# SOFTWARE LICENSE AGREEMENT

CYBERARK SOFTWARE LTD. AND/OR ITS AFFILIATES (“**CYBERARK**”) IS WILLING TO LICENSE THE SOFTWARE TO YOU AS THE COMPANY OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE SOFTWARE (REFERENCED BELOW AS “**CUSTOMER**”) ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS SOFTWARE license AGREEMENT (“**AGREEMENT**”). BY ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ENTITY OR ORGANIZATION, YOU REPRESENT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND THAT ENTITY OR ORGANIZATION TO THIS AGREEMENT. CUSTOMER AND CYBERARK MAY EACH ALSO BE REFERRED TO AS A “**PARTY**” AND TOGETHER, THE “**PARTIES**”.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SOFTWARE. THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN CUSTOMER AND CYBERARK. BY INDICATING CONSENT ELECTRONICALLY, OR INSTALLING OR OTHERWISE USING THE SOFTWARE, CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF CUSTOMER DOES NOT AGREE TO THIS AGREEMENT, DO NOT INDICATE CONSENT ELECTRONICALLY AND MAKE NO FURTHER USE OF THE SOFTWARE.

Definitions. Capitalized terms shall have the meanings set forth below. Defined terms stated in the singular may be used in the plural, and vice versa.

“**Affiliate**” means a company controlling, controlled by, or under common control with a Party (an entity will be deemed to have control if it owns over 50% of another entity).

“**Authorized Users**” means employees, agents, consultants, contractors, or vendors authorized by Customer to use the Software solely for Customer’s and its Affiliates’ own internal use, subject to the terms and conditions of this Agreement.

“**Documentation**” means the user guides, installation documents, and specifications for the Software that are generally made available from time to time by CyberArk in electronic or tangible form, but excluding any sales or marketing materials.

“**Order**” means CyberArk’s quote accepted by Customer via Customer’s purchase order or other ordering document submitted to CyberArk (directly or indirectly through CyberArk’s authorized channel partner) to order CyberArk’s products or services, which references the Software, services, pricing, payment terms, quantities and other applicable terms set forth in an applicable CyberArk quote or ordering document.

“**Software**” means CyberArk’s proprietary software, in object code form, accompanying this Agreement.

# GRANT OF LICENSE

Subject to payment of all applicable fees set forth in the Order, CyberArk grants Customer a perpetual (or as indicated otherwise in the Order) non-exclusive, non-transferable right to use (and to permit the Authorized Users to use) the Software and the Documentation, solely for Customer’s and its Affiliates’ own internal use, subject to the terms of this Agreement and the Documentation and in the quantity as stated in the Order. Customer may make a reasonable number of copies of any Documentation and one archival copy of the Software. Except for the licenses granted under this Agreement, all rights, title, and interest in and to the Software and Documentation are hereby reserved by CyberArk, its Affiliates or licensors.

**RESTRICTIONS ON USE**

Customer may not (a) copy or reproduce the Software or the Documentation except as permitted under this Agreement, (b) exceed the acquired licensed quantities, users, or other entitlement measures of the Software, (c) remove or destroy any copyright, trademark or other proprietary marking or legends placed on or contained in the Software or Documentation, (d) assign, rent, lease, or otherwise transfer the rights granted to Customer under this Agreement to any third party except as expressly set forth herein, (e) modify, reverse engineer, decompile, or disassemble the Software, or (f) create or prepare derivative works based upon the Software or the Documentation.

