

# DARKTRACE

## GENERAL PARTNER TERMS AND CONDITIONS

These general partner terms and conditions (“**Terms**”) are entered into between Darktrace Holdings Limited (“**Darktrace**”) and the partner identified in the Darktrace Partner Program Agreement (“**Partner**”). By applying for or participating in the Darktrace Partner Program, or by purchasing and placing any orders for Darktrace services except for Partner’s own internal use, Partner agrees to these Terms and the Darktrace Partner Program Guide. The Darktrace Partner Program Agreement and the Darktrace Partner Program Guide are hereby incorporated into and form part of these Terms and will collectively be referred to as the “**Agreement**”. Partner represents that it is lawfully authorized to enter into the Agreement and that its signatory has full authority to bind the Partner to the terms of the Agreement. If Partner does not agree to the terms of the Agreement, or if Partner’s signatory does not have authority to bind Partner to the Agreement, then Partner will not be authorized to apply for, participate in the Darktrace Partner Program, including to purchase or place any order for Darktrace services.

1. **Definitions.** Capitalized terms used but not defined in these Terms have the meanings set forth in Appendix 1 to these Terms and the Darktrace Partner Program Agreement, in that order of precedence. Darktrace and Partner are each a “**Party**” and collectively, the “**Parties**”.
2. **Partner Program and Appointment.**
  - 2.1. Partner must complete an application, meet the applicable partner qualifications and requirements, and be accepted into the program by Darktrace, at Darktrace’s sole discretion, to participate in the Darktrace Partner Program.
  - 2.2. If Darktrace accepts the Partner into the Darktrace Partner Program, and for as long as Partner remains compliant with the Agreement (including the Darktrace Partner Program Agreement and the Darktrace Partner Program Guide) and all applicable policies of and agreements with Darktrace, Darktrace authorizes Partner to participate in the Darktrace Partner Program and appoints Partner, on a non-exclusive basis, as one of the following channel partners (as designated in the Darktrace Partner Program Agreement and the Darktrace Partner Portal):
    - 2.2.1. **Reseller.** A “**Reseller**” may purchase Subscriptions from Darktrace or a Distributor and resell the Subscriptions only to End Users during the Term. A Reseller may also purchase Subscriptions from other Resellers approved by Darktrace in writing for the foregoing purpose.
    - 2.2.2. **MSSP Partner.** An “**MSSP Partner**” may purchase Subscriptions from Darktrace or a Distributor and resell the Subscriptions only to End Users only as part of the MSSP Partner’s own services or product offering during the Term. MSSP Partners are not permitted to sell the Subscriptions as a standalone offering or in any other manner, or to permit End Users to access or use the Offering directly, unless specifically authorized by Darktrace in the applicable Order.
    - 2.2.3. **Distributor.** A “**Distributor**” may purchase Subscriptions from Darktrace directly and resell the Subscriptions during the Term only: (i) indirectly to End Users by selling to a Reseller for sale directly to an End User; and (ii) to an MSSP Partner.
  - 2.3. At any time for one or more Order or permanently, Darktrace may: (i) require a Reseller to purchase from a Distributor, in which case, the Partner, or (ii) allow a Reseller to purchase from another Reseller not otherwise designated as a Distributor, where corresponding approval has been included in the Order with the relevant Reseller. Resellers, and MSSP Partners will not sell the Subscriptions to any third party (including an End User or channel partner) for purpose of further resale by such third party.
  - 2.4. In the event any information provided by or on behalf of Partner in connection with the Darktrace Partner Program or its application for the Darktrace Partner Program is found to be untrue or misleading, or if such information changes in a material respect during the Term, then Partner will

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promptly notify Darktrace, and Darktrace may either continue the Partner's appointment as a channel partner in the Darktrace Partner Program, on the same or modified terms, or terminate such appointment and the Agreement upon written notice to Partner.

- 2.5. Partner may resell the Subscriptions to Authorized Affiliates solely for onward resale to End Users during the Term under the terms of Appendix 3. In the event an Authorized Affiliate wishes to purchase Subscriptions from Darktrace directly for resale to End Users, such Authorized Affiliate will enter into a separate agreement with Darktrace to participate in the Darktrace Partner Program.
- 2.6. Darktrace does not sell, and does not permit the reselling of, Subscriptions in certain territories. Notwithstanding anything to the contrary, Darktrace may refuse to sell Subscriptions to Partner or End Users in a given territory.

### 3. Partner Obligations.

#### 3.1. Partner will:

- 3.1.1. Act conscientiously and in good faith, and not allow its own interests to conflict with its duties to Darktrace under the Agreement;
- 3.1.2. Conduct business in a manner that reflects favorably on Darktrace and the Offering and the good name, goodwill and reputation of Darktrace;
- 3.1.3. Make no false, misleading, or disparaging representations, advertisements, or statements about Darktrace or the Offering;
- 3.1.4. Make no representations, warranties or guarantees to any third party, including End Users with respect to the specifications, features, or capabilities of the Offering on behalf of Darktrace or that are inconsistent with the literature made available to Partner by Darktrace;
- 3.1.5. If required by Darktrace, complete minimum training or certification programs established by Darktrace from time to time, including the payment of fees related to certain testing or certifications. If Partner does not participate in such programs and pay such associated fees (if any), then, in Darktrace's sole discretion, Partner may not obtain certain certification or be included in the Darktrace Partner Program;
- 3.1.6. Maintain qualified staff of employees with good working knowledge of the Offering, and appoint appropriate employees of appropriate experience and skill to participate in training programs offered by Darktrace from time to time as mutually agreed between Darktrace and Partner or as required by the Darktrace Partner Program Guide;
- 3.1.7. Maintain appropriate cybersecurity measures and controls to protect Darktrace's Confidential Information and the Offering and promptly notify Darktrace of any security incidents, breaches, or unauthorized access involving the Offering; and
- 3.1.8. Not make any public statements or issue press releases regarding this Agreement or the relationship with Darktrace without Darktrace's prior written consent.

#### 3.2. Where the Offering includes the Appliance(s):

- 3.2.1. Unless otherwise agreed to in an Order, title to all Appliances (and all components of the Appliances) provided by Darktrace to Partner pursuant to an Order will always remain with Darktrace. Partner acknowledges that the Appliances are provided solely as the medium for delivery and operation of the Software and must not be used for any other purpose. At the end

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of the term of each Order pursuant to which an Appliance is provided, Partner will (or will cause the End User to) return the Appliances to Darktrace, securely and properly packaged, with carriage (and insurance at Partner's option) prepaid.

- 3.2.2. Partner is solely responsible for preparing (or for requiring End User to prepare) the delivery location for the delivery of the Appliances, arranging for the provision of all necessary access and facilities reasonably required to deliver and install the Appliances, and any costs arising from inadequate preparation.
- 3.2.3. Darktrace will use commercially reasonable efforts to ship the Appliance(s) on the delivery date(s) agreed in writing with the Partner. Partner's sole and exclusive remedy for any delay in delivery or for failure to give notice of delay will be for Darktrace to make such delivery as soon as practicable thereafter. Darktrace is not liable for the acts or omissions of any third-party courier or shipping provider. Darktrace may withhold or delay shipment of any order if Partner is late in payment of any Fees or is otherwise in default under the Agreement. Darktrace will deliver the Appliance(s) FCA (Incoterms 2010) to the site(s) specified in the Order. Unless otherwise set out in the applicable Order or agreed in writing by the Parties, Darktrace will ship by the method of its choice. Unless otherwise included in the Fees of the applicable Order, Partner will pay and be exclusively liable for all costs associated with shipping and delivery, including freight, shipping, customs charges and expenses, cost of special packaging or handling and insurance premiums incurred by Darktrace in connection with the shipment of the Appliance(s). Darktrace will identify itself in all documents related to the shipment of the Appliance(s) as the exporter of record from the applicable jurisdiction of export, and Partner (or its agent, as applicable) as the importer of record into the country of delivery. Darktrace will provide Partner with reasonable assistance and support relating to the import of the Appliance(s).
- 3.2.4. The Appliance(s) will be packed in accordance with Darktrace's standard practices unless alternative packing specifications are set out in the applicable Order or agreed in writing by the Parties.
- 3.2.5. This Section 3.2.5 will apply to the extent any Appliances are delivered to an End User pursuant to an Order or for the purposes of demonstrating the Offering. Without limiting the foregoing, Partner will take the actions reasonably requested by Darktrace and cooperate with Darktrace in furtherance of ensuring that any Appliance(s) in End Users' possession is returned to Darktrace. While each Appliance is in Partner's possession, Partner will: (i) clearly designate the Appliance as Darktrace's property; (ii) hold the Appliance on a fiduciary basis as Darktrace's bailee; (iii) store and use the Appliance in a proper manner in conditions which adequately protect and preserve the Appliance; (iv) insure the Appliance to its full replacement value against all risks; and (v) not sell, charge, pledge, mortgage or otherwise dispose of the Appliance or any part of it or permit any lien to arise over the Appliance (or part of the Appliance) and keep the Appliance free from distress, execution, and other legal process.

