

**KDK SOFTWARES (INDIA) PRIVATE LIMITED (“KDK”) END  
USER LICENSE AGREEMENT**

**THIS END USER LICENSE AGREEMENT (“AGREEMENT”) IS A LEGAL CONTRACT BETWEEN YOU AND KDK SOFTWARES (INDIA) PRIVATE LIMITED.**

**READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE SUBSCRIBING OR OTHERWISE ACCESING OR USING THIS LICENSED SOFTWARE. BY SUBSCRIBING OR OTHERWISE ACCESING OR USING THIS LICENSED SOFTWARE, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF ANOTHER PERSON OR COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT AND WARRANT THAT YOU HAVE FULL AUTHORITY TO BIND THAT PERSON, COMPANY OR LEGAL ENTITY TO THESE TERMS.**

**IF YOU DO NOT AGREE TO THESE TERMS:**

- **You should not click the “I Accept” or similar button.**
- **Terminate the subscription process forthwith.**

**1. DEFINITIONS.**

- a) “Access Fee” means agreed fee payable at a pre-determined interval (excluding any taxes and duties) by You for the limited right to use the Licensed Software on terms and conditions set out in this Agreement.
- b) “Authorized Device(s)” means a device(s) owned, leased or otherwise controlled by the Member from which it shall subscribe to or use the Licensed Software for its use as per the terms and conditions set out in this Agreement.
- c) “Documentation” means explanatory materials in printed, electronic or online form accompanying the Licensed Software in English and other languages, if available.
- d) “DATs” means detection definition files, also referred to as signature files, which contain the anti-malware software to detect and repair viruses, Trojan horses, and potentially unwanted programs.
- e) “Data” shall have the meaning ascribed to it in Clause 12.1 of this Agreement.
- f) “KDK/ We” means a company incorporated under Companies Act, 1956, with its registered office at A-40, Goyal Villa, Shayam Nagar, Jaipur – 302019, Rajasthan, India and who is the owner and administrator of Our Website and the Licensed Software.
- g) “Licensed Software” means any software which the Member subscribes to on Our Website and avails a right to use the same on payment of Access Fee to KDK.

- h) “Member(s)/You” means any person who has registered on Our Website and avails the limited right to use the Licensed Software from Our Website.
- i) “Our Website” means [www.kdksoftware.com/spectrum-cloud](http://www.kdksoftware.com/spectrum-cloud)

## 2. RIGHT TO USE

- a) Subject to the terms and conditions of this Agreement, including without limitation payment of any and all applicable Access Fee, KDK hereby grants to You a limited, non-exclusive, non-sub licensable, non-transferable right to use the Licensed Software (“**License**”) (for the purpose of this Agreement, to use the Licensed Software includes right to access the Licensed Software solely for your own personal use or internal business operations or for benefit of any other person than yourself (whether a body corporate or otherwise) in accordance with the terms stated in this Agreement including restrictions and limitations provided under this Agreement.
- b) The Licensed Software, including, without limitation, its object code and source code, whether or not provided to You, is strictly confidential to KDK. KDK (or its licensors) owns exclusively and reserves all right over the Licensed Software and You do not own or possess any right, title, and interest on the Licensed Software, including, without limitation, all intellectual property rights on the Licensed Software, except to the extent of the limited right to use the Licensed Software granted to You in this Agreement.
- c) This Agreement is not an agreement of sale, and no title, intellectual property rights, or ownership rights to the Licensed Software are transferred to You pursuant to this Agreement. You acknowledge and agree that the Licensed Software and all ideas, methods, algorithms, formulae, processes, and concepts used in developing or incorporated into the Licensed Software, all future updates and upgrades, and all other improvements, revisions, corrections, bug-fixes, hot-fixes, patches, modifications, enhancements, releases, DATs, signature sets, upgrades, and policy and database updates and other updates in, of, or to the Licensed Software, all derivative works based upon any of the foregoing, and all copies of the foregoing are trade secrets and sole and absolute proprietary property of KDK, having great commercial value to KDK.