# CONFIDENTIALITY

The Parties acknowledge that each may disclose certain valuable confidential and proprietary information to the other. “Confidential Information” means all information provided by the disclosing Party to the receiving Party concerning the disclosing Party or its Affiliates’ business, products or services that is not generally known to the public whether marked “Confidential” or similar legend by the disclosing Party at the time of disclosure or that a reasonable person would regard as confidential, including information relating to customers, vendors, trade secrets, prices, products, services, computer programs and other intellectual property. The receiving Party may only use the disclosing Party’s Confidential Information to fulfil the purposes of this Agreement. The receiving Party will protect the disclosing Party’s Confidential Information by using at least the same degree of care as the receiving Party uses to protect its own Confidential Information of a like nature (but no less than a reasonable degree of care) to prevent the unauthorized use, dissemination, disclosure or publication of such Confidential Information. Notwithstanding the foregoing, the receiving Party may disclose Confidential Information to its (and its Affiliates’) employees, advisors, consultants, and agents on a need-to-know basis and provided that such party is bound by obligations of confidentiality substantially similar to those contained herein. Information will not be deemed Confidential Information if it (i) is known to the receiving Party prior to receipt from the disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party, (ii) becomes known (independently of disclosure by the disclosing Party) to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party, (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the receiving Party, or (iv) is independently developed by the receiving Party and the receiving Party can provide documentary evidence to that effect. The receiving Party may disclose Confidential Information pursuant to the requirements of a court, governmental agency or by operation of law but shall (to the extent permissible by law) limit such disclosure to only the information requested and give the disclosing Party prior written notice sufficient to permit the disclosing Party to contest such disclosure.

# LIMITED WARRANTY

CyberArk warrants that the Software delivered under the initial Order will perform substantially as described in the Documentation for a period of ninety (90) days from the date of initial delivery of the Software. CyberArk’s sole liability and Customer’s exclusive remedy under this warranty will be, at CyberArk’s option and expense, either (a) the return of the license fee paid to CyberArk for the applicable Software, or (b) repair or replacement of the Software that does not meet the limited warranty set forth above. This limited warranty is void if the failure of the Software has resulted from negligence, error, or misuse of the Software by Customer or by anyone other than CyberArk. ANY AND ALL WARRANTIES, EXPRESSED, INCORPORATED OR IMPLIED, ARE LIMITED TO THE EXTENT AND PERIOD MENTIONED ABOVE. TO THE MAXIMUM EXTENT ALLOWED BY APPLICABLE LAW, CYBERARK DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS AND OTHER TERMS, WHETHER IMPLIED OR INCORPORATED INTO THIS AGREEMENT BY STATUTE, COMMON LAW OR OTHERWISE, INCLUDING THE IMPLIED CONDITIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CYBERARK WILL HAVE NO LIABILITY FOR DELAYS, FAILURES OR LOSSES ATTRIBUTABLE OR RELATED IN ANY WAY TO THE USE OR IMPLEMENTATION OF THIRD-PARTY SOFTWARE OR SERVICES NOT PROVIDED BY CYBERARK.

# INFRINGEMENT INDEMNITY

# CyberArk shall defend and indemnify Customer against all third-party claims, suits and proceedings resulting from the violation, misappropriation, or infringement of such third party’s patent, copyright, trademark, trade secret, or other proprietary rights caused by Customer’s use of the Software in accordance with this Agreement and Documentation (each, a “Claim”), and all directly related losses, liabilities, damages, costs and expenses (including reasonable attorneys’ fees). CyberArk’s defense and indemnification obligations herein will become effective upon, and are subject to, (a) Customer’s prompt notification to CyberArk of any Claims in writing, and (b) Customer providing CyberArk with full and complete control, authority and information for the defense of the Claim, provided that CyberArk will have no authority to enter into any settlement or admission of Customer’s wrongdoing on Customer behalf without Customer’s prior written consent (not to be unreasonably withheld). At CyberArk’s request, Customer shall reasonably cooperate with CyberArk in defending or settling any Claim. The above CyberArk obligations to defend and indemnify will not apply in the event that a Claim arises from or relates to (a) use of the Software not in accordance with the Documentation (b) any modification, alteration or conversion of the Software not created or approved in writing by CyberArk, (c) any combination or use of the Software with any computer, hardware, software or service not required by the Documentation, (d) CyberArk’s compliance with Customer’s specifications, requirements or requests, (e) Customer’s gross negligence or willful misconduct, or (f) Customer’s refusal to use a non-infringing version of Software or any part thereof offered by CyberArk at no cost to Customer, so long as such non-infringing version does not cause a material adverse effect on the functionality provided by the infringing version. If the Software becomes, or CyberArk reasonably determines that the Software is likely to become, subject to a claim of infringement for which CyberArk must indemnify Customer as described above, CyberArk may at its option and expense: (a) procure for Customer the right to continue to access and use the Software, (b) replace or modify the Software so that it becomes non-infringing without causing a material adverse effect on the functionality provided by the infringing Software, or (c) remove the infringing part of the Software, and refund to Customer (either directly or through CyberArk’s authorized channel partner, as applicable) the license fee paid for the infringing part of the Software, less an amount equal to one sixtieth (1/60) of the license fee for each full month of the license term prior to the Claim. This section states the sole liability of CyberArk and Customer’s exclusive remedy with respect to any Claims arising out of or related to this Agreement.