## 4. Orders.

- 4.1. If Partner is purchasing from a Distributor, all pricing and payment terms will be determined between Partner and Distributor and Darktrace will have no liability under Partner's purchase orders (including any obligations or terms in such purchase orders) placed with Distributors. Darktrace's obligation to provide the Offering will be in accordance with Darktrace's agreement with the Distributor and the Distributor's corresponding Order that has been accepted by Darktrace.
- 4.2. When purchasing from Darktrace directly, Partner may purchase and place orders for Subscriptions by providing Darktrace with a PO, or, if applicable otherwise executing a Darktrace-approved quote or product order form. If the Partner provides Darktrace with a PO, the PO must include the following information: (i) PO must be addressed to Darktrace; (ii) PO must be addressed from the same Partner

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entity that has entered into this Agreement (including relevant contact information); (iii) identity of the End User and their contact information; (iv) Partner's unique PO number; (v) reference to the Order number; (vi) details of the Offering and Subscriptions (including the Subscription Period); and (vii) full value of the Order. All POs must be consistent with the Darktrace-approved quotes for Subscriptions and are subject to and governed by the Agreement. Any term or condition stated in a Partner-provided PO or in any other Partner-provided documents is void, even if the PO or document is accepted by Darktrace. Partner will provide all information required for each Order and will ensure that all information submitted to Darktrace in connection with each Order is accurate and complete. Any inaccurate information provided by Partner may impact Darktrace's ability to fulfill the Order and impose delays and related liability upon the Partner.

- 4.3. Partner will submit POs only in quantities of Subscriptions that Partner can resell in the normal course of its business. Each PO is subject to Darktrace's review and acceptance, in its sole discretion. Darktrace may reject any PO for any reason prior to fulfillment of the Order. All POs inconsistent with a Darktrace approved quote or the Agreement are deemed rejected. Once a PO has been received by Darktrace, (i) the PO is non-cancellable by the Partner, (ii) all payments are non-refundable except as otherwise expressly provided for in the Agreement, and (iii) changes to the PO may only be made upon Darktrace's written consent. Darktrace will use commercially reasonable efforts to provision or fulfill accepted Orders. Provisioning and fulfillment timelines, if provided, are estimates only. Darktrace may allocate Subscriptions or limit the number of Subscriptions available for order, including in advance of new releases or price changes.
- 4.4. Darktrace will provide the Subscriptions to the Partner or End User in accordance with the terms of the applicable Order and pursuant to the Agreement.
- 4.5. Darktrace reserves the right to modify the Offering at any time. Darktrace will use commercially reasonable efforts to provide written notice to Partner of any material modifications at least ninety (90) days in advance of: (i) any discontinuance of component(s) of the Offering; or (ii) any modification(s) to such component(s) which substantially affect(s) the functionality of the Offering.

## 5. Flow Down Terms.

- 5.1. Partner will ensure that:
  - 5.1.1. It (the Reseller it is reselling to), has a written agreement with the End User for the use of the Offering identified in the Order;
  - 5.1.2. The End User is contractually bound and agrees in writing that the End User's use of the Offering will be subject to terms that are no less protective to Darktrace than the Flow Down Terms.
- 5.2. Partner will ensure that all its quotes to or agreements with End User for resale of the Offering (or the quotes to or agreements with any Reseller it is reselling to) will include terms that ensure that the End User's use of the Offering is governed by the Darktrace Master Services Agreement available at: [darktrace.com/legal/master-services-agreement](https://darktrace.com/legal/master-services-agreement) (the "**Darktrace Master Services Agreement**") and any additional End User specific terms provided in the Order (together, the "**Flow Down Terms**").
- 5.3. Upon request, Partner will promptly provide all reasonable information and documentation requested by Darktrace to verify an End User has agreed to the Flow Down Terms. Partner acknowledges and agrees that Darktrace may contact End User for confirmation of the Order, executive business reviews by Darktrace, or confirmation of payment to Partner. The foregoing sentence does not apply to MSSP Partners. Partner acknowledges and agrees that: (i) Darktrace is an express third-party beneficiary of the Flow Down Terms and may enforce them directly against End Users; (ii) Partner's failure to include the Flow Down Terms in its End User agreements constitutes a material breach of

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this Agreement; and (iii) Darktrace's provision of the Offering to any End User is expressly conditioned on that End User's agreement to the Flow Down Terms.

- 5.4. Partner will ensure that any terms between End User and Partner with respect to the Offering are no less protective of Darktrace's rights under the Flow Down Terms, or the Agreement.
- 5.5. Darktrace may immediately terminate any Order, upon written notice to Partner: (i) for which the Partner does not have a valid corresponding written agreement with the End User that incorporates the requirements of this Section 5.; or (ii) if the agreement with the End User: (I) provides for the provision of Darktrace products or services that are not included the Offering identified in the Order, (II) includes subscription periods for Darktrace products or services that are not consistent with the Subscription periods identified in the Order, or (III) provides that End User may terminate for convenience or otherwise unilaterally suspend the payment of Fees for any period of time.

## 6. Fees and Payment.

- 6.1. Partner will pay to Darktrace (or a Distributor where applicable), for the Subscriptions, the prices set forth in each Order ("**Fees**"). Where Partner is required to pay Fees to Darktrace, then unless otherwise expressly set forth in an Order: (i) Fees will be invoiced on an annual basis, at the beginning of each year of the applicable Subscription period (where a "year" commences on the commencement date as set out on the Order and each anniversary of the Order), and Darktrace reserves the right to invoice from its local Affiliate; (ii) Partner will pay the Fees within thirty (30) days after receipt of the applicable invoice by email; and (iii) Darktrace reserves the right to increase the Fees payable by Partner: (a) on 30 days' prior written notice in the sole event that the Cloud Provider increases the charges or fees payable by Darktrace to such Cloud Provider for services necessary for or related to the applicable Offering but any such increase will be proportionate to the increase charged by the Cloud Provider; (b) once per year on not less than 60 days' prior written notice, with any such adjustment taking effect from the next anniversary of the commencement date as set out on the Order; or (c) if there is any change to the End User's network or infrastructure after the Order is accepted by Darktrace and such change results in a cost to Darktrace, in which case Darktrace will be entitled to charge such cost to the Partner.
- 6.2. Fees are exclusive of any applicable taxes, however designated. Partner will pay all such taxes levied or imposed by reason of Partner's purchase of the Subscriptions. Darktrace may impose late charges on overdue payments at a rate equal to 1.5% per month or, if lower, the highest rate permitted by Applicable Law.
- 6.3. Should Partner be required under any Applicable Law to withhold or deduct any portion of the payments due to Darktrace, then Partner will increase the sum payable to Darktrace by the amount necessary to yield to Darktrace an amount equal to the sum Darktrace would have received had no withholdings or deductions been made.
- 6.4. In the event Darktrace is obligated to refund Fees under the terms of the Darktrace Master Agreement or at its own discretion agrees to refund any Fees to End User, Darktrace may refund the applicable amount to Partner and Partner, at Darktrace's request, will promptly refund to the End User the corresponding applicable proportionate amount based on the fees the End User paid to Partner.
- 6.5. Partner will determine the prices it charges End Users for the Subscriptions. Darktrace makes no commitments to Partner regarding Partner's success in the Darktrace Partner Program, Partner's profits or margins, or Partner's ability to continue to participate in the Darktrace Partner Program.
- 6.6. In addition to any other rights or remedies that Darktrace has under the Agreement or under Applicable Law, Darktrace may suspend or terminate its performance under this Agreement (including no longer providing quotes or accepting Orders, or providing the benefits of the Darktrace

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Partner Program) or the Flow Down Terms at any time if the Partner fails to pay Darktrace (or a Distributor where applicable) the Fees. Nothing in this Agreement limits Darktrace's remedies in the event Partner fails to pay Darktrace (or a Distributor where applicable). Darktrace may cease to provide or suspend a Subscription to any End User. Partner is solely responsible for the collection of amounts owed to Partner for the Subscriptions and the failure to collect money owed by End User or another responsible channel partner does not excuse Partner's obligation to pay Darktrace. In addition to any other rights, if Partner fails to pay any Fees when due, Darktrace may do any or all of the following: (i) charge interest on overdue amounts; (ii) suspend all Partner benefits and Orders; (iii) require payment in advance for future Orders; and (iv) terminate this Agreement immediately. All Fees are non-refundable and non-cancellable, including if any Order is terminated early in accordance with the Agreement.

