FREEWAVE ZENTRY™ SOLUTION

END-USER LICENSE AGREEMENT

For Use Through the IBM Cloud Catalog

THIS END-USER LICENSE AGREEMENT (this "Agreement") governs End User's access to and use of the FreeWave Zentry™ Solution provided by FreeWave Technologies, Inc., a Delaware corporation with principal offices in Boulder, Colorado ("FreeWave"). When End User acquires the FreeWave Zentry Solution through the IBM Cloud Catalog, End User accepts and agrees to be bound by this Agreement.

BACKGROUND

FreeWave develops industrial IoT hardware, software, and secure connectivity solutions for operational technology environments. The FreeWave Zentry Solution is a Zero Trust network security platform that delivers real-time monitoring, remote service, and secure data transmission for industrial and critical infrastructure deployments. The Solution is made available to End User through the IBM Cloud Catalog and consists of Zentry™ Secure Connectivity subscription software and, optionally, FreeWave Elements™ ES1000 hardware.

By acquiring or accessing the FreeWave Zentry Solution through the IBM Cloud Catalog, End User agrees to the terms of this Agreement.

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1. Definitions

Capitalized terms used in this Agreement have the meanings set forth below:

(a) "Content" means all data, information, configurations, and other materials provided to FreeWave or processed through the Solution by or on behalf of End User.

(b) "Documentation" means the user guides, technical specifications, and other materials FreeWave makes available describing the features, functionality, and use of the Solution, as updated from time to time.

(c) "ES1000 Hardware" means the FreeWave ES1000 industrial edge appliance, including embedded firmware, sold as an optional component of the Solution through the IBM Cloud Catalog.

(d) "End User" or "You" means the individual or legal entity that acquires the Solution through the IBM Cloud Catalog and accepts this Agreement.

(e) "IBM Cloud Catalog" means the third-party software and services catalog operated by IBM Corporation through which the Solution is made available.

(f) "Intellectual Property Rights" means all patent, copyright, trademark, trade secret, and other intellectual property rights recognized under applicable law.

(g) "Solution" or "FreeWave Zentry Solution" means Zentry™ Secure Connectivity, together with any ES1000 Hardware ordered through the IBM Cloud Catalog, the associated Documentation, and any Updates made generally available to End User.

(h) "Update" means bug fixes, security patches, and minor enhancements to Zentry Secure Connectivity made generally available by FreeWave to its customers at no additional charge.

(i) "Zentry Secure Connectivity" means FreeWave's Zero Trust network security software platform, including all associated APIs, that enables authenticated, authorized, and encrypted communication across industrial and operational technology networks.

2. License Grant

2.1 Software License. Subject to End User's compliance with this Agreement, FreeWave grants End User a revocable, non-exclusive, non-transferable, and non-sublicensable license to access and use Zentry Secure Connectivity solely for End User's internal business operations during the term of End User's subscription as acquired through the IBM Cloud Catalog.

2.2 Hardware License. If End User acquires ES1000 Hardware as part of the Solution, FreeWave grants End User a non-transferable license to use the firmware embedded in such ES1000 Hardware solely in connection with End User's use of Zentry Secure Connectivity. Title to ES1000 Hardware passes to End User upon shipment; intellectual property rights in the firmware and software embedded therein remain with FreeWave.

2.3 Reservation of Rights. FreeWave and its licensors reserve all rights not expressly granted in this Agreement. No implied rights or licenses are granted by estoppel or otherwise. End User acquires no ownership interest in the Solution.

3. Use Restrictions

End User shall not, and shall not permit any third party to:

(a) use or access the Solution except as expressly provided in this Agreement;

(b) modify, adapt, alter, translate, or create derivative works from the Solution;

(c) sublicense, distribute, sell, convey, assign, pledge, lease, or otherwise transfer or encumber the Solution;

(d) use the Solution for the benefit of any third party or make the Solution available to any third party, whether through a service bureau, outsourcing, application service provider, hosting, or similar arrangement;

(e) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code, structure, design, or method of operation of the Solution, except to the extent applicable law expressly prohibits such restriction;

(f) circumvent or attempt to circumvent any technological limits or protection measures intended to restrict access to any portion of the Solution;

(g) access or use the Solution for any unlawful purpose or in support of any unlawful activity;

(h) interfere with the operation of the Solution or attempt to gain unauthorized access thereto;

(i) use the Solution to store or transmit viruses, worms, Trojan horses, or other malicious code, or material that is infringing, defamatory, or otherwise unlawful; or

(j) remove or obscure any proprietary or confidentiality notices, labels, or marks on or in the Solution.

4. Ownership and Intellectual Property

4.1 FreeWave Ownership. FreeWave and its suppliers own and retain all right, title, and interest in and to the Solution, including all Intellectual Property Rights therein. Any improvements, enhancements, or derivative works relating to the Solution, whether developed by FreeWave, End User, or jointly with any third party, are the sole property of FreeWave. End User assigns to FreeWave any rights it may acquire in such improvements.

