services. Comodo may modify fees for the Services in its sole discretion. Subscriber's failure to terminate this Agreement after a fee change is posted to Comodo's website constitutes Subscriber's acceptance of amended prices, which will apply upon Subscriber's next invoice.

   3.2. <u>Method of Payment</u>. All fees must be paid in advance. Comodo may automatically charge the credit card provided for renewing subscriptions for the Services. However, Subscriber remains solely responsible for any renewal payment. If a renewal payment is not made before Subscriber's subscription expires, Comodo may, without notice, restrict or remove access to the Services.

   3.3. <u>Rejected Charges</u>. If any charges are rejected by Subscriber's credit card issuer then Comodo may deactivate Subscriber's account until payment is successfully received. Comodo may deactivate any account that has a disputed charge until Comodo, in its sole discretion, determines the dispute resolved.

   3.4. <u>Billing Issues</u>. Subscriber shall provide Comodo notice of any billing problems or disputes within 60 days after the charge first appears on a statement Subscriber receives from Subscriber's bank, credit card company, or other billing company. Failure to notify Comodo of the problem within the 60 day period is Subscriber's acceptance of the charges. Comodo is not obligated to provide a refund for any unused Services.

4. **Restrictions.**

4.1. <u>Lawful Use</u>. The Services are solely for lawful purposes and use. Subscriber is responsible for ensuring that its use of the Services is in accordance with this Agreement and any applicable laws, statutes, ordinances, regulations, rules and other government authority.

4.2. <u>Compliance</u>. Subscriber shall (1) not interfere or disrupt networks connected to Comodo's services; (2) comply with all regulations, policies and procedures of networks connected to the Services; (3) not use the Services to infringe the privacy or intellectual property rights of a third party; (4) not use the Services to distribute or transmit any file that contains malware, (5) not attempt to gain unauthorized access to other computer systems or mobile devices; (6) not use the Services to direct or send repeated and unsolicited bulk email (i.e. spam); and (7) not use the Services to transmit any unlawful, harassing, libelous, defamatory, racist, indecent, abusive, violent, threatening, intimidating, harmful, vulgar, obscene, offensive or otherwise objectionable material of any kind or nature.

4.3. <u>Subscriber's Customers</u>. The Services allow Subscriber to add its customers to a customer list. Subscriber shall only add customers for whom Subscriber provides PCI-related services. Subscriber shall provide complete and accurate information about its customers, and shall update this information monthly as it changes. Subscriber shall not add, or use the Services to provide its services to, customers who are (1) located in a country on a United States restricted countries list, or (2) on a United States restricted persons list.

4.4. <u>Export</u>. Subscriber represents that it is not located in and will not modify, export or re-export, either directly or indirectly, any portion of the Services to any country or entity under United States restrictions or to any country or entity subject to applicable trade sanctions. The United States restricted country and persons list is subject to change without notice from Comodo, and Subscriber must comply with the list as it exists in fact. COMODO SHALL NOT BE LIABLE FOR SUBSCRIBER'S VIOLATION OF ANY SUCH EXPORT OR IMPORT LAWS, WHETHER UNDER UNITED STATES LAW OR FOREIGN LAW.

5. **Representations and Warranties.** Subscriber represents and warrants that (1) Subscriber is a validly formed entity and has the rights and powers necessary to enter into this Agreement; (2) information about Subscriber's customers provided by Subscriber to Comodo, is accurate, complete, and not misleading; and (3) Subscriber has the permission, authority, and consent of its customers (i) to receive information about its customer's PCI compliance; (ii) to provide Comodo with information about Subscriber's customers; and (iii) Comodo may contact Subscriber's customers via email and other means for purposes of registration, enrollment, support and other offerings related to the Services.

6. **Termination.**

6.1. <u>Term</u>. This Agreement is effective until terminated by Subscriber or by Comodo. Subscriber may only use the Services during the period for which Subscriber has paid the applicable fees.