- 6.7. Unless specified in an Order, all costs and expenses incurred by either Party in the performance of the Agreement, including travel and lodging expenses, will be the sole responsibility of the Party incurring the expenses.

## 7. License and Restrictions.

- 7.1. Subject to the terms of the Agreement, the applicable Order, and the Darktrace Partner Program Guide, Darktrace hereby grants to Partner a revocable, limited, non-exclusive, non-transferable (except as expressly set forth in Section 18.2) and non-sublicensable (except to Authorized Affiliates) license during the Term solely to (i) access and use the Offering solely to demonstrate the Offering to End Users to the extent reasonably necessary to fulfill its obligations under the Agreement, (ii) translate, reproduce, or copy the marketing materials made available by Darktrace to Partner to the extent reasonably necessary for Partner to market and promote the Offering, (iii) perform the Partner Support Services, and (iv) resell Subscriptions to End Users subject to the Flow Down Terms, which permit End Users to access and use the Offering in accordance with their Subscription.
- 7.2. The Partner is not otherwise permitted to access and use the Offering for any purpose not set out in the Agreement or an Order.
- 7.3. Partner will not and will not permit any End User or third party to: (i) access or use the Offering in any manner beyond the scope of rights expressly granted in the Order and Flow Down Terms; (ii) modify or create derivative works of the Offering, in whole or in part; (iii) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain unauthorized access to any software component of the Offering, in whole or in part; (iv) frame, mirror, sell, resell, rent or lease the access or use of the Offering to any third party, or otherwise allow any third party to access or use the Offering for any purpose (except as expressly provided in the Agreement) other than to resell Subscriptions to End Users as expressly permitted under this Agreement and subject to the Flow Down Terms; (v) access or use the Offering in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any Applicable Laws; (vi) interfere with, overburden, disable, impair, or disrupt the integrity or performance of, the Offering or any systems, data, or networks connected to or accessible through the Offering; (vii) access or search any software component of the Offering (or download any data or content contained in the Offering or transmitted thereby) through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than software or Offering features provided by Darktrace for use expressly for such purposes; (viii) access or use the Offering for the purpose of copying any features, functions, or graphics of the Offering, or for building a competitive product or service, including for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the Offering or any part of the Offering; (ix) employ or authorize a Darktrace competitor to use or view the Offering, or to provide management, hosting, or support for the Offering; (x) disclose the contents of alerts or other notifications generated by the Offering regarding suspected

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malicious activity, security threats, or anomalous behavior, reports or other output of the Offering to third-parties without Darktrace's prior written consent; (xi) access or use the Offering to circumvent the security of a third party's network/information, develop malware, unauthorized surreptitious surveillance, data modification, data exfiltration, data ransom, or data destruction, or otherwise store, transmit, or distribute any viruses, malware, or other harmful code; (xii) export, re-export, or transfer, directly or indirectly, the Offering or allow the Offering to be exported, re-exported, or transferred, directly or indirectly, to any country, organization, person, or entity to which or to whom such export, re-export, or transfer would be in violation of any applicable export control laws or regulations, including the U.S. Export Administration Regulations, International Traffic in Arms Regulations, or economic sanctions laws, including economic sanctions programs implemented or administered by the Office of Foreign Assets Control of the U.S. Department of Treasury, or otherwise violate Trade Control Rules (as defined in Section 15.4), or (xiii) cause, encourage or assist any third party to do any of the foregoing.

- 7.4. Darktrace may use any feedback, suggestions, comments or the like that Partner provides to Darktrace with regard to the Offering.
- 7.5. Darktrace may monitor, collect, use, and store all data, content materials, and other information related to Partner that is submitted, created, saved, added, uploaded, or made accessible by or on behalf of Partner or collected, generated, processed, stored, or otherwise handled in connection with the Offering, in each case, in de-identified and aggregated form to develop, improve, protect, operate, and make available the Offering.
- 7.6. All permitted use of the Offering is by license only and is not subject to the "first sale" or any similar doctrine under copyright or other applicable Intellectual Property Rights laws. Except as otherwise expressly granted in the Agreement, any use in the Agreement of words such as "distribute", "sell", "resell", "price", "fees", or similar words is for convenience only, and not to be construed to mean that title to any underlying Intellectual Property Rights in the Offering is being transferred.

## 8. Trademarks.

- 8.1. Subject to the terms of this Agreement, each Party (a "**Marks Owner**") grants the other Party a worldwide, non-exclusive, non-transferable, royalty-free, non-sublicensable (except to Authorized Affiliates) limited license during the Term to use the Marks Owner's trademarks and logos, whether registered or unregistered, and any markings, colors, logos or other insignia used in connection with the Marks Owner's business (collectively, the "**Marks**") solely in connection with the performance of the other Party's obligations under the Agreement and as otherwise contemplated by the Agreement, and solely in accordance with the Marks Owner's guidelines and policies on such use, as provided from time to time by the Marks Owner to the other Party. Upon notice from the Marks Owner of its objection to any unauthorized or incorrect use of its Marks, the other Party will correct or stop usage as soon as reasonably practicable.
- 8.2. Partner will submit to Darktrace for its prior written approval an accurate, representative sample of the proposed use of Darktrace's Marks. Partner may use Darktrace's Marks in the same or substantially similar manner without further approval from Darktrace as long as such uses comply with Darktrace's guidelines and policies.
- 8.3. Partner will not and will not permit any End User or third party to remove any Darktrace Marks, copyright notices, proprietary notices, or labels displayed on the Offering. Partner will further not attach any other trademarks, logos, or trade designations to the Offering and will not affix any Darktrace Marks to products or services other than the genuine Offering.
- 8.4. Each Marks Owner claims ownership of all right, title, and interest in and to its Marks, together with any new or revised Marks, trade names, and logos that such Marks Owner may adopt to identify it or

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any of its products or services. Neither Party will claim any right, title, or interest to the other Party's Marks or take any action that threatens or challenges the Marks Owner's proprietary rights in its Marks. All use by a Party of the Marks Owner's Marks and all goodwill associated therewith will inure exclusively to the benefit of the Marks Owner and its Affiliates.

- 8.5. Except for the limited license(s) expressly granted to Partner in the Agreement, all right, title and interest in and to the Offering, including concepts and technology inherent in the Offering and all Intellectual Property Rights related thereto, will at all times remain the sole and exclusive property of Darktrace. No other license, immunity or rights, express or implied are granted by Darktrace, by implication, estoppel, or otherwise.
- 8.6. Darktrace may: (i) identify Partner as a participant in the Darktrace Partner Program; (ii) use Partner's name and Marks in Darktrace's marketing materials, partner lists, and website; and (iii) issue press releases announcing the partnership, subject to Partner's prior review and approval (not to be unreasonably withheld).

## 9. Confidentiality.

- 9.1. Each Party (as the discloser) may, from time to time, deliver or make accessible to the other Party (as the recipient) information and materials of the discloser or its Affiliates which is designated as "confidential" or "proprietary" or which should, by its nature, be reasonably assumed to be confidential, proprietary, or trade secret information or materials (collectively, "**Confidential Information**"). The recipient of Confidential Information will protect that Confidential Information using the same standard of care it uses to protect its own confidential information of a similar nature, but no less than a reasonable standard of care. This Section 9 will not apply to information which the recipient can reasonably demonstrate: (i) is known by the recipient prior to its receipt of such information or materials without confidentiality obligations; (ii) becomes known to the recipient directly or indirectly from a source other than one having an obligation of confidentiality to the discloser, (iii) becomes publicly known through no fault of the recipient; or (iv) is independently developed by, or for, the recipient without use of or reference to the Confidential Information.
- 9.2. The recipient of Confidential Information will not: (i) use Confidential Information, except as needed to fulfill its obligations or exercise its rights under the Agreement; or (ii) disclose Confidential Information to any third party, except to its or its Affiliates' employees, agents, and contractors who have a bona fide need to know such Confidential Information. The recipient is liable for breach of this Section 9 by its permitted recipients and will ensure each of those permitted recipients are subject to written confidentiality obligations at least as restrictive as the recipient's obligations under the Agreement.
- 9.3. The recipient may reveal Confidential Information of the other Party if required by Applicable Law (including under a court order) but only after it notifies the discloser in writing (to the extent legally permissible). The recipient will reasonably cooperate with a discloser's reasonably requested protective actions, at the discloser's expense. In any event, the recipient will disclose only the portion of the Confidential Information that is required by Applicable Law to be disclosed, and the recipient will remain subject to this Section 9 with respect to such Confidential Information.
- 9.4. The recipient will return, delete, or destroy all Confidential Information of the other Party and confirm in writing it has done so within thirty (30) days of the discloser's written request or upon the termination of the Agreement unless retention is required by Applicable Law or Confidential Information has been stored in a backup system in the ordinary course of business, but any such retained information will remain subject to the Agreement.

