

KASPERSKY SECURITY SERVICES TERMS AND CONDITIONS

WHEREAS, the Customer named in the corresponding purchase order and/or in the corresponding Scope of Work, and/or in a separate agreement that may be entered into between Kaspersky and Customer, desires to acquire security services of Kaspersky Lab (hereinafter "Kaspersky") and Kaspersky desires to render these services to the Customer.

NOW THEREFORE, in consideration of the mutual covenants and promises in these Terms and Conditions and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and by Customer purchasing the services of Kaspersky in accordance with the related ordering process, and/or by signing the scope of work, as an integral part of the Terms and Conditions, provided by Kaspersky to the Customer, and/or acceptance of the Terms and Conditions and its Exhibits, and Annexes, via email communication between Parties, if required (which to the maximum extent permitted under applicable law shall be deemed conclusive approval thereof),

the Parties agree as follows:

Kaspersky agrees to render its services in the manner and within the period of services provision in accordance with the order for the services placed within Kaspersky Ordering System, these Terms and Conditions and/or applicable direct agreement that may be entered into between Kaspersky and Customer, and Customer agrees to fulfill its obligations in accordance with the Terms and Conditions, and/or the related direct agreement between Kaspersky and Customer.

To the extent the separate agreement between Kaspersky and Customer conflicts with any provisions of the Terms and Conditions, such separate agreement shall prevail.

By purchasing and/or using the Kaspersky services, Customer accepts this Terms and Conditions, and ensures that all its persons, who involved in the services purchasing, acceptance and use are aware of this Terms and Conditions.

DOCUMENT STRUCTURE

Terms and Conditions pursuant to which Kaspersky will provide services is made up of the following:

1. General Terms and Conditions, that specifies general terms and conditions and Parties obligations, applicable for Kaspersky services;
2. One or more applicable services modules, that describes details of the particular services, the related to the services Parties obligations, and stated in the Exhibits to this Terms and Conditions;
3. The scope of work that specified all the details of the services, purchased by Customer, and terms of its provision and acceptance, and stated in the Annexes to this Terms and Conditions.

In the event of any conflict between any of the documents that make up Terms and Conditions, they shall be applied as set out in these clauses 1-3 with ascending order of precedence.

GENERAL TERMS AND CONDITIONS

1. DEFINITIONS

“Business Day” - every official work day of a week or working day as per the official calendars of Kaspersky effective on the territory of the services provision, and do not include public holidays and weekends. Schedule of the services provision to be agreed between Parties additionally and set up in the related scope of work;

“Confidential Information” - (a) pricing or other information concerning any products or services of Kaspersky; (b) trade secrets and other intellectual property rights of Kaspersky or Customer; (c) any business, marketing or technical information disclosed by Kaspersky or Customer in the course of the performance of this Terms and Conditions;

“Customer Data” - any sensitive information belonging to Customer, including operational, financial and accounting data stored in Customer’s systems, and any other that is identified by the Customer as being confidential;

“Deliverable” - any output of the services to be provided by Kaspersky as specified in this Terms and Conditions, including its Exhibits and Annexes and any other documents and materials provided by Kaspersky to the Customer in relation to the purchased services;

“Direct Agreement” - a separate agreement that may be entered into between Customer and Kaspersky;

“Effective Date” - a date of the purchase order for the services, or a date of the Direct Agreement;

“Intellectual Property” - owned by or licensed to Kaspersky including without limitation patents, trademarks, services marks, trade names, rights in designs, copyrights, trade secrets, whether or not registered and including applications for any such right, matter, or thing or registration thereof subsisting in respect of the services;

“Kaspersky” - a legal Kaspersky entity, named in the corresponding Scope of Work or in the Direct Agreement;

“Order” - a Customer purchase order for the services, placed within Kaspersky ordering system;

“Partner” - any corresponding authorized partner of Kaspersky;

“Period of the Service(s) Provision” or **“Period”** - a period starting from the Effective date till the expiration date, stated in the service certificate, or till the expiration date, stated in the Direct Agreement;

