

SD ELEMENTS EVALUATION END USER LICENSE AGREEMENT

This End User License Agreement (this “**Agreement**”) is a legal contract between you, as either an individual or an Entity (as defined below), and Security Compass Technologies Ltd., Infotek Solutions Inc. dba Security Compass, or its affiliates (collectively “**Security Compass**”).

READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE OBTAINING A LICENSE KEY, OR OTHERWISE ACCESSING OR USING SD ELEMENTS, SECURITY COMPASS’ PROPRIETARY SOFTWARE AS A SERVICE, ACCOMPANIED BY THIS AGREEMENT (THE “SOFTWARE”).

THIS AGREEMENT IS INTENDED FOR USE OF THE SOFTWARE IN A TEST (NON-PRODUCTION) ENVIRONMENT USING TEST DATA. NONE OF YOUR DATA IS ACCESSED OR STORED BY SECURITY COMPASS. THE SECURITY RECOMMENDATIONS AND OUTPUTS OF THE TEST SOFTWARE SHOULD UNDER NO CIRCUMSTANCES BE USED IN THE DEVELOPMENT OF APPLICATIONS IN A PRODUCTION ENVIRONMENT.

IF YOU ARE ACCEPTING THIS AGREEMENT ON BEHALF OF A COMPANY, ORGANIZATION, OR OTHER LEGAL ENTITY (AN “ENTITY”), YOU REPRESENT AND WARRANT THAT YOU HAVE FULL POWER AND AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS, AND REFERENCES TO “YOU” OR “YOUR” HEREIN REFER TO BOTH YOU, THE INDIVIDUAL END USER, AND THE ENTITY ON WHOSE BEHALF YOU ARE ACCEPTING THIS AGREEMENT.

THIS AGREEMENT, ALONG WITH THE SUPPLEMENTAL TERMS (AS DEFINED BELOW) REPRESENTS THE ENTIRE AGREEMENT BETWEEN YOU AND SECURITY COMPASS CONCERNING THE SOFTWARE, AND THIS AGREEMENT SUPERSEDES AND REPLACES ANY PRIOR PROPOSAL, REPRESENTATION, OR UNDERSTANDING YOU MAY HAVE HAD WITH SECURITY COMPASS RELATING TO THE SOFTWARE, WHETHER ORALLY OR IN WRITING.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU SHOULD CLICK THE “DISAGREE” OR SIMILAR BUTTON, AND IMMEDIATELY CEASE AND REFRAIN FROM ACCESSING OR USING THE SOFTWARE.

1. Definitions.

1.1. “Documentation” means Security Compass user or technical manuals, training materials, specifications or other documentation applicable to the Software and made available to you.

1.2. “Supplemental Terms” means any document(s) issued by Security Compass to you, including but not limited to an order form or an order confirmation, which specifies the Evaluation Period.

2. Software License. Security Compass grants to you a non-transferable and non-exclusive license to the use the Software in binary form only for the limited purpose of testing and evaluating the Software to assess and determine any future use or application of the Software within your organization (“**License**”). Your right to use the Software begins on the date the Software is made available to you and continues (i) until the end of the term specified by Security Compass in the Supplemental Terms, (ii) for the duration specified in writing by Security Compass; or (iii) for thirty (30) days, where no such term is specified by Security Compass, provided that in each case, the license may otherwise be terminated in accordance with this Agreement (the “**Evaluation Period**”). No right is granted for use of the Software directly or indirectly other than the purpose specified herein. Security Compass reserves the right to terminate your access to the Software at any time.

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4. Protection and Restrictions.

- 4.1.** You agree to take all reasonable steps to safeguard access to the Software to ensure that no unauthorized person has access thereto and that no unauthorized copy, publication, disclosure, or distribution, in whole or in part, in any form is made.
- 4.2.** You acknowledge that the Software contains valuable, confidential information and trade secrets and that unauthorized use and/or copying is harmful to Security Compass. You also understand and agree that the copying or modifying of the Documentation provided with or as part of the Software is strictly prohibited. Any third-party software included in the Software may not be used independently from the Software.
- 4.3.** You will not, and will not allow a third party to, directly or indirectly: sell, sublicense, transfer, assign, publish, display, disclose, rent, lease, timeshare, modify, loan, distribute, market, commercialize, or create derivative works based on the Software or any part thereof, incorporate the Software into or with other products, or use the Software for timesharing or service bureau purposes.
- 4.4.** You will not reverse engineer, decompile, translate, adapt, or disassemble the Software, nor will you attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, and then only with prior written notice to Security Compass).
- 4.5.** You represent and warrant that you will comply with all laws, rules and regulations which apply to your use of the Software.

