

End User License Agreement - United States of America

NOTICE TO ALL USERS: PLEASE READ THE FOLLOWING LEGAL AGREEMENT ("**AGREEMENT**") CAREFULLY, FOR THE LICENSE OF THE STILLSECURE® SOFTWARE ("**SOFTWARE**") PRODUCED BY LATIS NETWORKS, INC. ("**LATIS**" or "**StillSecure**"). BY INSTALLING THE SOFTWARE OR CLICKING THE ACCEPT BUTTON, YOU AND YOUR COMPANY ("**YOU**" or "**Licensee**") CONSENT TO BE BOUND BY AND BECOME A PARTY TO THIS AGREEMENT. IF YOU ARE AN EMPLOYEE OR AGENT OF A COMPANY AND YOU ARE ORDERING ITEMS FOR USE BY SUCH COMPANY AND ITS EMPLOYEES, YOU HEREBY ACKNOWLEDGE THAT YOU ARE AGREEING TO THIS AGREEMENT ON BEHALF OF SUCH COMPANY, THAT YOU HAVE THE AUTHORITY TO BIND SUCH COMPANY TO THIS AGREEMENT AND THAT SUCH COMPANY WILL BE BOUND BY THIS AGREEMENT. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE BUTTON THAT INDICATES THAT YOU DO NOT ACCEPT THE TERMS OF THIS AGREEMENT AND/OR DO NOT INSTALL THE SOFTWARE.

INTRODUCTION

This Agreement covers two types of licenses for the Software, a license for a limited period of time (a "**Subscription License**") or a license for an unlimited amount of time (a "**Perpetual License**"). Section 1.a.i below applies if you have purchased a Subscription License to use the Software, and Section 1.a.ii applies if you have purchased a Perpetual License to the Software. In addition, certain specific licenses to the Software may be purchased as either a Subscription License or a Perpetual License, but will be subject to the further rights and restrictions contained in Section 1 below for the specific license purchased, but all other terms and conditions of this Agreement shall otherwise apply.

1 License Grants and Requirements

a. License Grant.

i. **Subscription License Grant.** Subject to the payment of the applicable license fees, taxes, and subject to the terms and conditions of this Agreement, StillSecure hereby grants to you a non-exclusive, non-transferable right to use for internal purposes only one copy of the specified version of the Software and the accompanying documentation (the "**Documentation**") for the time period specified in the applicable product order or invoice for the Software ("**License Period**"). Unless otherwise provided herein, you may install one copy of the Software on one server or computer device for which the Software was designed (each, a "**Computer**"). If the Software is licensed as a suite or bundled with more than one specified Software product, this license applies to all such specified Software products, subject to any restrictions or usage terms specified on the applicable price list or product order or invoice that applies to any of such Software products individually.

ii. **Perpetual License Grant.** Subject to the payment of the applicable license fees, taxes, and subject to the terms and conditions of this Agreement, StillSecure hereby grants to you a perpetual, revocable, non-exclusive, non-transferable right to use for internal purposes only one copy of the specified version of the Software and the accompanying Documentation (the "**Documentation**"). Unless otherwise provided herein, you may install one copy of the Software on one server or computer device for which the Software was designed (each, a "**Computer**"). If the Software is licensed as a suite or bundled with more than one specified Software product, this license applies to all such specified Software products, subject to any restrictions or usage terms specified on the applicable price list or product order or invoice that applies to any of such Software products individually. In conjunction with your purchase of a Perpetual License, you may also purchase Support to provide you with Support and Upgrades for the Software for a limited period of time (the "**Support Period**") as described in Section 3 below.

b. Use. The Software is licensed as a single product; it may not be used on more than one Computer, except as set forth in this Section 1. This license authorizes you to make one copy of the Software solely for backup or archival purposes, provided that the copy you make contains all of the Software's proprietary notices unaltered and unobstructed.

c. Volume License Use. If the Software is licensed with volume license terms specified in the applicable product order or invoice for the Software, you may make, use and install as many additional copies of the Software as the volume license terms specify. This license authorizes you to make or download one copy of the Documentation for each additional copy authorized by the volume