# THIRD PARTY MATERIALS

# The Software includes open source software programs that are made available by third parties under their respective open source licenses as indicated in the Documentation (“Third Party Materials”). CyberArk warrants that such Third Party Materials will not diminish the license rights provided herein or limit Customer’s ability to use the Software in accordance with the applicable Documentation, and the inclusion of such Third Party Materials in the Software will not create any obligation on the part of Customer to license Customer’s software or products under any open source or similar license.

# LIMITATION OF LIABILITY

EXCEPT FOR ANY LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED BY APPLICABLE LAW, INCLUDING WHERE APPROPRIATE LIABILITY FOR (I) DEATH OR BODILY INJURY CAUSED BY A PARTY’S NEGLIGENCE, OR (II) GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD:

(A) IN NO EVENT WILL EITHER PARTY’S MAXIMUM AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE CAUSE OF ACTION AND WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, INDEMNITY OR ANY OTHER LEGAL THEORY, EXCEED THE TOTAL AMOUNT PAID OR PAYABLE TO CYBERARK FOR THE SOFTWARE AND SERVICES PROVIDED UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE DATE OF THE INITIAL CLAIM; AND

(B) NEITHER PARTY WILL HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOSS OF PROFITS OR REVENUES, LOSS OF GOODWILL, LOSS OR CORRUPTION OF DATA OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES ARISING OUT OF, OR IN CONNECTION WITH THIS AGREEMENT, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY, INDEMNITY OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

# MAINTENANCE AND SUPPORT SERVICES

Customer may separately purchase from CyberArk maintenance and support services in relation to the Software as may be generally available by CyberArk to its customers, pursuant to CyberArk’s then applicable maintenance and support terms (available for review upon request). Maintenance and support services for term-based Software licenses shall be included in the license offering unless stated otherwise in the applicable Order.

# TERM AND TERMINATION OF THE AGREEMENT

This Agreement shall remain in force during the applicable license term of the Software unless or until terminated by either Party pursuant to this section. Either Party may terminate this Agreement immediately upon notice to the other Party if the other Party: (i) materially breaches this Agreement and fails to remedy such breach within thirty (30) days after receiving written notice of the breach from the other Party, or (ii) commences bankruptcy or dissolution proceedings, has a receiver appointed for a substantial part of its assets, or ceases to operate in the ordinary course of business. Any accrued rights and obligations will survive termination.

# FREE TRIAL OR BETA VERSIONS OF THE SOFTWARE

Applicability. If Customer is given access to, and chooses to access, any free trial or beta version of the Software (or any feature thereof) (“Beta Version”), CyberArk makes the Beta Version available to Customer for a period ending on the earlier of (i) the end of the free trial or evaluation period or beta testing period as communicated by CyberArk or specified in an Order, (ii) the start date of any purchased version of such Software, or (iii) written notice of termination from CyberArk (“Beta Period”) and the following terms apply to use of the Beta Version notwithstanding anything to the contrary elsewhere in this Agreement.

Grant of License. CyberArk grants Customer, during the Beta Period (as defined below), a non-exclusive, non-transferable license (without the right to sub-license) to access and use the Beta Version for Customer’s internal evaluation purposes in accordance with the Documentation.