5. Software as a Service. The Software is hosted by Security Compass and provided as a service (“**Software as a Service**” or “**Service**”).

- 5.1.** You agree to: (1) protect your password, applicable devices and account from unauthorized use; and (2) be solely responsible for creating backup files of all data accessed by or use through the Service. You agree that Security Compass is not liable for any damages relating to lost, corrupted or damaged data.
- 5.2.** You agree not to: (1) use the Service in a way that violates any applicable laws and regulations; (2) distribute viruses or other harmful or malicious computer code via the Service; (3) engage in any conduct that disrupts or impedes the Service; (4) engage in “screen scraping”, “data mining”, “database scraping” or any other activity with the purpose of obtaining unauthorized lists of users or other unauthorized information from the Service or that uses web “bots” or similar data gathering or extraction methods.

6. No Warranty. The Software is licensed “AS-IS” without maintenance, or warranty of any kind, expressed or implied. Security Compass expressly disclaims all warranties, conditions or other terms, whether express, implied or statutory, including without limitation, warranties, conditions or other terms regarding merchantability, fitness for a particular purpose, design, condition, capacity, performance, title, and non-infringement. Security Compass does not warrant that the Software will operate uninterrupted or error-free or that all errors will be corrected. In addition, Security Compass does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack. Security Compass does not assume any liability arising from any use of the Software.

7. Limitation of Liability.

A. EXCLUSION OF DAMAGES.

TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES WILL SECURITY COMPASS, ITS AFFILIATES, ITS LICENSORS OR RESELLERS BE LIABLE FOR:

- i. ANY LOSS OF **GOODWILL, REPUTATIONAL HARM, LOSS OF OPPORTUNITY, LOST PROFITS OR LOSS OF REVENUE;**

- ii. ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE OR INCIDENTAL DAMAGES (COLLECTIVELY, “**INDIRECT DAMAGES**”), WHETHER FORESEEABLE OR UNFORESEEABLE ARISING OUT OF OR RELATED TO THIS AGREEMENT;
- iii. ANY DAMAGES RELATED TO CLAIMS FOR INACCURACY, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, INTERRUPTION IN USE OR AVAILABILITY OF SOFTWARE OR DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS OR OTHER BUSINESS LOSS;
- iv. ANY INDIRECT DAMAGES FOR CLAIMS RELATED TO LOSS OF DATA , NEGLIGENCE, BREACH OF CONTRACT, TORT OR THIRD PARTY CLAIMS;

THE FOREGOING EXCLUSIONS OF LIABILITY SHALL APPLY WHETHER THE DAMAGES WERE FORESEEABLE OR UNFORESEEABLE, EVEN IF SECURITY COMPASS HAS BEEN ADVISED AT TO THE POSSIBILITY OF SUCH DAMAGES.

B. LIABILITY CAP.

IN NO EVENT WILL SECURITY COMPASS’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, BASED ON ANY LEGAL THEORY, INCLUDING BUT NOT LIMITED TO CONTRACT, TORT, BREACH OF WARRANTY INFRINGEMENT OR OTHERWISE, EXCEED (I) WHERE THERE IS AN ORDER FORM, THE TOTAL AMOUNT PAID BY YOU TO SECURITY COMPASS UNDER THE APPLICABLE ORDER FORM TO WHICH THE CLAIM RELATES, OVER THE ONE YEAR PERIOD IMMEDIATELY PRECEDING THE TIME THAT THE CAUSE OF ACTION AROSE, OR (II) WHERE THERE IS NO ORDER FORM, \$100 (ONE HUNDRED DOLLARS).

C. EMPHASIS ON MUTUAL UNDERSTANDING.

THE PARTIES AGREE THAT THE LIMITATIONS OF THIS SECTION ARE ESSENTIAL AND THAT SECURITY COMPASS WOULD NOT PERMIT YOU TO USE THE SOFTWARE AND SERVICES ABSENT THE TERMS OF THIS SECTION. THIS SECTION SHALL SURVIVE AND APPLY EVEN IF ANY REMEDY SPECIFIED IN THIS AGREEMENT SHALL BE FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. YOU FURTHER ACKNOWLEDGE THAT SECURITY COMPASS’S SOFTWARE OFFERINGS ARE PRODUCTIVITY TOOLS AND ARE NOT MISSION CRITICAL SYSTEMS.