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## 10. Data Protection.

- 10.1. To the extent the Parties have access to Personal Data (as defined in the DPA) in connection with the Agreement, the Parties will comply with their respective obligations set out in the Data Processing Addendum made available at <https://www.darktrace.com/legal/partner-data-processing> (“DPA”), which is hereby incorporated into and forms part of the Agreement.
- 10.2. When Partner is using the Offering on behalf of End User, Partner represents and warrants that: (i) Partner or End User (“**Rights Holder**”) owns or has a right of use from a third party, and controls, directly or indirectly, all of the software, hardware, and computer systems where the Offering will be installed and the Rights Holder has authorized Darktrace to access the same and process and transmit data through the Offering to the extent necessary to provide the Offering; (ii) it has lawful basis in having Darktrace provide the Offering, process the End User Data and any Personal Data provided by Partner or End User; (iii) it has made all necessary disclosures, obtained all necessary consents, and obtained all necessary government authorizations required under Applicable Law to permit the processing and international transfer of End User Data, including any Personal Data, to Darktrace, including onward transfers to its sub-processors and their sub-processors; and (iv) it will comply with the minimum Technical Requirements Policy made available at <https://www.darktrace.com/legal/partner-terms-technical>.
- 10.3. Partner will maintain and process all End User Data and Personal Data only as directed by the End User. Partner will not: (i) modify the End User Data or any Personal Data in a manner that adversely affects the integrity of the End User Data or the Personal Data, except as expressly agreed to by End User; (ii) disclose End User Data or Personal Data to any third party, unless with End User’s prior written consent; (iii) use End User Data or Personal Data for any purpose other than providing the corresponding End User a product or service; or (iv) commingle the End User Data or Personal Data with that of another End User or store End User Data or Personal Data except in a secure manner or for longer than necessary.
- 10.4. Partner will promptly notify Darktrace at [privacy@darktrace.com](mailto:privacy@darktrace.com) in the event Partner breaches or reasonably suspects that it has breached this Section 10. Partner will provide all information reasonably requested by Darktrace regarding the actual or suspected breach, and any such breach will permit Darktrace to (i) immediately terminate the Agreement or any or all Orders or (ii) take any other action that Darktrace considers necessary or prudent to mitigate the risk associated with such breach. Partner will fully cooperate with Darktrace in connection with Darktrace’s investigation, remediation efforts, and any notifications to affected individuals or regulatory authorities.

## 11. Warranties.

- 11.1. Each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing, and in good standing under its jurisdiction of organization and has the right to enter into the Agreement; and (ii) the execution, delivery and performance of the Agreement and the consummation of the transactions contemplated hereby are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party and constitute a valid and binding agreement with such Party.
- 11.2. Darktrace’s warranties (if any) are provided directly to the End User in the Flow Down Terms.
- 11.3. THE OFFERING AND THE SERVICES ARE PROVIDED ON AN “AS-IS” BASIS, AND DARKTRACE MAKES NO WARRANTIES OR REPRESENTATIONS TO PARTNER OR TO ANY OTHER PARTY REGARDING THE OFFERING OR SERVICES OR ANY OTHER SERVICES OR MATERIALS PROVIDED IN CONNECTION WITH THIS AGREEMENT OR THE OFFERINGS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, DARKTRACE HEREBY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING ANY

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IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, DARKTRACE HEREBY DISCLAIMS ANY WARRANTY THAT THE OFFERING OR SERVICES WILL BE ERROR-FREE, BUG-FREE, OR UNINTERRUPTED, OR WILL FULFILL ANY OF END USER OR PARTNER'S PARTICULAR PURPOSES OR NEEDS. NEITHER THE OFFERING NOR ANY SERVICE IS DESIGNED OR INTENDED FOR USE WITH ANY APPLICATION OR HAZARDOUS ENVIRONMENT THAT REQUIRES FAIL-SAFE PERFORMANCE, WHERE THE FAILURE OF THE OFFERING OR SERVICE MIGHT RESULT IN OR CAUSE DEATH, PERSONAL INJURY OR ENVIRONMENTAL DAMAGE. DARKTRACE DOES NOT MAKE ANY WARRANTIES WITH RESPECT TO ANY THIRD-PARTY PRODUCTS, INTEGRATIONS, OR SERVICES. PARTNER ACKNOWLEDGES AND AGREES THAT DARKTRACE DOES NOT GUARANTEE OR WARRANT THAT THE USE OF THE OFFERING WILL FIND, LOCATE OR DISCOVER ALL SYSTEM THREATS, VULNERABILITIES, MALWARE OR MALICIOUS SOFTWARE AND WILL NOT HOLD DARKTRACE RESPONSIBLE FOR THE FOREGOING. PARTNER WILL NOT REPRESENT TO ANY THIRD PARTY THAT DARKTRACE HAS PROVIDED SUCH GUARANTEE OR WARRANTY.

## 12. Darktrace Indemnity.

- 12.1. Subject to the terms and conditions set forth in this Section 12, Darktrace will defend Partner, its Affiliates, and their respective officers, directors, employees, agents, and representatives (collectively, "**Partner Indemnitees**") (including by paying external attorneys' fees and costs and expenses of defense), and pay any resulting adverse final judgment or settlement to which Partner consents, from a third-party action, cause of action, suit, or judicial claim brought by a party other than Partner or its Affiliates to the extent that such alleges that the Offering (i) alone, without combination or modification, either (a) directly infringes an asserted patent claim or (b) embodies all the essential inventive elements of an asserted patent claim, (ii) infringes a third party's copyright, or (iii) alleges that the Offering misappropriates a trade secret (each, an "**IP Claim**"). Partner will: (I) notify Darktrace in writing of an IP Claim promptly, and in any event, within 5 days of receiving notice of such IP Claim; (II) fully cooperate with Darktrace in the defense of the IP Claim; and (III) grant Darktrace the right to exclusively control the defense and settlement of the IP Claim and any appeal (on the condition that any settlement by Darktrace must include, as an unconditional term, the claimant's or plaintiff's release of the Partner Indemnitee from all liability with respect to the IP Claim). Partner may, at Partner's own expense, participate in the defense of any IP Claim but Partner will not enter into any settlement or compromise of any such claim without Darktrace's prior written consent.
- 12.2. If Darktrace reasonably believes the Offering could infringe any third party's patent, copyright or registered trademark rights, Darktrace may, at its sole expense, use commercially reasonable efforts to: (i) modify or replace the Offering, or any component or part of the Offering, to make it non-infringing; or (ii) procure the right for End User to continue to use the Offering. If Darktrace determines that neither alternative is commercially practicable, Darktrace may terminate the Agreement and all corresponding Orders, and Partner may as its sole and exclusive remedy, obtain a refund from Darktrace of the Fees paid to Darktrace for the Subscription prorated for the remainder of any pre-paid subscription term unused by the Partner or End User if Partner provides the same proportionate remedy to End User.
- 12.3. Darktrace will have no obligations under this Section 12 if the IP Claim is based upon or arises out of: (i) any modification to the Offering not made by Darktrace; (ii) any combination or use of the Offering with or in any third party software, hardware, process, firmware, or data, to the extent that such claim is based on such combination or use; (iii) Partner's continued importation, exportation, distribution, marketing, sale, operation, access, use, or support of the allegedly infringing Offering after being notified of the infringement claim, or after being provided a modified version or replacement of the Offering by Darktrace at no additional cost that is intended to address such alleged infringement, or after Darktrace otherwise notifies Partner to stop importing, exporting, distributing,

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marketing, selling, operating, accessing, using, or supporting the Offering due to an IP Claim; or (iv) Partner's failure to use the Offering in accordance with the terms of the Agreement. Darktrace's obligations under this Section 12 apply only to IP Claims brought in the United States, United Kingdom, or European Union. For IP Claims brought in any other jurisdiction, Darktrace will provide reasonable cooperation to Partner at Partner's expense.

- 12.4. THE RIGHTS AND REMEDIES SET FORTH IN THIS SECTION 12 WILL CONSTITUTE PARTNER'S SOLE AND EXCLUSIVE REMEDY, AND DARKTRACE'S SOLE AND EXCLUSIVE LIABILITY, FOR ANY INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS IN CONNECTION WITH THE OFFERING.