“Scope of Work” or **“SOW”** - the written description and/or units of work to be accomplished during the Period of the Service(s) Provision. This document, provided by Kaspersky case by case, shall be accepted and signed by the Customer;

“Service(s)” - a set of services in the field of information security, that are reasonably requested by the Customer, to be provided by Kaspersky, as defined below in this Terms and Conditions;

“Service Certificate” or “Certificate” - a file in pdf format, furnished by Kaspersky after the relevant Order is placed, that contains Order details, Service name, Service limitations, and the Period of the Service Provision by Kaspersky;

“Service Delivery Date” - a start date of direct performance of the Service(s) to the Customer. Service Delivery Date shall be agreed between Parties during the Period of the Service(s) Provision, but not later than three (3) months before the end of this Period;

“Service Module” - description of a type of the Service to be performed by Kaspersky to the Customer, including additional terms and conditions that are specific to this type of the Service in the particular case;

“Technical Commercial Proposal” or “Proposal” - proposal of Kaspersky to render the particular Service(s) to the Customer, its description, options, conditions of performance and prices;

“Terms and Conditions” or “T&C” - these Terms and Conditions together with all its Exhibits, Annexes and Amendments.

2. COMMON PROVISIONS

- 2.1. Service(s) is provided by Kaspersky remotely and/or on the Customer’s site during the Period, in accordance with this T&C, related SOW and/or the Direct Agreement.
- 2.2. Service option that is purchased by the Customer, including Service name, Period will be indicated in the Proposal, Certificate, and/or in the Direct Agreement.
- 2.3. Price of the particular Service option is provided by Kaspersky in Proposal during negotiation between Parties of the Service scope, and depends on the type and duration of the Service.
- 2.4. Order placement confirms acceptance by the Customer of the Proposal, and this T&C in full. Service(s) can be provided after the SOW is signed by the Customer.

3. OBLIGATIONS OF THE PARTIES

- 3.1. The Customer shall:
 - 3.1.1. use the Service(s) and its components in accordance with this T&C;
 - 3.1.2. pay all fees for the Service(s) in accordance with the invoice, provided by Kaspersky or its Partner;
 - 3.1.3. provide the access to its information and property as may be reasonably required in order to permit Kaspersky to perform its obligations hereunder;
 - 3.1.4. ensure that the provided details and information, that may be required by Kaspersky for the Service(s) provision are correct and accurate;
 - 3.1.5. not disclose to a third party any Confidential Information of Kaspersky, received in connection with performance of the Service(s);
 - 3.1.6. accept in writing the Service(s) after its provision (by means of official letter or email notification) and provide Kaspersky with a completed acceptance form, if requested by Kaspersky.

3.2. Kaspersky shall:

- 3.2.1.** render the Service(s) and its components in accordance with this T&C;
- 3.2.2.** treat the Customer's interests with due attention, exercise reasonable care during the performance of Kaspersky's obligations under this T&C and/or the Direct Agreement between Parties.
- 3.2.3.** use commercially reasonable efforts to work with the Customer to correct or clarify any inaccuracies in the Customer's information or materials, requested by Kaspersky for Service(s) provision;
- 3.2.4.** ensure that Kaspersky and/or its employee(s) is suitable, sufficiently qualified and experienced to perform the Service(s) and will have the highest degree of skill, diligence, prudence and foresight which would reasonably be expected from a highly skilled, trained and experienced company and/or person performing the same or similar service;
- 3.2.5.** notify the Customer of any possible difficulties, delays and other well-known circumstances that may negatively affect the Customer's interests in advance;
- 3.2.6.** not disclose to a third party Customer Data, received from the Customer in connection with performance of this T&C.

