



Design Program and Beta License Agreement

This Design Program and Beta License Agreement (“**Agreement**”) is entered as of the Effective Date set forth above by and between Imperva, Inc., a Delaware corporation with its principal offices located at One Curiosity Way, 3050 South Delaware Street, Suite 203, San Mateo, CA 94403 United States, (“**Imperva**”) and the Company referenced in the accompanying Design and Beta Program Form (“**You**” or “**Your**”).

- Design Feedback and/or Beta Testing.** Subject to the terms of this Agreement, You shall have the option to participate in certain Imperva programs in which Imperva provides the pre-release software, hardware, and/or services, as well as, certain features and functionality named (“**Product**”) in each separate Design and Beta Program Form, a sample of which is attached. You will have the ability to communicate with Imperva, from time to time, on improvements or other modifications specific to the Imperva Product. Each Product is still under development and the features and functionality of a Product may change before its general commercial release. You acknowledge that Imperva has no obligation to license or sell a Product or any of its features or functionality as part of any commercially available product or service, and You have no obligation to buy or obtain any commercially available product or service from Imperva. Imperva is not obligated to provide any warranty, technical or customer support for the Product to You under this Agreement, however, as part of the testing, You will have direct access to certain Product engineers, who will support You directly through the testing process. You may be asked to allow access to the engineers for troubleshooting, testing, and tuning. This would involve any device that is part of the test environment.
- Pre-Release Product License.** Subject to the terms of this Agreement, for each Product made available to you under the terms of this Agreement, You may participate in the design program and beta test of that Product at no cost to You. Upon the Effective Date, Imperva grants to You, for the time indicated for the particular design or beta program (the “**Testing Period**”), a temporary, nonexclusive, nontransferable, non-sublicensable right to use and access the Product solely for testing and reporting the results of such test to Imperva (collectively “**Feedback**”). The Testing Period for a Product shall begin at Delivery. “**Delivery**” means either: (a) the Product and the corresponding license key have been downloaded by You, (b) Imperva makes the Product available for You to access, or (c) the hardware appliance has been tendered for delivery to You.
- License Restrictions.** You shall not: (i) incorporate a Product into any other products or services, (ii) modify, create derivative, translate, reverse engineer, decompile, disassemble, (except to the limited extent expressly permitted by applicable law); (iii) make unauthorized copies of a Product; (iv) disclose, distribute, transfer or market a Product to third parties; (v) remove or modify any proprietary notices, labels or marks on or in any copy of a Product; (vi) access the embedded database or any other third party product as part of a Product with applications other than the Product; or (vii) use a Product other than for testing and providing Feedback under this Agreement. Products provided under this Agreement are not intended for use in a production environment or commercial purposes and should You choose to deploy the Product within Your production environment, You assume all risk for such use.
- Customer Feedback.** You agree to provide Feedback to Imperva concerning the functionality and performance of the Product, from time to time, as reasonably requested by Imperva, including, without limitation, identifying potential errors and improvements, ideas, suggestions, and modifications. Imperva shall own all Intellectual Property Rights in such Feedback and may use the same for any purposes, including to improve or enhance the Product. You may not use any Feedback except for internal testing of the Product. Imperva is under no obligation to use or incorporate the Feedback into any commercially available Product. You warrant that the Feedback does not infringe the Intellectual Property Rights of any third party, including patents, copyrights, or trade secrets and that any Feedback is not subject to any license terms that require Imperva to comply with any additional obligations if it were to use or incorporate such Feedback.
- Open Source Code.** If applicable, You may obtain the complete corresponding open source software source code included in any Product licensed under this Agreement, if required by the open-source code license, for three years



after Imperva's last Delivery of the Product, by sending a request to Legal Department, Imperva, Inc., One Curiosity Way, Ste. 203, San Mateo, CA 94403, United States.