## 13. Partner Indemnity.

- 13.1. Subject to the terms and conditions set forth in this Section 13, Partner will, defend Darktrace, its Affiliates and their respective officers, directors, employees, agents and representatives (collectively, the "**Darktrace Indemnitees**") (including by paying external attorneys' fees and costs and expenses of defense), and pay any resulting adverse final judgment or settlement to which Darktrace consents, from a third-party action, cause of action, suit, or judicial claim brought by a party other than Darktrace or its Affiliates to the extent that such alleges that (i) Partner's gross negligence, willful misconduct or fraud, (ii) any facts that if true would constitute a misrepresentation or false or misleading warranty made by Partner or its Affiliates with respect to the Offering or Darktrace, (iii) the provision of any services or products by Partner or its Affiliates to End Users (except to the extent caused by the Offering), (iv) any facts that if true would be a breach of Partner's representations, warranties or obligations under the Agreement, (v) any violation of Applicable Laws by Partner or its Affiliates; (vi) any claim that the use of the Partner Marks by Darktrace or its Affiliates in accordance with the Agreement infringes or violates any third party's Intellectual Property Rights, or (vii) the custody, use, processing or disposition of any End User Data by Partner (each, a "**Claim**"). Darktrace will: (i) notify Partner in writing of a Claim promptly, and in any event, within 5 days of receiving notice of such Claim; (ii) fully cooperate with Partner in the defense of the Claim; and (iii) grant Partner the right to exclusively control the defense and settlement of the Claim and any appeal (on the condition that any settlement by Partner must include, as an unconditional term, the claimant's or plaintiff's release of the Darktrace Indemnitee from all liability with respect to the Claim). Darktrace may, at its own expense, participate in the defense of any Claim but Darktrace will not enter into any settlement or compromise of any such claim without Partner's prior written consent.

## 14. Limitation of Liability.

- 14.1. EXCEPT FOR EACH PARTY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 12 AND 13, EACH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PARTNER'S BREACH OF ITS PAYMENT OBLIGATIONS TO DARKTRACE, OR ANY INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION BY ONE PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NO PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUE, OR SAVINGS, LOST BUSINESS OPPORTUNITIES, LOST DATA, COST OF SUBSTITUTE SERVICES, OR SPECIAL INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE PROVISION OF THE OFFERING, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE APPLICABLE CLAIM OR LIABILITY IS BASED, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES OR SUCH DAMAGES OR LOSSES WERE REASONABLY FORESEEABLE.
- 14.2. EXCEPT FOR EACH PARTY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS UNDER SECTIONS 12 AND 13, EACH PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, PARTNER'S BREACH OF ITS PAYMENT OBLIGATIONS TO DARKTRACE, OR ANY

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INFRINGEMENT, MISAPPROPRIATION, OR VIOLATION BY ONE PARTY OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL A PARTY'S CUMULATIVE LIABILITY TO THE OTHER PARTY ARISING UNDER OR RELATED TO THIS AGREEMENT OR THE PROVISION OF THE OFFERING, EXCEED THE FEES ACTUALLY PAID TO DARKTRACE FOR THE SUBSCRIPTIONS GIVING RISE TO THE LIABILITY IN THE 12 MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE LIABILITY, UP TO ONE HUNDRED THOUSAND (\$100,000) DOLLARS.

## 15. Compliance.

- 15.1. **Compliance with Laws.** Partner will perform its obligations under this Agreement with the highest commercial standards and in strict compliance with all Applicable Laws. Partner will be solely responsible for current and ongoing familiarity and compliance with all Applicable Laws concerning the importation, exportation, distribution, marketing, sale, operation, access, use, or support of the Offering and Partner's obligations under this Agreement.
- 15.2. **Code of Business Conduct.** Darktrace adheres to a set of values and guidelines promoting actions and behaviors respecting people (including, in particular, clients, employees, and shareholders), as further described on the Darktrace Partner Portal ("**Darktrace Guidelines**"). Darktrace requires its Partners to exhibit the highest level of social responsibilities in Partner's conduct and to comply with all Applicable Laws in relation to equality and diversity, anti-slavery, and health and safety. Partner hereby confirms that it has read, understands and agrees to comply with the Darktrace Code of Business Conduct (attached as Appendix 2), and which Darktrace may update from time to time by posting a new version on the Darktrace Partner Portal as well as to the Darktrace Guidelines.
- 15.3. **Corruption Prevention.** Partner will comply and ensure that all its Associated Persons and employees comply with all applicable global anti-corruption and anti-bribery laws. Without limitation to the foregoing, during the Term, Partner will: (i) maintain accurate, complete and transparent accounting records; (ii) not offer or provide, and will ensure that its Associated Persons and employees do not offer or provide, to any individual or entity, an advantage, financial, or otherwise, in order or with the intention to obtain any specific business advantage in return or to induce unauthorized behavior; and (iii) will not offer any gift, meal, entertainment, travel, or other advantage, nor make any charitable donation or political contribution to Darktrace customers or prospects or otherwise on behalf of Darktrace without the prior approval of Darktrace.
- 15.4. **Economic Sanctions Program.** The Agreement and the Parties' activities under this Agreement will comply with the restrictions, bans, prohibitions, or license/authorization requirements on trade or finance under the Applicable Laws of the United States, the European Union and its member states, or other relevant countries (collectively, the "**Trade Control Rules**"). Partner represents and warrants that neither itself nor any of its Associated Persons has been or is: (i) listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible to participate in government procurement programs or other government projects; (ii) subject to any international trade or finance sanctions or embargoes; (iii) listed on any watch list or consolidated list maintained for the purpose of enforcing international trade or finance sanctions; or (iv) suspended, revoked, or denied its import or export capacities or privileges. Partner will notify Darktrace immediately if it or any of its Associated Persons breaches any such warranties at any time during the Term. In such case, or if otherwise necessary for Darktrace to comply with any Trade Control Rules, Darktrace will be entitled, without liability to Partner, to immediately suspend or terminate any of its obligations under the Agreement, the Subscriptions, or the Agreement.
- 15.5. Partner represents and warrants that it has implemented all necessary and appropriate measures in order to ensure its compliance with its obligations under this Section 15 and Partner will maintain such measures during the Term. Partner will immediately inform Darktrace of any issues Partner has

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or believes it will have in complying with its obligations under this Section 15. Upon Darktrace's request, Partner will inform Darktrace of the measures it has taken to ensure compliance with its obligations under this Section 15. If Darktrace has reasonable cause to believe that Partner is in breach of its obligations under this Section 15, Partner will, promptly upon Darktrace's request, provide to Darktrace all further documentation reasonably necessary to demonstrate its compliance with its obligations under this Section 15. Darktrace reserves the right to audit Partner, directly or by a third party, at Partner's cost, if Partner fails to provide appropriate documentation within a reasonable time. Any breach of this Section 15 will permit Darktrace to immediately terminate the Agreement and any or all Orders.

## 16. Term and Termination.

- 16.1. The Term is set forth in the Darktrace Partner Program Agreement.
- 16.2. Each Party may terminate the Agreement at any time without cause, which termination will become effective upon thirty (30) days prior written notice to the other Party, and each Order in effect on the termination date will continue in effect in accordance with its terms and the Agreement for the duration of the Order term. An Order may not be terminated for convenience except with respect to the Offering provided by Darktrace for evaluation purposes.
- 16.3. Darktrace may terminate the Agreement or any Orders immediately upon written notice to Partner if Darktrace determines, in its sole discretion, that Partner has become a competitor of Darktrace.
- 16.4. Either Party may terminate the Agreement or any Orders upon thirty (30) days written notice in the event of the other Party's material breach of the Agreement and such breach is incapable of cure or is not cured within such thirty (30) day period.
- 16.5. Either Party may terminate the Agreement or any Orders immediately upon written notice to the other Party if any order is made or an effective resolution is passed for the dissolution or winding up of the other Party, except for the purposes of an amalgamation, merger or restructuring; a lien holder takes possession of, or a receiver is appointed over, the whole or a part of the undertaking or assets of the other Party; the other Party becomes insolvent or makes any special arrangements, composition or assignment for the benefit of its creditors, or is the subject of a voluntary or involuntary filing under the insolvency or bankruptcy laws of any jurisdiction; or an administrative order is made in relation to the other Party or that other Party makes an application to a court of competent jurisdiction for protection from its creditors generally. Partner will notify Darktrace if it enters into bankruptcy, liquidation, administration, or similar status.
- 16.6. Upon any termination of the Agreement: (i) Partner is no longer authorized to conduct any activities under the Agreement; (ii) Partner will discontinue all promotion, marketing, use and support of the Offering and will cease all display, advertising, and use of the Darktrace Marks; (iii) Partner will discontinue all representations that it has a relationship with Darktrace; (iv) all Fees payable by Partner to Darktrace or a Distributor under a terminated Order will become immediately due and Partner will continue to make such payments owed to Darktrace or a Distributor. Notwithstanding the foregoing, upon any termination of the Agreement: (a) Darktrace may continue to provide the Subscriptions to Partner in respect of End Users with an active subscription for the shorter of 12 months or the minimum period of required performance by Partner under the applicable agreements with the End Users, and the Parties will work in good faith to develop and specify options available to existing End Users at the end of such period and issue any necessary communication to such End Users describing such options. This will include, if available, an option to purchase a Subscription directly from Darktrace or other participants in the Darktrace Partner Program; and (b) Darktrace may otherwise refuse to continue providing the Offering to Partner, and Darktrace reserves the right to communicate with End Users and provide End Users with the option to purchase a Subscription

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directly from Darktrace or another participant of the Darktrace Partner Program to maintain continuity of service for the End Users.