4.2 End User Content. As between the parties, End User owns all right, title, and interest in and to its Content. End User grants FreeWave a non-exclusive, royalty-free, worldwide license to access, store, process, and transmit Content solely to provide the Solution and perform its obligations under this Agreement. End User represents and warrants that it has all rights necessary to grant this license.

4.3 Feedback. Any comments, suggestions, or other feedback End User provides regarding the Solution is voluntary. FreeWave may use, reproduce, and incorporate such feedback into the Solution or any other FreeWave product or service without any obligation or compensation to End User.

5. Term and Termination

5.1 Term. This Agreement commences on the effective date of End User's order through the IBM Cloud Catalog and continues for the subscription term specified in such order, including any renewals (the "Term"), unless terminated earlier as provided herein.

5.2 Termination for Cause. Either party may terminate this Agreement upon thirty (30) days' written notice if the other party materially breaches this Agreement and fails to cure such breach within the notice period. FreeWave may terminate immediately upon written notice for any material violation of Section 3 (Use Restrictions) or Section 7 (Confidentiality).

5.3 Suspension. FreeWave may suspend End User's access to Zentry Secure Connectivity upon written notice if FreeWave reasonably determines that continued access poses a security risk to FreeWave, its suppliers, other customers, or third parties, or if required by applicable law.

5.4 Effect of Termination. Upon expiration or termination of this Agreement: (a) End User's rights to access and use Zentry Secure Connectivity immediately cease; (b) within thirty (30) days, End User may request that FreeWave extract End User's Content from the platform, and the parties will agree to a commercially reasonable transfer method, after which FreeWave will delete such Content unless legally required to retain it; and (c) Sections 3, 4, 6, 7, 8, 9, 10, 14, and 17 survive termination.

6. Fees and Payment

End User is subject to IBM's billing and payment terms under this Agreement. All fees for the Solution acquired through the IBM Cloud Catalog are set and collected by IBM. FreeWave does not invoice

End User directly. Tax obligations associated with End User's acquisition of the Solution are governed by End User's agreement with IBM.

7. Confidentiality

Each party may disclose to the other ("Confidential Information") information that is marked as confidential or that a reasonable person would understand to be confidential under the circumstances. The receiving party shall: (a) use Confidential Information only as necessary to exercise its rights and perform its obligations under this Agreement; (b) not disclose Confidential Information to any third party without the disclosing party's prior written consent, except as required by law; and (c) protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature, but no less than reasonable care. Confidential Information does not include information that is publicly known through no fault of the receiving party, lawfully received from a third party without restriction, or independently developed without use of the disclosing party's Confidential Information.

8. Data Obligations and Security

8.1 Content Responsibility. End User is responsible for the accuracy, quality, and legality of all Content and for ensuring that End User has obtained all rights, consents, and approvals necessary for FreeWave to process Content in connection with providing the Solution.

8.2 Security Practices. FreeWave will use commercially reasonable administrative, physical, and technical safeguards designed to protect Content against unauthorized access, disclosure, alteration, or destruction. End User is responsible for safeguarding its access credentials and for all activity occurring under its account.

8.3 Security Incidents. Each party shall notify the other in writing without undue delay, and in any event within seventy-two (72) hours, after becoming aware of any actual or reasonably suspected unauthorized access to or disclosure of the other party's Confidential Information or Content.

9. Warranties; Disclaimer

9.1 Limited Warranty. FreeWave represents and warrants that, when used by End User as permitted under this Agreement, the Solution will substantially conform to the Documentation. End User's sole and exclusive remedy for breach of this warranty is, at FreeWave's option, repair, replacement, or, if neither is commercially reasonable, termination of this Agreement.

9.2 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 9.1, THE SOLUTION IS PROVIDED "AS IS" AND "AS AVAILABLE." FREEWAVE AND ITS SUPPLIERS DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. FREEWAVE DOES NOT WARRANT THAT THE SOLUTION WILL BE UNINTERRUPTED, ERROR-FREE, OR SECURE AGAINST ALL POSSIBLE THREATS. END USER ASSUMES ALL RISK ASSOCIATED WITH THE INSTALLATION AND USE OF THE SOLUTION.

10. Indemnification

10.1 By FreeWave. FreeWave shall defend End User against any third-party claim alleging that the Solution, when used in accordance with this Agreement, infringes a valid United States patent, copyright, or trade secret, and shall pay any damages finally awarded against End User in respect of such claim. If the Solution becomes, or in FreeWave's opinion is likely to become, the subject of an infringement claim, FreeWave may, at its option and expense: (a) procure for End User the right to continue using the Solution; (b) modify or replace the Solution so that it becomes non-infringing; or (c) terminate this Agreement and refund any prepaid fees attributable to the unused portion of the Term. This Section 10.1 does not apply to claims arising from (i) End User's breach of this Agreement, (ii) modifications to the Solution not made by FreeWave, or (iii) combinations of the Solution with products, services, or materials not provided by FreeWave where the infringement would not have arisen but for such combination.