6.2. <u>Termination by Subscriber</u>. Subscriber may terminate this Agreement at any time by doing all of the following: (1) removing all copies of the Services in Subscriber's possession or under Subscriber's control, (2) removing all copies of any related software, (3) notifying Comodo of Subscriber's intent to terminate this Agreement, and (4) paying all fees associated with Subscriber's use of the Services owed to Comodo. Notification of termination must be sent by email to support@comodo.com. Subscriber's termination will be effective upon Comodo's receipt and processing of the email. Processing may take up to 24 hours.

6.3. <u>Termination by Comodo</u>. Comodo may terminate this Agreement at any time by posting notice of termination on its website or by sending an email to the address in Subscriber's account. Comodo may monitor its systems for excessive consumption of network resources and may take technical or other remedies deemed necessary to prevent or eliminate any excessive consumption. If Comodo deems Subscriber's use to be excessive, Comodo may, with email notice, terminate Subscriber's account or adjust the price of the Services.

6.4. <u>Events Upon Termination</u>. Upon termination, Subscriber must immediately cease using the Services and delete all copies of any related software found on Subscriber's servers, devices, or network and any backup copies made. Upon termination, Comodo may disable further use of the Services without further notice and may delete, remove, and erase any account information, any backup data stored

by Comodo, and any other information stored or collected by Comodo. Such deletions are in Comodo's sole discretion and may occur without notice to Subscriber. No refunds shall be given for any reason.

7. **Indemnification.**

7.1. <u>Indemnification</u>. Subscriber shall indemnify (i) Comodo, (ii) Comodo's affiliates, and (iii) Comodo's and its affiliate's directors, officers, employees, and agents (each an "Indemnified Person") against all liabilities, losses, expenses, and costs, including reasonable attorney's fees, (collectively "Losses") that, directly or indirectly, are based on (1) Subscriber's breach of this Agreement, (2) information provided by Subscriber, (3) Subscriber's independent modification of the Services, (4) Subscriber's, or Subscriber's representative's, negligence or willful misconduct, or (5) Subscriber's infringement on the rights of a third party.

7.2. <u>Indemnification Procedure</u>. Comodo shall notify Subscriber promptly of any demand for indemnification. However, Comodo's failure to notify will not relieve Subscriber from Subscriber's indemnification obligations except to the extent that the failure to provide timely notice materially prejudices Subscriber. Subscriber may assume the defense of any action, suit, or proceeding giving rise to an indemnification obligation unless assuming the defense would result in potential conflicting interests as determined by the Indemnified Person in good faith. Subscriber may not settle any claim, action, suit or proceeding related to this Agreement unless the settlement also includes an unconditional release of all Indemnified Persons from liability.

7.3. <u>Additional Liability</u>. Subscriber's indemnification obligations are not Comodo's sole remedy for a breach and are in addition to any other remedies Comodo may have against Subscriber under this Agreement. Subscriber's indemnification obligations survive the termination of this Agreement.

8. **Disclaimers and Limitation of Liability.**

8.1. <u>Internet</u>. Subscriber acknowledges that the Services are subject to the operation and telecommunications infrastructures of the Internet and the operation of Subscriber's Internet connection services, all of which are beyond Comodo's control.

8.2. <u>Guarantee Disclaimer; Assumption of Risk</u>. EXCEPT AS SPECIFICALLY STATED OTHERWISE IN THIS AGREEMENT, COMODO EXPRESSLY DISCLAIMS ALL IMPLIED AND EXPRESS WARRANTIES IN THE SERVICES. THIS DISCLAIMER INCLUDES ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT AND IS EFFECTIVE TO THE MAXIMUM EXTENT ALLOWED BY LAW. COMODO DOES NOT GUARANTEE THAT 1) THE SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS OR 2) THAT ACCESS TO THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE.