## 3. REGISTERING THE LICENSED SOFTWARE

- 3.1 Account Sign In:** You shall be required to sign in to your account on Our Website to use or access the Licensed Software and you agree to do so within the time specified by the Licensed Software, otherwise you will not be able to continue to use the Licensed Software. To help avoid unintended access to your account or profile information, after period of inactivity, the Licensed Software is designed to automatically sign you out of your account. When signing up or using the Licensed Software, You may be prompted to create a (one-time) private encryption key or password in connection with your account and data file(s). Once created, please take care to memorize or securely store all passwords and encryption keys. If you forget or misplace an encryption key, You may lose access to your data that is encrypted with that key. KDK is not responsible or liable for passwords or encryption keys

stored insecurely, forgotten, or misplaced, or for any unauthorized access or inability to retrieve or recover access to data resulting from such unsecured, forgotten, or misplaced passwords or encryption keys.

## 4. SCOPE OF USE

4.1 Your limited right to use the Licensed Software is conditioned on each of the following restrictions and any use of this Licensed Software in violation of any of these restrictions or any other terms of this Agreement is a material breach of this Agreement:

- a) You agree to protect your password and account from all unauthorized use; and be solely responsible for creating backup files of all data accessed by or used for purpose of use of Licensed Software and KDK shall not be liable for any damages relating to lost, corrupted or damaged data.
- b) You agree not to (i) use the Licensed Software in a way that violates any applicable laws or regulations or (ii) distribute viruses or other harmful or malicious computer code via the use of Licensed Software (iii) engage in any conduct that disrupts or impedes the Licensed Software (iv) engage in “screen scraping”, database scrapping”, “data-mining “or any other activity with the purpose of obtaining the list of users or other information from the Licensed Software uses or similar data gathering or extraction methods.

## 5. TERM

This Agreement shall commence on the date You subscribe to the Licensed Software and shall be effective for a limited period time as specified in the subscription plan selected by You (“**Term**”), unless this Agreement is terminated in accordance with the terms provided in this Agreement.

## 6. GENERAL RESTRICTIONS

You shall not, and You shall not cause or allow any third party to:

- i. To sell, distribute, lease, rent, sub-license, modify, change, alter, assign or transfer the Licensed Software, except that: (i) You may transfer the Licensed Software to a party that purchases all of your business, provided You notify KDK in writing prior to passing on the Licensed Software to the purchasing party, and the purchasing party agrees in advance in writing to be bound by the Agreement;
- ii. Decompile, disassemble or reverse-engineer the Licensed Software; or create or recreate the source code for the Licensed Software;
- iii. remove, erase, obscure, or tamper with any copyright or any other product identification or proprietary rights notices, seal, or instructional label printed or stamped on, affixed to,

or encoded or recorded in or on any Licensed Software; or fail to preserve all copyright and other proprietary notices in all copies made by You of the Licensed Software;

- iv. lease, lend or use the Licensed Software for timesharing or service bureau purposes; sell, market, license, sublicense, distribute, or otherwise grant to any person or entity any right to use the Licensed Software except to the extent expressly permitted in this Agreement; or use the Licensed Software to provide, alone or in combination with any other product or service, any product or service to any person or entity;
- v. modify, adapt, tamper with, translate, or create derivative works of the Licensed Software; combine or merge any part of the Licensed Software with or into any other software; or refer to or otherwise use the Licensed Software as part of any effort to develop any software (including, without limitation, any routine, script, code, or program) having any functional attributes, visual expressions, or other features similar to those of the Licensed Software or to compete with KDK;

## 7. ACKNOWLEDGEMENT AND WARRANTY

### A. ACKNOWLEDGEMENT

You acknowledge that:

- i. Any data entry, conversion or storage is subject to the likelihood and machine errors, malicious manipulation, omission, delays and losses, including, but not limited to, inadvertent loss of Data or damage to media that may result in loss or damage to your Authorized Device or any loss of Data. KDK shall not be liable for any such errors, omissions, delays, or losses. You are responsible for adopting reasonable measures to limit the impact of such problems, including backing up data, adopting procedures to ensure accuracy of input data, examining and confirming results prior to use, adopting procedures to identify and correct errors and omissions, replacing lost or damaged media and reconstructing data.
- ii. KDK has no responsibility to any person other than You and nothing in this Agreement confers, or purports to confer, a benefit on any person other than You. If You use the Licensed Software on behalf of or for the benefit of anyone other than yourself (whether a body corporate or otherwise), you agree that:
  - a. You are responsible for ensuring that You have the right to do so;
  - b. You are responsible for authorizing any person who is given access to information or Data and You agree that KDK has no obligation to provide any person access to such information or data without your authorization and may refer any requests for information to you to your address and
  - c. You will indemnify KDK against any claims or loss relating to:
    - i. KDK's refusal to provide any person access to your information or Data or use of the Licensed Software in accordance with this Agreement.