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d. VAM® Traveling License: If you have purchased a VAM Traveling License, Licensee is allowed to install the Software on a single device for purposes of conducting periodic vulnerability scans utilizing the Software. Vulnerability scans utilizing the Software must be conducted on third party networks and not in conjunction with Licensee's internal vulnerability assessment or management. Utilizing the Software in a continuous or repetitive basis on a single network is strictly prohibited. This license prohibits the Software's use in any environment where it is installed for any extended period of time or performs repetitive scans. This license is not valid and the use is prohibited in a managed services, hosting or similar capacity. This software may not be resold, rented or leased to any entity other than the Licensee.

e. VAM Enterprise License: If you have purchased a VAM Enterprise License, Licensee is allowed to install the Software on a single server, and one additional server for each distributed scanner server software license purchased. The Software is licensed by the number of unique IPs per scanner under management. Licensee may discover an unlimited number of devices utilizing the Software. Licensee may scan, manage, and report on the specific number of unique IPs per scanner on your invoice. Under this license, you may not resell, rent or lease the Software. Note that IPs removed from the license will lose all vulnerability data and history.

f. Safe Access® License: If you have purchased a Safe Access License, Licensee is allowed to install the Software on a single server, and one additional server for each enforcement server license purchased. The Software is licensed by the total number of unique devices (a unique MAC address being measured over a 30 day period) tested, and Licensee may test a total number of devices purchased.

g. Strata Guard® License: If you have purchased a Strata Guard License, Licensee is allowed to install the Software on a single server and process traffic up to, but not exceeding the stated bandwidth per the applicable Documentation for the type of license purchased.

2. Term, Renewal, Cancellation and Termination Charges.

a. Term and Termination. For Subscription Licenses, this Agreement is effective for the License Period unless and until earlier terminated as set forth in this Agreement. For Perpetual Licenses, this Agreement is effective unless and until terminated as set forth in this Agreement. StillSecure may terminate this Agreement, effective immediately and automatically, if you breach any provision of this Agreement and do not cure such breach within 5 days after receiving written notice thereof from StillSecure. Upon any termination or



expiration of this Agreement, you must cease use of the Software and destroy all copies of the Software and the Documentation. You expressly agree that any actual or threatened use of the Software after the termination or expiration of this Agreement will cause StillSecure to suffer irreparable harm for which there is no adequate remedy at law, entitling StillSecure to injunctive relief in addition to all other available legal remedies, and you agree to waive any bond requirement in the event such injunctive relief is granted against you. StillSecure reserves the right to disable the Software post termination subject to Section 2.e.

b. Renewal Periods. For Subscription Licenses, the license subscription will renew automatically unless written notification of intent to cancel is received by StillSecure no later than 30 days before the expiration date of the then current term, and a renewal invoice will be generated that will reflect the greater of the license subscription renewal price in effect at that time and the previous year's subscription rate plus an annual inflation adjustment of no more than 5%. For Perpetual Licenses, the Support will renew automatically, under the same terms stated above, at the greater of the then-current Perpetual License list price multiplied by the then current Support rate and the previous year's Support amount plus an annual inflation adjustment of no more than 5%.

c. Cancellation. Cancellations by you must be in writing and received by StillSecure no later than 30 days before the intended cancellation date. In no event will refunds be issued for the time remaining on prepaid license subscriptions or Support cancelled prior to the current expiration date. You will pay any Termination Charges described in Section 2.d. StillSecure reserves the right to disable the Software post cancellation subject to Section 2.e.

d. Termination Charges. If you (i) discontinue use of the Software or cancel the Agreement prior to the end of the License Period, Renewal Period or Support Period, or (ii) fail to pay the full amount agreed to in such order or invoice during the License Period, Renewal Period or Support Period or (iii) StillSecure terminates this Agreement due to your breach prior the expiration of the License Period, Renewal Period or Support Period, within 10 days after any such occurrence, you will pay StillSecure a termination charge equal to 100% of the unpaid amount agreed upon in the order or invoice for the remainder of the License Period, Renewal Period or Support Period ("**Termination Charge**"). You shall reimburse StillSecure for all costs (including reasonable attorney's fees) associated with collecting delinquent or dishonored payments. At StillSecure's option, interest charges may be added to any past due amounts at the lower of 1.5% per month or the maximum rate allowed by law.

e. StillSecure Electronic Self Help. StillSecure reserves the right to disable the Software by terminating the authorization key upon 10 days written notice (the "**Self Help Notice**") if this Agreement has been terminated by StillSecure or cancelled by you. Such an act by StillSecure does not remove your obligation to make complete payments on any amount owing to StillSecure. Prior to StillSecure resorting to disabling the Software, StillSecure will give you the Self Help Notice, the nature of the claimed action that entitles StillSecure to use electronic self help and the name and contact information of the person you may contact at StillSecure concerning the notice of electronic self help. StillSecure will provide the Self Help Notice to the person identified on the invoice or such other person designated in writing by you.