6. **US Government End User.** For purposes of this Agreement, "commercial computer software" is defined at FAR 2.101. Consistent with 48 C.F.R. 12.212 (Computer Software) and 12.211 (Technical Data) of the Federal Acquisition Regulation ("FAR") and its successors and 48 C.F.R. 227.7202-3 of the DOD FAR Supplement ("DFARS") and its successors, and notwithstanding any other FAR or other contractual clauses to the contrary in any agreement, Government end users will acquire the Product with only those rights set forth outlined in this Agreement.
7. **Limited Warranty.** Imperva warrants that it has the right to deliver the Product for the purpose of the license under this Agreement and that to the best of its knowledge, the Product, as delivered, and the media on which it is delivered, shall be free from viruses, worms, trojan horses, time locks or time bombs or similar malicious code at the time of delivery. If Imperva breaches this warranty, provided You notify Imperva in writing within thirty (30) days after the date of delivery of the Product, and as Your sole and exclusive remedy for Imperva's breach of this warranty, Imperva agrees at its option to repair or replace the Product so that it complies with this warranty.
8. **Exclusion of Warranty.** EXCEPT AS EXPRESSLY WARRANTED ABOVE, YOU AGREE AND ACKNOWLEDGES THAT EACH PRODUCT IS A PRE-RELEASE VERSION THAT IS STILL UNDER DEVELOPMENT AND THAT THE PRODUCT MAY CONTAIN BUGS, ERRORS, AND OTHER PROBLEMS THAT COULD CAUSE SYSTEM FAILURES AND OTHER DAMAGES. CONSEQUENTLY, EACH PRODUCT IS BEING PROVIDED TO YOU "AS IS" AND IMPERVA MAKES NO WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. IMPERVA HEREBY SPECIFICALLY DISCLAIMS, ON BEHALF OF ITSELF AND ITS PARTNERS AND SUPPLIERS, ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.
9. **Limitation of Liability.** EXCEPT TO THE EXTENT SUCH LIABILITY CANNOT BE EXCLUDED OR LIMITED BY LAW (A) NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF ANTICIPATED PROFITS OR REVENUES), NETWORK DOWNTIME, OR LOSS OF DATA HOWEVER CAUSED, AND, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE; AND; (B) IMPERVA'S AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY CLAIM IS LIMITED TO ONE HUNDRED US DOLLARS (\$100). You are responsible for any damage to any hardware provided under this Agreement, except for normal wear and tear.
10. **Confidentiality.** Confidential Information means any information concerning the products, services, documentation, customers, business, accounts, finance or contractual arrangements or other dealings, transactions or affairs of a party and any other proprietary information which may come to the other party's knowledge in the course of this Agreement including any information concerning this Agreement or its subject matter and other information by its nature, should reasonably be understood to be confidential unrelated to the fact whether such information is marked as confidential or not; and/or the substance of any report, recommendation, advice or test made, given or undertaken by a party pursuant to this Agreement, except for information in the public domain at the time of disclosure to the receiving party or which thereafter enters the public domain other than as a result of a breach of duty on the part of the receiving party.

Each party agrees to use the Confidential Information only for the purpose of this Agreement and to safeguard such Confidential Information with a degree of care commensurate with reasonable standards of industrial security for the protection of trade secrets and proprietary information so that no unauthorized use is made of such information and no disclosure of any part of their contents is made to anyone other than party's employees, agents or consultants whose duties reasonably require such disclosure. Notwithstanding any other provision, any information relating to Product, including but not limited to any results of beta, performance, benchmark tests shall also be deemed Imperva's Confidential Information. Any information relating to Your specific network environment or specific data identified by You as confidential shall be deemed Customer's Confidential Information. As part of this Agreement, Imperva may be accessing, storing, and/or processing data, statistics, and



network information obtained from You and/or Your traffic, such as data that Imperva, in its reasonable discretion, believes to be necessary to identify, detect or prevent threats (“Threat Data”). Imperva shall have the right to use such Threat Data to fulfill its obligations under this Agreement and to modify, improve or enhance Imperva’s products and services. Imperva acknowledges that it will not disclose such information to third parties in a manner that attributes such data specifically to You.