- ii. KDK's making available information or Data or Licensed Software to any person with your authorization.
- iii. Communication – You agree and give your consent for voice call which may relate to “Promotional” means commercial communication and “Service message or Service Call” or a product recall information call.

## **B. WARRANTY**

- i. The Licensed Software is provided “as is” and KDK makes no representations or warranties, and KDK disclaims all representations, warranties, and conditions, oral or written, express or implied, arising from course of dealing, course of performance, or usage in trade, or otherwise, including, without limitation, implied warranties of merchantability, quality, fitness for a particular purpose, title, non-infringement, or systems integration. Without limiting the foregoing, KDK makes no warranty, representation, or guarantee as to the Licensed Software's use or performance and does not warrant, represent, or guarantee that the operation of the Licensed Software will be fail-safe, uninterrupted, or free from errors or defects or that the Licensed Software will protect against all possible threats.
- ii. KDK exempts its liability for damage, impairment, disruption, malfunctioning, failure etc. of the Authorized Device on which the Licensed Software is used.
- iii. KDK does not give professional advice. KDK is not your accountant or tax consultant and use of the Licensed Software does not constitute the receipt of accounting or taxation advice. If you have any accounting or tax related questions, please contact our accountants/tax consultants.

## **8. INTELLECTUAL PROPERTY**

### *A. General*

Title to, and all Intellectual Property Rights in the Licensed Software, Our Website, any Documentation relating to the Services and any results achieved by Data entered by You (“**Results**”) on the Licensed Software or Our Website remain the exclusive property of KDK

### *B. Ownership of Data*

Title to, and all Intellectual Property Rights in the Data provided by the User, remains the property of User. You grant KDK a license to use, copy, transmit, store, and back-up your Data for the purpose of enabling you to use the Licensed Software or Our Website.

## **9. LIMITATION OF REMEDIES AND DAMAGES.**

- a) KDK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE LICENSED SOFTWARE AND ANY SERVICES FURNISHED IN CONNECTION WITH THIS AGREEMENT. KDK DOES NOT WARRANT THAT THIS LICENSED SOFTWARE IS FREE OF BUGS, VIRUSES, IMPERFECTIONS, ERRORS OR OMISSIONS. KDK SPECIFICALLY DISCLAIMS AND EXCLUDES ANY IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION: (A) OF MERCHANTABILITY (B) FITNESS FOR A PARTICULAR PURPOSE; (C) OF NON-INFRINGEMENT; OR (D) ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.
- b) UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, NEGLIGENCE, CONTRACT OR OTHERWISE, SHALL KDK BE LIABLE TO YOU UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR EXTRA-CONTRACTUAL DAMAGES OF ANY KIND, LOSS OF GOODWILL, LOSS OF PERSONNEL SALARIES, LOSS OF PROFITS OR REVENUE, DAMAGES DUE TO WORK STOPPAGE AND/OR COMPUTER FAILURE OR MALFUNCTION, AND/OR COSTS OF PROCURING SUBSTITUTE LICENSED SOFTWARE OR SERVICES, WHETHER OR NOT FORESEEABLE, EVEN IF THE EXCLUSIVE REMEDIES PROVIDED BY THIS AGREEMENT FAIL OF THEIR ESSENTIAL PURPOSE AND EVEN IF EITHER YOU HAVE BEEN ADVISED OF THE POSSIBILITY OR PROBABILITY OF SUCH DAMAGES.
- c) REGARDLESS OF WHETHER THE CLAIM FOR SUCH DAMAGES IS BASED IN CONTRACT, TORT AND/OR ANY OTHER LEGAL THEORY, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY FOR DIRECT DAMAGES UNDER THIS AGREEMENT OR IN CONNECTION WITH ITS SUBJECT MATTER EXCEED THE AMOUNT OF ACCESS FEE PAID OR PAYABLE BY YOU FOR THE LICENSED SOFTWARE GIVING RISE TO SUCH CLAIM DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

## 10. LICENSE EXPIRATION

Your Licensed Software shall include an expiration date for the expiration of the License to use the Licensed Software. You may renew your License to use this Licensed Software on payment of applicable Access Fee. For your convenience, KDK may, but has no obligation to provide License expiration warning in the Licensed Software interface. It shall be responsibility of Member to contract KDK for renewal of License.