3. Service

a. Support and Upgrades. If you have purchased a Subscription License only, during the License Period and any Renewal Period you are entitled to maintenance and support ("**Support**") of the Software, on the terms and conditions described on the support page found at www.stillsecure.com. You are also entitled to download revisions, upgrades or updates ("**Upgrades**") to the Software when and as StillSecure publishes them via its electronic bulletin board system, Website or through other online services. If you have purchased a Perpetual License, you will not be entitled to receive

such Support and/or Upgrades unless you have also purchased Support. If you have purchased Support, during the Support Period and any Renewal Period you are entitled to Support of the Software, on the terms and conditions described on the support page found at www.stillsecure.com. You are also entitled to download Upgrades to the Software when and as StillSecure publishes them via its electronic bulletin board system, Website or through other online services. If you have a Perpetual License and discontinue Support, you will no longer be entitled to receive Upgrades. You may renew your Support only within 6 months from the date your Support ceased (the "**Support Termination Date**") by paying StillSecure 100% of the Support fees that would have been due between the Support Termination Date and the date that you request the renewal of Support (the "**Back Support Fee**"). Additionally, you must pay a reinstatement fee in the amount 50% of the then current annual Support fee for the product(s) for which you are reinstating Support. (the "**Reinstatement Fee**"). You must pay the Back Support Fee and the Reinstatement Fee prior to StillSecure reinstating Support, including your ability to receive and download Upgrades. If you wish to renew your Support after 6 months from the Support Termination Date, please contact your StillSecure representative.

b. Additional Services. StillSecure may provide any additional services, including without limitation, implementation, installation and other post-sales services under a mutually agreed to Statement of Work. Statements of Work signed by the parties are incorporated into and are subject to all of the terms of this Agreement.

4a. Ownership Rights. United States copyright laws and international treaty provisions protect the Software. StillSecure and its suppliers own and retain all right, title and interest in and to the Software, including all copyrights, patents, trade secret rights, trademarks and other intellectual property rights therein. Your possession, installation, or use of the Software does not transfer to you any title to the intellectual property in the Software, and you will not acquire any rights to the Software except as expressly set forth in this Agreement. StillSecure reserves the right to disclose you as a customer of our product. StillSecure will obtain your approval before disclosing any additional information regarding your organization's use of StillSecure products in marketing or promotional materials. All copies of the Software and Documentation made hereunder must contain the same proprietary notices that appear on and in the Software and Documentation.

4.b Confidentiality. You agree to take all reasonable steps to protect any StillSecure Confidential Information with at least the same degree of care that you use to protect your own confidential and proprietary information, but not less than reasonable care. You will not use the StillSecure Confidential Information other than for your implementation and use of the Software and the Documentation as intended by this Agreement. You may disclose StillSecure Confidential Information only to your employees, independent contractors and users as is reasonably required in connection with the exercise of your rights and obligations under this Agreement (and only subject to binding use and disclosure restrictions at least as protective as those set forth herein that may be executed in writing by your employees, independent contractors or users). Notwithstanding the above, you may disclose StillSecure Confidential Information pursuant to the valid order or requirement of a court, provided that you first give StillSecure reasonable notice to contest such order or requirement. Any such disclosure by you of the StillSecure Confidential Information shall, in no way, be deemed to change, affect or diminish the confidential and proprietary status of the StillSecure Confidential Information. The provisions of this Section survive the termination of this Agreement during the period in which you use the Software and for 5 years thereafter. "**StillSecure Confidential Information**" means (a) the Software and Documentation, (b) the terms of this Agreement, (c) any other business or technical nonpublic information of StillSecure, including but not limited to any information relating to its product plans, product prices, marketing plans, business opportunities, or personnel and (d) any other information of specifically designated as



confidential or proprietary, except that the definition of StillSecure Confidential Information does not include information that (i) is in or enters the public domain without breach of this Agreement through no fault of your own, (ii) you were demonstrably in possession of prior to first receiving it from StillSecure, (iii) you can demonstrate was developed by you independently and without use of or reference to the StillSecure Confidential Information, or (iv) you receive from a third party without restriction on disclosure and without breach of a nondisclosure obligation.