Limited Warranty and Limitation of Liability. CyberArk provides the Beta Version "as is" without any warranties or representations of any kind. To the extent permitted by law, CyberArk disclaims all implied warranties and representations, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose and non-infringement. Customer assumes all risks and all costs associated with its use of the Beta Version. Customer’s sole and exclusive remedy in case of any dissatisfaction is termination of the Beta Version. As a beta version, the Beta Version is undergoing development and is likely to contain bugs, may not always perform as specified and is not suitable for use in a production environment. Thus, Customer is solely responsible for ascertaining the fitness of the Beta Version for its intended use for evaluation purposes, and for checking that the Beta Version is sufficiently free from error and malfunction for such use. There is no guarantee that features or functions of the current Beta Version will be available, or if available will be the same, in the general release version of the Software, and Customer should review the Software’s features and functions before making a purchase.

Maintenance and Support Services. CyberArk will be under no obligation to provide Customer any maintenance or support services with respect to the Beta Version.

# EXPORT CONTROL

The exportation of the Software and Documentation is subject to compliance with: (i) the U.S. Export Administration Act, as amended, and the rules and regulations promulgated from time to time thereunder, including the Export Administration Regulations, (ii) the laws of the State of Israel, and (iii) the laws of any country or organization of nations within whose jurisdiction Customer (or the Authorized Users) operates or does business. Neither Party shall export or re-export the Software or any part thereof directly or indirectly other than in compliance with applicable export law.

# ASSIGNMENT

# Neither Party may assign any of its rights or obligations under this Agreement without the other Party’s prior written consent, which will not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign any and all of its rights and obligations under this Agreement to a successor in interest in the event of a merger or acquisition or to an Affiliate, upon prior written notice to the other Party.

# SEVERABILITY AND WAIVER

This Agreement shall be deemed severable, and the invalidity or unenforceability of any term or provision hereof shall not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Should any term or provision of this Agreement be declared void or unenforceable by any court of competent jurisdiction, the Parties intend that a substitute provision will be added to this Agreement that, to the greatest extent possible, achieves the intended commercial result of the original provision. The failure of either Party to enforce any rights granted to it hereunder or to take action against the other Party in the event of any breach hereunder will not be deemed a waiver by that Party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

# CYBERARK CONTRACTING PARTY, CHOICE OF LAW AND EXCLUSIVE JURISDICTION

# Each Party agrees to the applicable governing law below without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts below with respect to any dispute, claim, action, suit or proceeding (including non-contractual disputes or claims) arising out of or in connection with this Agreement, or its subject matter or formation.

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| **If Customer is domiciled in:** | **The CyberArk entity entering into this Agreement is: (unless otherwise indicated in the Order)** | **Choice of Law** | **Exclusive Jurisdiction** |
| U.S., Canada, Latin America | CyberArk Software, Inc. | Laws of Commonwealth of Massachusetts, United States | Courts of Boston, Massachusetts, United States |
| Europe, Africa or Middle East (excluding Israel) | Cyber-Ark Software (UK) Ltd. | Laws of England and Wales | Courts of London, England |
| Israel | CyberArk Software Ltd. | Laws of Israel | Courts of Tel Aviv Jaffa, Israel |
| Asia Pacific | CyberArk Software (Singapore) Pte. Ltd. | Laws of Singapore | Courts of Singapore |
| Japan | CyberArk Software (Japan) K.K. | Laws of Singapore | Courts of Singapore |

To the extent not prohibited by law, each of the Parties hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or related to this Agreement.

# ENTIRE AGREEMENT

This Agreement, along with any additional terms incorporated herein by reference, including in the Order, represents the complete and exclusive terms and conditions under which this Software is Licensed to Customer by CyberArk, and it supersedes all prior agreements and representations between the Parties, unless specifically stated otherwise. The terms and conditions contained in any purchase order issued to CyberArk in connection with this Agreement will be of no force or effect, even if the order is accepted by CyberArk. This Agreement may only be amended by a written instrument specifically intended for this sole purpose and signed by the authorized representatives of both Parties.

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Should Customer have any questions concerning this Agreement, or if Customer desires to contact CyberArk for any reason, please e-mail us at: [contract-notices@cyberark.com](mailto:contract-notices@cyberark.com)