## 11. BREACH AND TERMINATION

11.1 KDK shall have a right to terminate this Agreement if You:

- a) Breach any of terms and conditions of this Agreement (including, without limitation, by non-payment of any Access Fees) and do not remedy the breach within 14 (fourteen) days after receiving the notice of the breach, if the breach is capable of being remedied;

- b) If You or your business becomes insolvent or your business goes into liquidation or a receiver has been appointed for any of its assets or if You become insolvent or make any arrangement with your creditors.

#### 11.2 Consequences of Termination:

- a) Suspend or terminate for any definite or indefinite period of time, your use of Licensed Software
- b) Suspend or terminate access to all or any Results and right to cease such Results.
- c) Shall have a right to seek damages from the User

11.3 You agree that on breach of any terms and conditions of this Agreement (including, without limitation, by non-payment of any Access Fees), KDK shall be entitled to seek appropriate equitable relief, including injunctive relief of including but not limited to refusal and restriction of right to use the Licensed Software by You or Authorised representative.

## 12. PRIVACY AND COLLECTION OF PERSONAL OR SYSTEM INFORMATION.

- 12.1 The Licensed Software or Our Website may employ applications and tools to collect personally identifiable, sensitive or other information about You (e.g., including, without limitation, Members' name, address, e-mail address and payment details), their computers, files stored on their computers, or their computers' interactions with other computers (e.g., including, without limitation, information regarding network, licenses used, hardware type, model, hard disk size, CPU type, disk type, RAM size, 32 or 64 bit architecture, operating system types, versions, locale, BIOS version, BIOS model, total scanners deployed, database size, system telemetry, device ID, IP address, location, content, information about third party products installed (collectively referred to as "**Data**").
- 12.2 By subscribing or using the Licensed Software or accessing Our Website, You agree to the KDK's Privacy Policy on Our Website to the collection, processing, copying, backup, storage, transfer and use of any Data by KDK. KDK will only collect, process, copy, backup, store, transfer and use personally identifiable information in accordance with the KDK Privacy Policy on Our Website. By subscribing or using the Licensed Software, You agree to the KDK's Terms of Use on Our Website for use of Our Website and Licensed Software.

## 13. CONFIDENTIALITY

You shall permit only authorized users, who possess rightful access, to use the Licensed Software or to view the Documentation. Except as expressly authorized by this Agreement, You shall not make available the Licensed Software, or Documentation to any third party,

or use the Licensed Software, Documentation, or any License Key for any purpose other than exercising rights expressly granted to You hereunder. You agree to cooperate with and assist KDK in identifying and preventing any unauthorized use, copying, or disclosure of the Licensed Software, Documentation, or License Key or any portion thereof.

## 14. GOVERNING LAW

This Agreement shall be governed by laws of India. Any dispute or difference arising out of or relating to this Agreement, or any breach or alleged breach thereof, shall be subject to jurisdiction of courts of Jaipur, Rajasthan.

## 15. MISCELLANEOUS

- a) Any terms of this Agreement which by their nature should survive the termination of this Agreement shall survive such termination.
- b) With or without prior notice, KDK may audit your use of the Licensed Software to ensure that You comply with the terms and conditions of this Agreement. If an audit reveals that You have underpaid Access Fee to KDK, KDK will invoice You for the underpayment or amount due based on KDK's price list at the time of the audit is completed.
- c) KDK may assign this Agreement, in whole, at any time subject to your prior written consent; provided, however, any assignment resulting from or as part of a merger, consolidation, acquisition of all or substantially all of the assets of KDK, or internal restructuring or reorganization does not require your consent.
- d) In the event that any provision of this Agreement, or any portion thereof, shall be held invalid, illegal or unenforceable under applicable law, such defect shall not vitiate the other provisions of the Agreement and the remainder of the Agreement shall continue to be legal, valid, effectual and binding on the Parties hereto.
- e) The failure by KDK to enforce any rights granted herein under or take any action against the Member in the event of breach hereunder shall not be constructed as a waiver by KDK as to the subsequent enforcement of rights or subsequent actions in the event of future breach by Member.
- f) This Agreement constitutes the entire agreement between You and KDK with respect to subject matter hereof, and supersedes any prior proposal, oral or written, advertising, representation, or other communication between You and KDK.
- g) Any notice given under this Agreement by either party to the other party must be in writing by email and will be deemed to have been given on transmission. Notices to KDK must be [info@kdksoftware.com](mailto:info@kdksoftware.com) or to any other email address notified by email to You by KDK. Notices to You will be sent to the email address which You provided when setting up your access to the Licensed Software.