- 16.7. Sections 1, 3.2.1, 3.2.3, 3.2.5, 5.3, 5.5, 6, 7.2, 7.3, 7.4, 7.5, 7.6, 8.3, 8.4, 8.5, 9, 10, 11, 12, 13, 14, 16.6, 16.7, 17, 18, 19 and Appendices 1 and 3 will survive the termination of the Agreement for any reason.

## 17. Governing Law and Dispute Resolution.

- 17.1. Any dispute or claim relating in any way to the Agreement will be governed by the governing law defined in the table below and adjudicated: (i) in the governing courts defined in the table below, in which case each Party consents to the exclusive jurisdiction and venue of the governing court; or (ii) by final and binding arbitration; in each case, as set forth in the table below. Notwithstanding the foregoing: (a) each Party may enforce its or its Affiliates' Intellectual Property Rights in any court of competent jurisdiction, including to seek injunction, specific performance and any other relief that may be available from any such court; and (b) Darktrace or its Affiliates may bring suit for payment in the country where Partner is located. Where arbitration applies, it will be conducted in English, under the Rules of Arbitration of the International Chamber of Commerce (the "ICC") by three arbitrators in accordance with said Rules. The award will be final and binding on the Parties. Except to the extent entry of judgment and any subsequent enforcement may require disclosure, all matters relating to the arbitration, including the award, will be held in confidence. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the Agreement.

Partner location (as stated in the Order)	Governing Law	Governing Courts / Arbitration
United Kingdom	The laws of England & Wales	The courts of England & Wales
United States of America	The laws of the State of California, without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction	The state or federal courts in Santa Clara County, California
Any jurisdiction outside of United Kingdom and United States of America	The laws of England & Wales	Arbitration at the ICC in London

## 18. U.S. Government and Other Governmental Entities.

- 18.1. Where Partner is providing the Offering and Services to a Governmental Entity or End User of a Governmental Entity, the relevant Flow Down Terms must be expressly accepted in writing by the Governmental Entity and/or incorporated by reference into the written agreement between Partner and the Governmental Entity prior to any access to or use of the Offering or Services by such Governmental Entity and its End Users.
- 18.2. The Parties recognize that in the event of breach of the Flow Down Terms by a Governmental Entity, Darktrace may desire to submit a claim against such Governmental Entity under Applicable Law. If Darktrace desires Partner to sponsor a claim on its behalf, Darktrace will timely submit a written request to Partner setting forth the legal basis of the claim, along with any required certifications. Darktrace will be solely responsible for all claim-related costs, including those incurred in preparation of the claim, submission of the claim, and any litigation arising from submission of the claim. Darktrace and Partner will cooperate and work in good faith regarding submission of any claim.

## 19. General.

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- 19.1. During the Term and for two years afterward or such longer period as required by Applicable Law, Partner will keep true, accurate, and complete records relating to its performance of this Agreement, including records to show compliance with its obligations under this Agreement. Upon Darktrace's reasonable request, Partner will either promptly provide to Darktrace such records or access to such records, in each case as are required to verify its compliance with its obligations under this Agreement and Applicable Law. Darktrace will bear its own expenses in connection with any audit pursuant to this Section 19.1, except that if any audit reveals any material breach of the Agreement by Partner or amounts revealed to be owed by Partner to Darktrace, Partner will reimburse Darktrace for reasonable expenses incurred in connection with such audit.
- 19.2. The Agreement is the complete and exclusive agreement between the Parties with respect to its subject matter and supersedes any and all prior or contemporaneous agreements, communications and understandings, both written and oral, with respect to its subject matter. Darktrace may modify these Terms from time to time. Except as provided in the Agreement, the Agreement may be amended or modified only by a written document executed by duly authorized representatives of the Parties.
- 19.3. Neither Party may assign or transfer the Agreement, by operation of law or otherwise, without the other Party's written consent. Any attempt to assign or transfer the Agreement without such consent will be void. Subject to the foregoing, the Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. Notwithstanding the foregoing, Darktrace may assign or transfer the Agreement without Partner's consent to an Affiliate or a third party that succeeds all or substantially all Darktrace's business and assets relating to the subject matter of the Agreement, whether by sale, merger, operation of law, reorganization, or otherwise.
- 19.4. Any notice under the Agreement will be delivered by hand, recorded delivery, registered post or email with satisfactory proof of such delivery to be retained by sender. Notices will only become effective on the actual date that the notice is received. Such notices will be sent to the addresses and emails set forth in the Darktrace Partner Program Agreement.
- 19.5. The relationship between the Parties is that of independent contractors. Nothing in the Agreement will be construed to establish any partnership, joint venture or agency relationship between the Parties. Neither Party will have the power or authority to bind the other or incur any obligations on the other's behalf without the other Party's written consent. For clarity, the term "Partner" as used in the Agreement has no independent legal significance.
- 19.6. No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or liabilities under this Agreement upon any person or entity other than the Parties and their respective successors and assigns. Notwithstanding the foregoing, Darktrace is an express third-party beneficiary of the Flow Down Terms in all End User agreements and the Darktrace Indemnitees and Partner Indemnitees are express third-party beneficiaries under the Agreement.
- 19.7. A breach or threatened breach by such Party of any of its obligations under Section 9 (Confidentiality) or, in the case of Partner, Section 7 (Restrictions), may cause the other Party irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, the other Party will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.
- 19.8. Either Party's failure to enforce any provision of the Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of the Agreement will be effective unless it is in writing and signed by the Party granting the waiver. If any provision of the Agreement is held invalid, illegal or unenforceable, that provision will be enforced to the maximum

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extent permitted by Applicable Law, given the fundamental intentions of the Parties, and the remaining provisions of this Agreement will remain in full force and effect.

- 19.9. Other than in respect of Partner's payment obligations, neither Party will be responsible for any failure or delay in the performance of its obligations under the Agreement due to causes beyond its reasonable control that could not be reasonably prevented or circumvented, which may include labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, pandemics, epidemics, public health emergencies, governmental orders and acts (including government-imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, or acts of God. The Party experiencing a force majeure event will use commercially reasonable efforts to provide notice of such to the other Party. During the continuation of a force majeure event, the non-performing Party will use commercially reasonable efforts to overcome the force majeure event and, to the extent it is able, continue to perform its obligations under the Agreement.

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## Appendix 1

### Definitions

1. “**Affiliate**” means any corporation, partnership, or other entity now existing or later organized that directly or indirectly Controls, is controlled by or under common Control with a Party.
2. “**Authorized Affiliate**” means an Affiliate of Partner who meets the requirements of the Darktrace Partner Program and is approved by Darktrace in writing to purchase from Partner and resell Subscriptions and, if explicitly authorized by Darktrace, provide Partner Support to End Users.
3. “**Appliance**” means the Software, or Software combined with any hardware device (including embedded firmware) shipped and installed as part of the provision of any Services, as more fully described in an Order.
4. “**Applicable Law**” means any statute, law (including common law), regulation, rule, order, judgment, decree, or other legal requirement of any governmental authority, court, arbitral body, or administrative agency in any jurisdiction worldwide.
5. “**Associated Persons**” has the meaning given to it in the UK Bribery Act 2010.
6. “**Cloud Provider**” means Microsoft Azure, Amazon Web Services, or Google Cloud Platform, as specified on the Order.
7. “**Control**” means the possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, the power to elect or appoint members of the governing body, by contract, or otherwise.
8. “**Darktrace Marks**” means Darktrace’s trademarks and logos, whether registered or unregistered, and any markings, colors, logos or other insignia used in connection with the Offering.
9. “**Darktrace Partner Portal**” means the web-based portal made available by Darktrace containing details concerning the Darktrace Partner Program.
10. “**Darktrace Partner Program**” means Darktrace’s program of allowing channel partners to purchase the Subscriptions.
11. “**Darktrace Partner Program Agreement**” means the agreement entered into by Darktrace and Partner that references these Terms and which can include other terms identified as “Darktrace Partner Program Terms” by Darktrace from time to time.
12. “**Darktrace Partner Program Guide**” means the terms of the Darktrace Partner Program made available by Darktrace to Partner (as may be updated by Darktrace from time to time).
13. “**Documentation**” means the technical instructions and user guides relating to the Appliances, Software, or Services, whether in printed or electronic format, provided by Darktrace at the time of delivery of the applicable component of the Appliances, Software, or Services or embedded in the Appliances, Software, or Services and including updates to the foregoing.
14. “**Effective Date**” has the meaning given to it in the applicable Darktrace Partner Program Agreement.
15. “**End User**” means a customer of Partner to which a Subscription is provided in the regular course of such customer’s internal business or personal use and not for resale or sublicensing by such customer.