11. **Term and Termination.** This Agreement shall commence on the Effective Date. Either party may terminate this Agreement for convenience at any time with written notice to the other. Each Party may terminate this Agreement immediately for breach by the other party of any of the provisions of this Agreement. Upon any such termination, You will discontinue all use of the Product, and immediately return or delete all Product and provide Imperva with a duly signed certificate of destruction. Imperva will provide instructions on how to return any hardware provided under this Agreement. Sections 3-6 and 8-13 shall survive the termination or expiration of this Agreement.
12. **Compliance with Laws; Export.** You acknowledge that the Product contains encryption technology that is subject to export restrictions by the U.S. government and import restrictions by certain other governments. You will not allow any third-party to export, or allow the export or re-export of, any part of the Product or any direct product thereof: (i) into (or to a national or resident of) Cuba, Iran, North Korea, Syria, or the Crimea region of Ukraine (to the extent the U.S. government or any agency thereof restricts export or re-export to such countries or regions); (ii) to anyone on the U.S. Commerce Department’s Table of Denial Orders or U.S. Treasury Department’s list of Specially Designated Nationals; (iii) to any country or region to which such export or re-export is restricted or prohibited, or as to which the U.S. government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (iv) otherwise in violation of any export or import restrictions, laws or regulations of any U.S. or other government agency or authority. You agree to the foregoing and warrant that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Product is restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology without the prior permission of the U.S. government.
13. **General.** This Agreement contains the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings, and agreements, either oral or written between the parties with respect to such subject matter. Without limiting the foregoing, this Agreement will supersede any conflicting terms in any “click-thru license agreements that may be embedded within the Product or any documents delivered by You. This Agreement does not affect Your rights with respect to the terms of any agreements for previously purchased commercially available products or services. If any provision of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable. The failure of either party to act with respect to a breach of this Agreement by the other party or any third party does not constitute a waiver and shall not limit any rights with respect to such breach or any subsequent breaches. This Agreement will bind and inure to the benefit of each party’s permitted successors and assigns. Neither party may assign or transfer this Agreement without the other party’s prior written consent. Any attempt to transfer or assign this Agreement without such written consent will be null and void. Notwithstanding the foregoing, Imperva may assign this Agreement without consent to the acquiring or surviving entity in a merger or acquisition in which Imperva is acquired or to the purchaser of all or substantially all of Imperva’s assets. Imperva’s licensors are intended third-party beneficiaries of this Agreement. This Agreement will be interpreted and construed in accordance with the laws of the State of California and the United States of America without regard to its conflict of laws principles. The parties hereby consent to the exclusive jurisdiction and venue of the state and federal courts located in Santa Clara County, California for resolution of any disputes arising out of or ~~relation related~~ to this Agreement. Unless otherwise noted herein, all notices, requests, demands, and other communications hereunder shall be in writing to the address set forth above and shall be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered mail (return receipt requested); or (iii) two (2) days after it is sent if by overnight delivery by a major commercial delivery service.

This Agreement may be executed in counterparts and by facsimile, each of which will constitute an original and together shall constitute one instrument.



IMPERVA, INC.
Signed:
Name:
Title:
Date:

COMPANY:
Signed:
Name:
Title:
Date:



DESIGN PROGRAM AND BETA PROGRAM FORM

Company Name	
Company Contact	Name: Address: Email:
Product(s)	
Testing Period	90 Days / Insert "None" if not applicable
Agreement Name	
Effective Date of Agreement	
Program Start Date (to be filled in by Imperva)	

This Design Program and Beta Program Form is made part of the Design Program and Beta Program License Agreement ("Agreement"), located at <https://www.imperva.com/legal/wp-content/uploads/sites/14/2021/03/Imperva-Design-and-Beta-License..pdf>, or successor URL, and is valid for the Products and Testing Period defined above and is effective on the Program Start Date. This form does not replace or terminate any separately signed form regarding different Products.

The parties agree:

1. The Products defined above are provided under the terms of the Agreement with respect to the subject matter of design input and beta testing.
2. The Testing Period may only be extended by a written agreement signed by both parties.

This Agreement may be executed in counterparts and by facsimile, each of which will constitute an original and together shall constitute one instrument.

IMPERVA, INC.	COMPANY:
Signed:	
Name:	
Title:	
Date:	