5. Restrictions and Obligations. You may not sell, lease, license, rent, loan or otherwise transfer, with or without consideration, the Software. You agree not to permit any third party (other than third parties bound by contracts with you that contain obligations no less restrictive than those set forth herein) to use the Software in any form and shall use all reasonable efforts to ensure that no improper or unauthorized use of the Software is made. You may not permit third parties to benefit from the use or functionality of the Software via a timesharing, service bureau or other arrangement, except to the extent such use is otherwise agreed to by StillSecure in writing. You may not use the Software for any benchmarking or other testing services. You may not transfer any of the rights granted to you under this Agreement. You may not reverse engineer, decompile, or disassemble the Software, except to the extent the foregoing restriction is expressly prohibited by applicable law. You may not modify, or create derivative works based upon, the Software in whole or in part. If you or anyone on your behalf modifies the Software in any way, you will void StillSecure's obligation to provide you Support under Section 3 and StillSecure reserves the right to require you to pay additional fees for any Support provided at its then current service fee rate. You may not copy the Software or Documentation except as expressly permitted in Section 1 above. You may not remove any proprietary notices or labels on the Software. Your use of the Software is further subject to certain third party licenses, which can be found at www.stillsecure.com/opensource. For the software distributed under any third party license, your use of the software will be governed by the applicable third party license. All rights not expressly set forth hereunder are reserved by StillSecure and/or its third party licensees. You agree to promptly notify StillSecure if you discover or become aware of any security holes and/or other vulnerabilities in the Software by sending an email providing reasonably detailed information to support@stillsecure.com. You agree to keep any such information strictly confidential, and not disclose it to anyone without StillSecure's express written permission. You acknowledge and agree that the disclosure of any such holes or vulnerabilities might subject StillSecure to significant liabilities, for which you may be responsible.

6. Warranty and Disclaimer.

a. Limited Warranty. StillSecure warrants that for 30 days from the date of original purchase the media (e.g., diskettes) on which the Software is contained will be free from defects in materials and workmanship.

b. Customer Remedies. StillSecure' and its suppliers' entire liability and your exclusive remedy for any breach of the foregoing warranty shall be, at StillSecure' option, either (i) return of the purchase price paid for the license, if any, or (ii) replacement of the defective media in which the Software is contained. This limited warranty is void if the defect has resulted from accident, abuse, or misapplication. Any replacement media will be warranted for the remainder of the original warranty period. Outside the United States, this remedy is not available to the extent StillSecure is subject to restrictions under United States export control laws and regulations.

c. Warranty Disclaimer. Except for the limited warranty set forth herein, THE SOFTWARE IS PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, STILLSECURE DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT WITH RESPECT TO THE SOFTWARE AND THE ACCOMPANYING DOCUMENTATION. YOU ASSUME RESPONSIBILITY FOR SELECTING THE SOFTWARE TO ACHIEVE YOUR INTENDED

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7. Limitation of Liability. UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER IN TORT, CONTRACT, OR OTHERWISE, SHALL STILLSECURE OR ITS SUPPLIERS BE LIABLE TO YOU OR ANY THIRD PARTY INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA LOST PROFITS, OR FOR ANY AND ALL OTHER DAMAGES OR LOSSES, INCLUDING WITHOUT LIMITATION ANY INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES. IN NO EVENT WILL STILLSECURE BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE AMOUNT ACTUALLY PAID BY YOU TO STILLSECURE FOR A LICENSE TO THE SOFTWARE, EVEN IF STILLSECURE SHALL HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO LIABILITY FOR DEATH OR PERSONAL INJURY TO THE EXTENT THAT APPLICABLE LAW PROHIBITS SUCH LIMITATION. FURTHERMORE, SOME STATES AND JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION AND EXCLUSION MAY NOT APPLY TO YOU. The foregoing provision shall be enforceable to the maximum extent permitted by applicable law.

8. United States Government. The Software and accompanying Documentation are deemed to be "commercial computer software" and "commercial computer software documentation," respectively, pursuant to DFAR Section 227.7202 and FAR Section 12.212, as applicable. Any use, modification, reproduction, release, performance, display or disclosure of the Software and accompanying Documentation by the United States Government shall be governed solely by the terms of this Agreement and shall be prohibited except to the extent expressly permitted by the terms of this Agreement.