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16. **“End User Data”** means all data, content, documents, materials, and other information related to End User that is submitted, created, saved, added, uploaded, or made accessible by or on behalf of End User or collected, generated, processed, stored, or otherwise handled in connection with the Offering.
17. **“Governmental Entity”** means any governmental authority, agency, court, or administrative body exercising executive, legislative, judicial, regulatory, or administrative functions in any jurisdiction worldwide, and any official or agent of the foregoing.
18. **“Installation Service”** means installation and test procedures performed by Darktrace to confirm completion of the installation of the Appliance on the applicable site.
19. **“Intellectual Property Rights”** means patent rights, copyrights, trademark rights, design rights, trade secrets, know-how, data and database rights, mask work rights, domain name rights, and any other intellectual property rights and similar or equivalent rights or forms of protection recognized in any part of the world.
20. **“Offering”** means any of the Appliances, Software, Services, and the Documentation, alone or in combination.
21. **“Order”** means any Darktrace approved quote or order form or other ordering document agreed to or accepted by Darktrace, that identifies the Subscriptions purchased by Partner, or an Evaluation Offering, with the Offering quantity based on Darktrace’s applicable usage metrics, price, and Subscription Period, as validly accepted by a Partner PO.
22. **“Partner Support Services”** means the professional services set forth in the Darktrace Partner Program Guide that Partner is authorized to perform for an End User in connection with the Offering.
23. **“PO”** means a purchase order raised by Partner referencing a Darktrace approved quote.
24. **“Services”** means the Installation Services and Support Services.
25. **“Software”** means the software provided by Darktrace in connection with an Order.
26. **“Subscription”** means a right to use the specific Offerings described in the Order for the term set forth in that Order.
27. **“Support Services”** means support services for the Offering performed by Darktrace in accordance with the Support Terms.
28. **“Support Terms”** means Darktrace’s support services terms available at <https://darktrace.com/legal/darktrace-support-services> (as may be updated by Darktrace from time to time).

## Appendix 2

### Darktrace Code of Business Conduct

#### 1. INTRODUCTION AND PURPOSE

This CODE OF BUSINESS CONDUCT ("Code of Business Conduct" or "Code") has been developed for the purpose of protecting human rights and promoting fair employment conditions, safe working conditions, responsible management of environmental issues, respect of human life and high ethical standards.

This Code of Business Conduct is designed to deter wrongdoing and to promote:

1. honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
2. fair, full, accurate, timely and understandable disclosure in reports and documents that the Darktrace Group files with the authorities (e.g., Companies House, HMRC, Financial Conduct Authority, London Stock Exchange) and in other public communications made by the Darktrace Group;
3. compliance with applicable governmental laws, rules and regulations;
4. prompt internal reporting of violations of the Code to an appropriate person or persons identified in the Code; and
5. accountability for adherence to the Code.

It is not possible to enumerate all of the situations which could result in an actual or apparent violation of this Code of Business Conduct. However, the following areas are of particular concern to Darktrace with respect to the ethical conduct of the Darktrace Group's business. These principles must be interpreted using good judgment and common sense. Employees and officers are encouraged to discuss questions or concerns relating to this Code of Business Conduct with their supervisors or other members of management, while directors should direct their questions and concerns to the Chairman.

In addition to compliance with relevant laws, regulations and standards in all of the countries which Darktrace Group operates, all Darktrace Group entities, companies, employees, contractors and services providers shall comply with the Code of Business Conduct even if it stipulates a higher standard than required by national laws or regulations.

Darktrace Group requires any party that contributes to Darktrace Group services or other business activities including partners, suppliers, subcontractors and service providers ("Suppliers") to comply with the Code of Business Conduct.

Darktrace Group supports the United Nations Global Compact initiative. In order to make clear to employees, Suppliers, customers and other stakeholders, the Code of Business Conduct is based on the Global Compact's ten principles and shall be publicly available. Darktrace Group is also committed to implement the United Nations Guiding Principles on Business and Human Rights throughout our business operations.

Privacy and security are important elements in services delivered by Darktrace Group, and we align our services and business processes to ensure that human rights aspects of privacy and security are respected throughout the operations of our services.

#### 2. APPLICATION

The Code of Business Conduct shall be applied throughout the Darktrace Group's operations and services worldwide, as well as by Darktrace Group's Suppliers through contractual agreement.

#### 3. DARKTRACE GROUP CODE OF BUSINESS CONDUCT – SUPPLIER SUPPLEMENT

The Code of Business Conduct is applicable to all Darktrace Group operations and to Suppliers.

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## 3.1. Compliance

Darktrace Group requires the Supplier and its subcontractors to comply with the Code Business Conduct.

Upon written request, a Supplier must verify that the Supplier and its subcontractors comply with the Code of Business Conduct.

## 3.2. Obligation to Inform

It is the responsibility of the Supplier to ensure that its employees and subcontractors are informed about, and comply with, the Code of Business Conduct. The Partner shall, as soon as reasonably practicable, inform Darktrace Group if it discovers a confirmed breach of the Code of Business Conduct in its own operations.

## 4. **CODE OF BUSINESS CONDUCT**

### 4.1. Human Rights

Darktrace Group respects all internationally proclaimed human rights, including the International Bill of Human Rights<sup>1</sup> and the principles concerning fundamental rights set out in the International Labor Organization's Declaration on Fundamental Principles and Rights at Work. We strive to ensure that we are not complicit in human rights abuses. We shall, in all contexts, seek ways to honor the principles of internationally recognized human rights, even when faced with conflicting requirements.

Darktrace Group is also committed to implementing the United Nations Guiding Principles on Business and Human Rights throughout our business operations.

Darktrace Group expects its Partners to support and respect the protection of internationally proclaimed human rights and to ensure that they are not complicit in human rights abuses. Darktrace Group expects its Partners to create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or verbal or psychological harassment or abuse. No harsh or inhumane treatment, coercion or corporal punishment of any kind is tolerated, nor is there to be threat of any such treatment.

### 4.2. Labor Standards

*Freedom of Association* – All employees shall be free to form and to join, or not join, trade unions or similar external representative organizations and to bargain collectively. Information and consultation with employees can be done through formal arrangements or, if such do not exist, other mechanisms may be used.

*Forced Labor Avoidance* - Forced, bonded or compulsory labor shall not be used, and employees shall be free to leave their employment after reasonable notice.

*Fair Employment Conditions* – Employees shall understand their employment conditions. Pay and terms shall be fair and reasonable and comply at a minimum with applicable laws or industry standards, whichever is higher.

Working hours shall comply with applicable laws.

Corporal punishment, physical or verbal abuse or other unlawful harassment and any threats or other forms of intimidation shall be prohibited.

*Child Labor Avoidance* – No person shall be employed who is below the minimum legal age for employment. Minimum age is the age of completion of compulsory schooling, or not less than 15 years in countries where educational facilities are insufficiently developed.

Children shall not be employed for any hazardous work, or work that is inconsistent with the child's personal development. A child means a person below the age of 18 years. Personal development

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<sup>1</sup> The International Bill of Human Rights consists of the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights

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includes a child's health or physical, mental, spiritual, moral or social development.

Where a child is employed, the best interests of the child shall be the primary consideration. Should any child be found to be performing child labor, policies and programs shall be contributed to, supported or developed without delay.

*Elimination of Discrimination* – All employees shall be treated with respect and dignity.

All kinds of discrimination based on partiality or prejudice is prohibited, such as discrimination based on race, color, gender, sexual orientation, marital status, pregnancy, parental status, religion, political opinion, nationality, ethnic background, social origin, social status, indigenous status, disability, age, union membership and any other characteristic protected by local law, as applicable.

Employees with the same qualifications, experience and performance shall receive equal pay for equal work with respect to those performing the same jobs under similar working conditions.

*Fair Working Conditions* – A healthy and safe working environment and, if applicable, housing facilities shall be provided for employees, in accordance with international standards and national laws.

Appropriate health and safety information and training shall be provided to employees including, but not limited to, arrangements for safe evacuations of building and correct handling and marking of chemicals and machinery.

#### 4.3. Environment

Darktrace Group shall strive to develop, produce and offer services with excellent sustainability performance and contribute to sustainable development of society. We shall strive to continuously improve, with a life cycle perspective, the environmental performance. We shall work to continuously reduce the negative impact of our own operations and take a precautionary approach to environmental challenges.