8. Confidentiality.

- 8.1. “Confidential Information”** shall mean information relating to or disclosed in the course of, or in connection with, this Agreement, which is, or should be reasonably understood to be, confidential or proprietary to the Party disclosing such information (the “Disclosing Party”), including, but not limited to, the material terms of this Agreement, information about customers or subscribers, developments, inventions, drawings, schematics, algorithms, engineering, hardware configuration information, technical processes and formulas, source codes, product designs, sales, cost and other unpublished financial information, product and business plans, projections and marketing data.
- 8.2.** “Confidential Information” shall not include information (a) already lawfully known to or independently developed by the Party receiving such information (the “Receiving Party”) without use of the Disclosing Party’s Confidential Information and as shown by the Receiving Party’s files and records immediately prior to the time of disclosure, (b) disclosed in published materials, (c) generally known to the public without disclosure by the Receiving Party in breach of this Agreement; or (d) lawfully obtained from any third party not bound by a confidentiality agreement or other obligation of secrecy.
- 8.3.** The Receiving Party hereby acknowledges that as a result of the performance of its obligations under this Agreement, it may obtain access to Confidential Information of the Disclosing Party.
- 8.4.** The Receiving Party shall not disclose any of the Disclosing Party’s Confidential Information or use such Confidential Information for any purpose other than to perform its obligations or

exercise its rights under this Agreement. The Receiving Party shall use the same measures to protect the Confidential Information of the Disclosing Party as it uses with respect to its own confidential information of like importance, but in no event shall it use less than reasonable care.

- 8.5. If the Receiving Party is required by law to disclose Confidential Information of the Disclosing Party, such Receiving Party shall use best efforts to give the Disclosing Party reasonable advance notice of such required disclosure where legally permissible, so that the Disclosing Party may seek a protective order or another appropriate remedy. If the Disclosing Party waives the Receiving Party's compliance with this Agreement or fails to obtain a protective order or other appropriate remedy, the Receiving Party will disclose only that portion of the Confidential Information that is legally required to be disclosed.
- 8.6. The Receiving Party agrees to return to the Disclosing Party, or destroy and certify in writing that it has destroyed, all material embodying Confidential Information of the Disclosing Party (in any form or medium and including, without limitation, all summaries, copies and excerpts of Confidential Information) at any such time as the Disclosing Party may so request.
- 8.7. Each Party agrees that its obligations under this section are necessary and reasonable in order to protect the other Party and the other Party's business, and expressly agrees that monetary damages would be inadequate compensation for any breach of the obligations herein. Accordingly, in the event of a breach, the non-breaching party shall be entitled to seek injunctive relief against the threatened breach of the obligations as well as other remedies that may be available, in law, in equity or otherwise, without the necessity of proving actual damages.
- 8.8. The obligations of the parties set forth in this section shall survive the termination of this Agreement and expire on the fifth anniversary of the termination of this Agreement.

9. Statistical Data.

- 9.1. **Acceptance of Data Collection.** Licensor may compile statistical information and conduct analyses based on Licensee's use of the Software and Software Services (hereinafter "Statistical Data"). Licensee consents to Licensor's access and use of the Statistical Data as set out in this Section 10 and agrees that Licensor's use thereof is necessary to adequately support Licensor's business operations.
- 9.2. **Types of Data Collected.** Statistical Data collected and analyzed may include, (a) Licensee's organization name, as well as (b) anonymous data related to unique user identifiers; average number and types of Licensee projects and tasks created; user workflow patterns; number of users per server and related distribution; types and frequency of Software errors and average support response and resolution times. Statistical Data collected and analyzed will not include Licensee users' personally identifiable information, any Licensee data related to the Projects and tasks being created in the Software, or other Confidential Information.
- 9.3. **Use of Data.** Licensee acknowledges that Licensor may use this data for its own internal purposes, including but not limited to, account management, optimization of resources; product research and development; automation of processes; performance optimization; development of new product features and services and anonymous benchmarking. Under no circumstances shall Licensor sell, lease, or otherwise offer the Statistical Data to a third-party for commercial gain. Licensor retains all intellectual property rights in the Statistical Data and may compile, collect, copy, modify, publish, and utilize it for Licensor's analytical or business purposes, provided that any Statistical Data published will be anonymized and aggregated to ensure that it cannot be used to identify, or in any way expose the identity of Licensee.