9. Export Controls. You shall not acquire, ship, transport, export or re-export the Software, Documentation or technical information, directly or indirectly, into any country in violation of any applicable law (including, but not limited to, the United States Export Administration Act and the regulations promulgated thereunder) nor will Licensee use the Software for any purpose prohibited by such laws.

10. High Risk Activities. The Software is not fault-tolerant and is not designed or intended for use in hazardous environments requiring fail-safe performance, including without limitation, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, weapons systems, direct life-support machines, or any other application in which the failure of the Software could lead directly to death, personal injury, or severe physical or property damage (collectively, "High Risk Activities"). StillSecure expressly disclaims any express or implied warranty of fitness for High Risk Activities.

11. Software Operation Disclaimer. You acknowledge and agree that the function of the Software provided by StillSecure hereunder is to identify and repair or stop network security vulnerabilities or attacks. As such the Software contains code that is potentially harmful to network devices and the operation of the Software may cause network devices to malfunction or cease to operate. Notwithstanding anything to the contrary in this Agreement, StillSecure will not be liable for any damages (direct, indirect or consequential) arising from device downtime or malfunction caused by the operation of the Software, including any network downtime resulting from the malfunction of a device affected by the Software.



12. Miscellaneous. This Agreement is governed by the laws of the United States and the State of Colorado, without reference to conflict of laws principles. Any legal action concerning or arising out of this Agreement must be brought in the State of Colorado. BY AGREEING TO THIS LICENSE YOU EXPRESSLY AGREE TO WAIVE YOUR RIGHTS TO CONTEST PERSONAL JURISDICTION AND VENUE OR TO MOVE TO TRANSFER THE ACTION TO ANOTHER JURISDICTION OUTSIDE OF THE STATE OF COLORADO UNDER STATE OR FEDERAL STATUTES OR THE DOCTRINE OF FORUM NON CONVENIENS. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. This Agreement sets forth all rights for your use of the Software and is the entire agreement between the parties. StillSecure reserves the right to periodically audit you to ensure that you are not using any Software in violation of this Agreement. During your standard business hours and upon prior written notice, StillSecure may visit you and you will make available to StillSecure or its representatives any records pertaining to the Software to StillSecure. The cost of any required audit will be solely borne by StillSecure, unless you are using the Software in an unauthorized manner, in which case you shall pay the cost of the audit. This Agreement supersedes any other communications with respect to the Software and Documentation and prevails over any conflicting terms of any quote or order or additional terms of any purchase order or acknowledgment unless specifically agreed to by StillSecure. This Agreement, the order and any executed Statements of Work under this Agreement constitute the complete, final and exclusive embodiment of the entire agreement between the Parties with regard to the subject matter hereof. This Agreement is entered into without reliance on any promise or representation, written or oral, other than those expressly contained herein. This Agreement may not be modified except by a written addendum issued by a duly authorized representative of StillSecure. No provision hereof shall be deemed waived unless such waiver shall be in writing and signed by StillSecure or a duly authorized representative of StillSecure. If any provision of this Agreement is held invalid, the remainder of this Agreement shall continue in full force and effect. You may not assign or transfer by operation of law or otherwise, any rights under this Agreement. (including licenses with respect to the Software) or delegate any of your duties under this Agreement to any third party without StillSecure's prior written consent. You must be current on all payments to StillSecure prior to requesting any assignment or transfer. Any attempted assignment or transfer in violation of the foregoing will be void. StillSecure may assign or transfer, by operation of law or otherwise, any of its rights under this Agreement or delegate any of its duties under this Agreement to any third party.

13. STILLSECURE CUSTOMER CONTACT. If you have any questions concerning these terms and conditions, or if you would like to contact StillSecure for any other reason, please call (303) 381-3800, fax (303) 381-3880, or write: StillSecure, 100 Superior Plaza Way Suite 200 Superior, CO 80027

IN WITNESS WHEREOF, you have executed this Agreement as of the Effective Date.

By: _____
Signature

Name: _____
Print or Type

Title: _____

Company: _____

Address for Notice: _____

_____ *Street*

_____ *City, State, ZIP*

Attn: _____

Fax: _____

Date: _____