4. TERM AND TERMINATION

- 4.1.** This T&C shall commence on the Effective Date, which is the date of acceptance of this T&C by Customer via email communication between Parties, or by signing this T&C or its part(s), if required by Kaspersky. The T&C shall terminate as soon as Period of the Service(s) Provision is expired unless the initial term of the Service is extended or renewed by a new Order.
- 4.2.** Annualized Service(s) must be used within the Period. If the Service(s) or its part(s) are not utilized during this Period, such Service(s) or its parts cannot be used and/or credited in subsequent years. Any Service(s) or its part(s) not used within the Period shall be forfeited.
- 4.3.** If Customer violates any of its obligations, stated in this T&C, or other legally binding document concluded between Kaspersky and Customer, Kaspersky may stop rendering of Service(s) or deliver the Service(s) with a limited scope.
- 4.4.** Kaspersky starts Service(s) performance on the Service Delivery Date subject to the same being mutually convenient to both Parties having regard to the availability of the Kaspersky's employees, agents or representatives. Where no Service Delivery Date has been specified in the SOW, Customer shall give not less than three months' notice to Kaspersky of a proposed Service Delivery Date on which Customer wishes the Service(s) to be provided and such proposed Service Delivery Date shall be subject to approval by Kaspersky.
- 4.5.** If the proposed Service Delivery Date is not applicable for Kaspersky, Kaspersky will use reasonable endeavors to inform the Customer of such issue prior to the Service Delivery Date and arrange an alternative mutually convenient date.
- 4.6.** Kaspersky will use its reasonable endeavors to meet any agreed deadlines for completion of the Service(s), but any deadlines are estimates only and both Parties agree that time shall not be of the essence in respect of such deadlines.

5. INTELLECTUAL PROPERTY, CONFIDENTIALITY, INTERRUPTION AND LIMITATION

- 5.1. Any pre-existing proprietary or Confidential Information of Kaspersky used to render the Service(s), or included into the results or Deliverables of the Service(s) provision, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, know-how, data or other Intellectual Property, written or otherwise, shall remain Kaspersky exclusive property.
- 5.2. With respect to Customer Data provided by the Customer to Kaspersky hereunder, Kaspersky agrees to take such security measures to prevent the unauthorized duplication, distribution, disclosure or use of the Customer Data equal to that which Kaspersky uses to protect its own proprietary information, and in no event these measures will be less than commercially reasonable.
- 5.3. Customer agrees that the Service(s) and the authorship, systems, ideas, methods of operation, documentation and other information contained in the Service(s) or related to rendering of Service(s), are proprietary Intellectual Property and/or the valuable trade secrets of Kaspersky. This T&C does not grant to the Customer any rights to the Intellectual Property including any trademarks or service marks of Kaspersky. Customer may use the trademarks only insofar as to identify printed output produced by the Service(s) in accordance with accepted trademark practice, including identification of the trademark owner's name. Such use of any trademark does not give to the Customer any rights of ownership in that trademark. Kaspersky owns and retains all right, title, and interest in and to the Service(s), including without limitation any error corrections, enhancements, Updates or other modifications to the Service(s), whether made by Kaspersky or any third party, and all copyrights, patents, trade secret rights, trademarks, and other Intellectual Property rights therein. Customer's use of the Service(s) does not transfer to the Customer any title to the Intellectual Property in the Service(s). Except as stated herein, this T&C does not grant the Customer any Intellectual Property rights included into the results or Deliverables of the Service(s). Kaspersky reserves all rights not expressly granted to the Customer in this T&C. Any use of Kaspersky name, logo or trademarks is highly forbidden without Kaspersky prior written consent.
- 5.4. The Deliverables are intended for Customer's own internal use only and not for any use by third parties nor for use in any legal proceedings.

6. GENERAL

- 6.1. This T&C will be binding upon Kaspersky's or Customer's successors or permitted assigns. Neither Party may assign or transfer this T&C without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Any attempted assignment or transfer without such consent will be void and of no effect.
- 6.2. All notices given by Parties will be effective on receipt and will be in writing and sent via electronic communication to the addresses, previously agreed by Parties.
- 6.3. Neither Party shall be liable for any failure or delay in fulfilling the terms of this T&C due to fire, strike, labor relations, war, civil unrest, terrorist action, government regulations, acts of nature or other causes which are beyond the reasonable control of the Party claiming force majeure. The affected Party shall notify the other in writing of such events or circumstances promptly upon their occurrence.