8.3. <u>Damage Limitation</u>. THE TOTAL LIABILITY OF COMODO AND ITS AFFILIATES, AND EACH OF THEIR OFFICERS, DIRECTORS, PARTNERS, EMPLOYEES, AND CONTRACTORS, RESULTING FROM OR CONNECTED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT PAID BY SUBSCRIBER FOR THE SERVICES. SUBSCRIBER WAIVES ALL LIABILITY FOR SPECIAL, INDIRECT, INCIDENTAL AND CONSEQUENTIAL DAMAGES. THIS WAIVER INCLUDES ALL DAMAGES FOR LOST PROFITS, REVENUE, USE, AND DATA, AND APPLIES EVEN IF COMODO IS AWARE OF THE POSSIBILITY OF SUCH DAMAGES. These limitations apply to the maximum extent permitted by law regardless of 1) the reason for or nature of the liability, including tort claims, 2) the number of claims, 3) the extent or nature of the damages, and 4) whether any other provisions of this Agreement have been breached or proven ineffective.

8.4. <u>Data Transfer</u>. ALL MATERIAL AND DATA DOWNLOADED OR OBTAINED THROUGH THE SERVICES ARE AT SUBSCRIBER'S OWN RISK. SUBSCRIBER IS SOLELY RESPONSIBLE FOR ITS USE AND POSSESSION OF SUCH DATA OR MATERIAL. COMODO DOES NOT ACTIVELY MONITOR ANY INFORMATION OR MATERIAL TRANSFERRED THROUGH THE SERVICES AND CANNOT WARRANT THE CONTENT OF SUCH MATERIAL OR DATA.

8.5. <u>Exceptions</u>. If any legal right disallows an exclusion of warranties or disallows limiting certain damages, then the disclaimers of guarantee and limitations on liability herein apply to the maximum extent allowed by law.

8.6. <u>Limitations on Remedy</u>. Except for actions and claims related to a party's indemnification obligations, all actions or claims relating to this Agreement must be brought within one (1) year from the date when the cause of action occurred.

9. Privacy.

9.1. <u>Privacy Policy</u>. Comodo shall follow the privacy policy posted on its website at http://www.comodo.com/reposit/privacy_agreement.html when collecting and using information from Subscriber and Subscriber's customers. Comodo may amend the privacy policy at any time by posting the amended privacy policy on its website.

9.2. <u>Disclosure</u>. Comodo will disclose information where required by a subpoena, interception order or other lawful process. Comodo may also disclose information when it believes that such disclosure is necessary to protect the rights or safety of others or to enforce, or protect Comodo's rights under this Agreement.

9.3. <u>Compliance</u>. Subscriber shall be responsible for complying with any and all necessary privacy laws and regulations in any applicable jurisdiction(s). This includes all local, state, and Federal laws in the United States, all European Union laws or directives, and any other laws throughout the world. Subscriber shall make the appropriate and required disclosures to individuals. Pursuant to Section 7, Subscriber shall indemnify Comodo for any alleged privacy or data security violation.

9.4. <u>Opt Out</u>. Subscriber may opt-out of having information used for purposes not directly related to the Services by emailing a clear notice to optout@comodo.com. By clicking "I AGREE", Subscriber affirmatively consents to receiving Comodo's and its affiliates' promotional material.

10. Support. Comodo has no obligation under this Agreement to provide technical or customer support for the Services.

11. Miscellaneous.

11.1. <u>Notices</u>. All questions, notices, demands, or requests to Comodo with respect to this Agreement shall be made in English writing to: Comodo CA Ltd., 3rd Floor, 26 Office Village, Exchange Quay, Trafford Road, Salford, Manchester, M5 3EQ, United Kingdom. All notices to Subscriber shall be made by posting the notice on the Comodo website or in Subscriber's account.

11.2. <u>Entire Agreement</u>. This Agreement, along with the attached schedules and any documents referred to herein, is the entire agreement between the parties with respect to the subject matter, superseding all other agreements that may exist with respect to the subject matter. Section headings are for reference and convenience only and are not part of the interpretation of this Agreement.