10.2 By End User. End User shall defend and indemnify FreeWave against any third-party claim arising from (a) End User's Content, (b) End User's breach of Section 3 (Use Restrictions) or Section 11 (Export Compliance), or (c) End User's violation of any applicable law in connection with its use of the Solution.

10.3 Procedure. The indemnified party shall provide the indemnifying party with prompt written notice of any claim, sole control of the defense and settlement, and reasonable cooperation. The indemnifying party may not settle any claim that imposes liability on the indemnified party without the indemnified party's prior written consent, not to be unreasonably withheld.

10.4 Exclusive Remedy. This Section 10 states each party's entire liability and exclusive remedy for any third-party claim of intellectual property infringement.

11. Limitation of Liability

11.1 Excluded Damages. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS, REVENUE, DATA, BUSINESS, OR GOODWILL, ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY ON WHICH THE CLAIM IS BASED AND EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 Liability Cap. EXCEPT FOR LIABILITY ARISING UNDER SECTION 10 (INDEMNIFICATION) OR FROM A PARTY'S BREACH OF SECTION 7 (CONFIDENTIALITY), EACH PARTY'S TOTAL CUMULATIVE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT PAID BY END USER FOR THE SOLUTION DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

11.3 High-Risk Use. THE SOLUTION IS NOT DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS OR APPLICATIONS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING NUCLEAR FACILITIES, AIR TRAFFIC CONTROL SYSTEMS, LIFE-SUPPORT SYSTEMS, OR WEAPONS SYSTEMS, IN WHICH THE FAILURE OF THE SOLUTION COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR ENVIRONMENTAL DAMAGE.

12. Third-Party Components

The Solution may incorporate or interoperate with third-party software, including open-source software, subject to separate license terms. Such third-party components are provided under the terms of their respective licenses, which are made available with the Solution or upon request. Nothing in this Agreement limits End User's rights under any applicable open-source software license.

13. Export Compliance

The Solution is subject to United States export control laws, including the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce, and may be subject to the export or import laws of other jurisdictions. End User shall comply with all applicable export and import laws and shall not export, re-export, or transfer the Solution to any country, person, or entity prohibited under such laws. End User represents that it is not located in, and is not a national of, any country subject to United States sanctions, and is not listed on any United States government list of prohibited or restricted parties.

14. Assignment

End User may not assign this Agreement, or any of its rights or obligations hereunder, without FreeWave's prior written consent, except in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Any attempted assignment in violation of this Section is void. This Agreement binds and benefits the parties and their respective permitted successors and assigns.

15. Notices

Notices to FreeWave under this Agreement must be in writing and sent to: FreeWave Technologies, Inc., 5395 Pearl Parkway, Suite 100, Boulder, CO 80301, Attention: Legal. Notices may also be sent by email to info@freewave.com, provided that any notice of breach or termination must also be sent in hard copy. Notices to End User will be sent to the contact information on file with IBM Cloud Catalog or, if directly provided, the address designated by End User.

16. Governing Law; Venue

This Agreement is governed by the laws of the State of Colorado, without reference to its conflict of law principles. The parties consent to the exclusive jurisdiction and venue of the state and federal courts located in Denver, Colorado, for any action arising out of or relating to this Agreement. **EACH PARTY WAIVES ITS RIGHT TO A JURY TRIAL FOR ANY ACTION ARISING OUT OF THIS AGREEMENT, INCLUDING CONTRACT, TORT, AND ALL OTHER CLAIMS.**

17. Relationship of Parties

FreeWave and End User are independent contractors. This Agreement does not create any agency, partnership, joint venture, or employment relationship between the parties. Neither party has authority to bind the other or to incur any obligation on the other's behalf.

18. Entire Agreement; Amendment

This Agreement, together with the order documentation between End User and IBM through the IBM Cloud Catalog, constitutes the entire agreement between FreeWave and End User regarding the Solution and supersedes all prior or contemporaneous communications, representations, or agreements on the same subject matter. FreeWave may amend this Agreement from time to time by posting a revised version through the IBM Cloud Catalog or at https://www.freewave.com/legal. End User's continued use of the Solution after the effective date of any amendment constitutes acceptance of the revised terms.

19. Miscellaneous

Section headings are for convenience only and do not affect the interpretation of this Agreement. The failure of either party to enforce any provision of this Agreement does not constitute a waiver of that provision or any other provision. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions will continue in full force and effect, and the invalid provision will be interpreted to most closely approximate the intent of the original. Neither party is liable for any failure or delay in performance (other than payment obligations) due to causes beyond its reasonable control, including acts of God, war, terrorism, civil unrest, pandemic, fire, flood, labor disputes, or governmental action. This Agreement may be executed electronically and accepted through click-through acceptance via the IBM Cloud Catalog.

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