- 6.4.** This T&C contains the entire agreement between the Parties relating to the matters covered by it, superseding all other oral or written representations, understandings, proposals or other communications between the Parties, excluding Direct Agreement. This T&C may be modified only by a written instrument signed by an authorized representative of each Party.
- 6.5.** In the event that any provision of this T&C is for any reason void or unenforceable in any respect, such provision will be without effect to the extent of the voidness or unenforceability without affecting such provision in any other respect and without affecting any other provision.
- 6.6.** Customer agrees to be responsible for legal compliance of using Service(s) within the Customer infrastructure and industry. Service(s) and Deliverables can be used to protect its own infrastructure and/or its own employees only in accordance with this T&C.
- 6.7.** Service(s) fee and all applicable taxes payable are due within the period specified in an invoice provided to Customer by Kaspersky or the Partner.
- 6.8.** If at any time before the due completion of the Service(s), the Customer wishes to change all or any part of the Service(s) to be performed by Kaspersky, then the Customer shall provide Kaspersky with full written particulars of such proposed changes and with such further information as Kaspersky may reasonably require in connection with such proposed changes. Kaspersky shall then submit to the Customer as soon as reasonably practicable a full written quotation for such changes specifying what changes (if any) will be required to fees payable by the Customer to Kaspersky, or by Customer to the Partner, and what adjustments will be required to the particular SOW.
- 6.9.** If Kaspersky's performance of its obligations under the T&C and/or the Direct Agreement, is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, Kaspersky shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.
- 6.10.** The Customer shall not, without the prior written consent of Kaspersky, at any time from the Effective Date to the expiry of one (1) year after the last of the Service(s) to be provided under this T&C, solicit, or entice away from Kaspersky or employ or attempt to employ any Kaspersky Personnel.
- 6.11.** Upon receipt of the Deliverable, all Service(s) associated with it shall be deemed accepted and completed and Kaspersky shall have no further obligation with respect to that Deliverable. Where the call off expressly states that a Deliverable is subject to acceptance testing, Customer will have five (5) Business Days from the date Kaspersky provides the Deliverable to the Customer to inform Kaspersky whether Customer accept or reject it. If Customer does not accept or reject the Deliverable in writing within (five) 5 Business Days, or if Customer uses the Deliverable for any purpose other than acceptance testing, Customer will be deemed to have accepted it.
- 6.12.** Kaspersky reserves the right to improve the Service(s) by changing its components (including without limitation content, format, delivery, update details, number of records, sources of intelligence and internal manuals).
- 6.13.** Kaspersky reserves the right at any time to modify this T&C and to impose new or additional terms or conditions on the Service(s) use. Such modifications will be effective immediately when incorporated into the T&C. Continued use of the Service(s) by Customer will be deemed acceptance thereof.

- 6.14.** No delay or omission by either Party in exercising any right under this T&C shall operate as a waiver of that or any other right. A waiver or consent given by a Party on any one occasion shall be effective only in that instance and shall not be construed as a bar or waiver of any right on any other occasion. In the event that any provision of this T&C shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired. This T&C may also be amended or modified by a written instrument executed by both the Customer and Kaspersky or by Kaspersky only as stipulated in clause 6.13.

7. LIABILITY AND DISPUTES RESOLUTION

- 7.1.** All disputes arising out of or in connection with this T&C, including any question regarding its existence, validity or termination, shall be referred to and finally settled under the Rules of Arbitration of the International Chamber of Commerce, which Rules are deemed to be incorporated by reference into this section. The number of arbitrators shall be three. The seat of arbitration shall be London, England. The procedural law of this place shall apply where the Rules are silent. The language to be used in the arbitration proceeding shall be English. The governing law of the Agreement shall be the substantive law of England and Wales. Any modification of this clause 7.1 may be agreed between Parties and set up in the related SOW.

This T&C shall be binding upon, and inure to the benefit of, both parties and their respective successors and assigns.