11.3. <u>Modifications</u>. Comodo may amend or discontinue certain Services offered under this Agreement in its sole discretion, including modifying renewal license fees, availability, equipment and software requirements, and limiting or restricting use of Services. Comodo may amend this Agreement to the extent allowed by law. Comodo will give Subscriber notice of these amendments by posting the modified agreement to its website. Subscriber must periodically visit Comodo's website to be aware of any changes. Continued use of a Services after an amendment constitutes Subscriber's acceptance of the change.

11.4. <u>Waiver</u>. A party's failure to enforce a provision of this Agreement does not waive the party's right to enforce the same provision later or right to enforce any other provision of this Agreement. To be effective, all waivers must be both in writing and signed by the party benefiting from the waived provision.

11.5. <u>Force Majeure and Internet Frailties</u>. Other than for Subscriber's payment obligations, neither party will be liable for a delay or failure to perform an obligation to the extent that the delay or failure is caused by an occurrence beyond the party's reasonable control. Each party acknowledges that the operation of the Internet is beyond the other party's reasonable control, and neither party will be liable

for a delay or failure caused by an interruption or failure of telecommunication or digital transmission links, Internet slow-downs or failures, or other such transmission failure.

11.6. <u>Governing Law; Venue</u>. This Agreement and any disputes relating to the Services shall be governed and interpreted according to each of the following laws, respectively, without regard to its conflicts of law provisions: (a) the laws of the State of New Jersey, if Subscriber is located in North America; or (b) the laws of England and Wales, if Subscriber is located outside of North America. The parties agree to the exclusive jurisdiction of (a) the courts of New Jersey if Subscriber is located in North America or (b) the courts of England and Wales if the Subscriber is located outside of North America.

11.7. <u>Arbitration</u>. To the extent permitted by law, Subscriber shall notify Comodo of any dispute arising under this Agreement before seeking dispute resolution. If the dispute is not resolved within sixty (60) days after initial notice, then a party may proceed as follows:

(i)   The parties shall resolve the dispute by arbitration conducted through the services of the American Arbitration Association ("AAA"). The party initiating the arbitration shall send notice to the other party. All arbitration hearings will be in Clifton, New Jersey.

(ii)   The parties shall appoint a panel of three possible arbitrators to hear the matter and then each party shall name one Arbitrator to be dropped from the panel, leaving one arbitrator. The party giving notice of the arbitration shall select the first dropped arbitrator.

(iii) The parties shall split the costs of the arbitrator equally regardless of the final decision. The party found in default of this Agreement by the arbitrator shall pay all costs of the other party that are incurred in enforcing its rights under this Agreement (including attorney's fees).

11.8. <u>Assignment</u>. Subscriber may not assign any of its rights or obligations under this Agreement, whether by merger, consolidation, operation of law, or any other manner, without the prior written consent of Comodo. For purposes of this section only, a change in control is deemed an assignment. Any transfer without consent is void. To the extent allowed by law, Comodo may assign its rights and obligations without Subscriber's consent.

11.9. <u>Severability</u>. Any provision held invalid or unenforceable will be reformed to the minimum extent necessary to make the provision valid and enforceable. If reformation is not possible, the provision is deemed omitted and the balance of this Agreement remains valid and enforceable.

11.10. <u>Survival</u>. All provisions relating to confidentiality, proprietary rights, indemnification, and limitations of liability survive the termination of this Agreement.

11.11. <u>Rights of Third Parties</u>. There are no third party beneficiaries under this Agreement.

BY USING THE SERVICES, OR BY CLICKING ON "I ACCEPT" BELOW, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, YOU UNDERSTAND IT, YOU AGREE TO BE BOUND BY ITS TERMS, AND YOU ARE AUTHORIZED TO ACCEPT THIS AGREEMENT ON BEHALF OF SUBSCRIBER.