Darktrace Group shall use appropriate methodologies to determine significant issues and aspects, for setting and reviewing objectives and targets and as a basis for sustainable performance of our operations and services.

#### 4.4. Anti-corruption

No form of extortion and bribery, including improper offers for payments to or from individuals performing work for Darktrace Group, or organizations, shall be tolerated.

Darktrace Group expects its Partners to adhere to the highest standard of moral and ethical conduct, to respect local laws and not engage in any form of corrupt practices, including extortion, fraud or bribery, at a minimum.

#### 4.5. Proper Handling of Confidential Information

Employees shall not divulge to third parties any confidential information obtained during employment or service for Darktrace.

During and after employment by or service with Darktrace, directors, officers, employees and Partners shall not divulge to third parties, or appropriate to their own use, or to the use of others, any confidential information obtained during employment or service for Darktrace. The term "confidential information" as used in this policy includes, but is not limited to:

1. trade secrets;
2. technical materials and information;
3. product information and roadmaps;
4. bid data and transaction information;
5. customer lists;
6. compilations of information, financial information, or specifications that are used in the

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operation of Darktrace Group's business or that may eventually be used in the operation of Darktrace Group's business; and

7. other information relating to Darktrace Group's business that is not public knowledge.

#### 4.6. Ensuring the Protection and Proper Use of Darktrace Assets

Use or access to the Darktrace Group property for any unlawful or improper purpose is strictly prohibited.

This prohibition includes any use that is unlawful or improper under applicable law or ethical standards, regardless of the practices of other companies or individuals.

### 5. REPORTING POSSIBLE VIOLATIONS

Darktrace Group provides a platform for complaints by employees and third parties to allow issues, including those related to human rights, to be addressed. Parties can do so anonymously.

We take any complaints or concerns, whether from customers or third parties affected by our services, extremely seriously and will always aim to deal with them as quickly and efficiently as possible. Each complaint will be dealt with by a member of management. Should anyone identify a possible breach of this Code, a sub-contractor or external third party, the complaints email address provides a means for any such allegation to be brought immediately to the attention of the Head Office.

You can file complaints and raise issues by sending an email to the legal department: [notices@darktrace.com](mailto:notices@darktrace.com). Please provide as much detail as possible about your concern. You do not have to provide Darktrace Group with your name or contact details, but we will not be able to contact you in relation to the issue or provide you with feedback on its resolution if you do not.

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## Appendix 3

### Authorized Affiliates

1. Any approval granted by Darktrace in relation to an Authorized Affiliate is specific only to the Order for which approval was granted ("**Affiliate Order**") and does not constitute ongoing approval for the Authorized Affiliate to sell or invoice for a Subscription or deliver or support the Offering for any End User in relation to any other Orders.
2. Partner will include in each Affiliate Order the Affiliate's legal name and registered address. Partner will notify Darktrace of any changes to the foregoing information. If any of the foregoing information is inaccurate, such approval will be automatically void from the date on which such information became inaccurate.
3. Partner will ensure each Authorized Affiliate:
  - 3.1. Does not, without Darktrace's prior written consent, appoint sub-resellers, agents, distributors, or other third parties to resell the Subscription or provide Partner Support to an End User; and
  - 3.2. Complies with all Applicable Laws, including competition, export control and sanctions, anti-bribery/anti-corruption, and tax laws.
4. Darktrace will invoice Partner, and Partner remains solely responsible for payment of the amounts invoiced irrespective of any arrangements among Partner, any Authorized Affiliate, and an End User. Partner is solely responsible for all taxes arising from Partner's and any Authorized Affiliate's resale of a Subscription. To the extent required under Applicable Law for local tax/regulatory compliance, the Parties will cooperate in good faith to implement a locally compliant invoicing structure (which may include Darktrace invoicing an Authorized Affiliate) without reducing the Fees payable to Darktrace. Partner will promptly provide tax registrations and other information reasonably requested by Darktrace.
5. Partner will ensure that any End User that purchases a Subscription pursuant to an Affiliate Order will do so subject to the Flow Down Terms, and that if an Authorized Affiliate uses the Offering as permitted under an Affiliate Order, such use is governed by the Darktrace Master Services Agreement available at: <https://www.darktrace.com/legal/master-services-agreement>.
6. Darktrace may require Partner to suspend or restrict any Authorized Affiliate from reselling Subscriptions, providing Partner Support, or otherwise performing under the Agreement or an Affiliate Order where Darktrace reasonably determines there is a material or persistent breach, legal non-compliance, or security risk, in each case, caused by the Authorized Affiliate. In such event, Partner will immediately comply with Darktrace's instructions and ensure the Authorized Affiliate immediately ceases all such activities.
7. Partner represents and warrants that:
  - 7.1. Each Authorized Affiliate (i) is, and for as long as it remains an Authorized Affiliate will remain, an Affiliate of Partner, (ii) is not subject to any insolvency proceedings, and (iii) maintains sufficient liquid resources to meet its obligations under the Agreement as they become due;
  - 7.2. Partner has conducted sanctions/export and anti-bribery/anti-corruption due diligence on each Authorized Affiliate in accordance with industry best practices, and will maintain appropriate oversight of the Authorized Affiliates' compliance with the Applicable Laws relating to sanctions/export and anti-bribery/anti-corruption;
  - 7.3. No Authorized Affiliate is granted, and Partner will not purport to grant, any right or licence in or to the Offering, Darktrace Marks, or other licensed materials other than those strictly necessary to fulfil the relevant Affiliate Order; and

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- 7.4. No arrangement with any Authorized Affiliate will create an agency, partnership, joint venture, franchise, or employment relationship with Darktrace or permit the Authorized Affiliate to make any representations, warranties, or guarantees on Darktrace's behalf.
8. Partner will cause each Authorized Affiliate to comply in all respects with each of Partner's representations, warranties, covenants, obligations, agreements and undertakings in the Agreement. As a material inducement to the Darktrace's willingness to enter into the Agreement, Partner hereby fully and unconditionally guarantees full performance by each Authorized Affiliate's representations, warranties, covenants, obligations, agreements and undertakings in connection with the Agreement. Partner represents, acknowledges and agrees that any breach of, or other failure to perform, any such representation, warranty, covenant, obligation, agreement or undertaking of any Authorized Affiliate will be deemed a breach or failure to perform by Partner. Partner and an Authorized Affiliate will be jointly and severally liable for any and all obligations and liabilities of that Authorized Affiliate, and Darktrace will have the right, exercisable in its sole discretion, to pursue any and all available claims and remedies Darktrace may have arising out of any such breach or failure to perform and with respect to such liabilities directly against any Partner or the Authorized Affiliate, or both, in the first instance. Partner agrees, on behalf of itself and each Authorized Affiliate, that it will require any acquirer, successor, or assign to agree expressly to this Section 8.
9. Partner will defend the Darktrace Indemnitees (including by paying external attorneys' fees and costs and expenses of defense), and pay any resulting adverse final judgment or settlement to which Darktrace consents, from a third-party action, cause of action, suit, or judicial claim brought by a party other than Darktrace or its Affiliates to the extent that such arises from:
- 9.1. any act or omission of an Authorized Affiliate relating to an Affiliate Order;
  - 9.2. any facts that if true would constitute a breach by an Authorized Affiliate of the Agreement or Flow Down Terms;
  - 9.3. any violation of Applicable Laws (including Applicable Laws relating to export/sanctions, privacy/data protection, and anti-bribery/anti-corruption) by an Authorized Affiliate;
  - 9.4. any representations, warranties, or guarantees made on Darktrace's behalf to an End User by an Authorized Affiliate that are not expressly authorized by Darktrace;
  - 9.5. taxes assessed on Partner's or an Authorized Affiliate's resale of a Subscription; or
  - 9.6. security incidents, breaches, or unauthorized access involving the Offering caused by an Authorized Affiliate.

Darktrace will: (i) notify Partner in writing of any such claim promptly, and in any event, within 5 days of receiving notice of such claim; (ii) fully cooperate with Partner in the defense of such claim; and (iii) grant Partner the right to exclusively control the defense and settlement of such claim and any appeal (on the condition that any settlement by Partner must include, as an unconditional term, the claimant's or plaintiff's release of the Darktrace Indemnitee from all liability with respect to such claim). Darktrace may, at its own expense, participate in the defense of any such claim but Darktrace will not enter into any settlement or compromise of any such claim without Partner's prior written consent. Partner's defense and indemnification obligations under this Section 10 are excluded from Section 14.2 of the Terms.

10. No Authorized Affiliate or End User is a third-party beneficiary of the Agreement, and nothing in the Agreement grants any such party a right to enforce this Agreement against Darktrace.