

## GENERAL TERMS AND CONDITIONS FOR PROVIDERS

*THESE GENERAL TERMS AND CONDITIONS (the "TERMS") are entered between Bitdefender and any Provider of Bitdefender and shall govern business relation between the Parties and sets forth the terms on which Provider will perform the Services or deliver the goods stated in the Order Form.*

*Parties may enter into one or more Order Form or Insertion Order ("Order") to these Terms setting forth the details of the Services to be performed by Provider or goods to be purchased and also corresponding obligations between the Parties. The Terms together with any of Order signed by the Parties constitute the Agreement of the Parties („Agreement"). Parties acknowledge and agree that no Agreement will be in force between the Parties if they do not execute an Order. For the avoidance of any doubt, the execution of both these Terms and the Order Form referred to in these Terms represent the entire Agreement between Parties. Notwithstanding anything to the contrary signed by Bitdefender and Provider these Terms shall prevail.*

*All services, offers and contracts between Bitdefender and a Provider that offers its services and/or goods to Bitdefender shall be exclusively subject to the following Terms. Deviating or contradictory terms and conditions of the Provider shall be considered invalid. This shall also be the case even if Bitdefender has prior knowledge of such contractual conditions and still permits providing the services in spite of having knowledge of said contractual obligations. Divergent statements by the Provider in reference to their own terms and conditions are hereby contradicted and deemed invalid.*

### 1. Parties Rights and Obligations.

1.1 Bitdefender desires to employ the services or purchase the goods of the Provider as detailed in the Orders signed by Bitdefender and Provider.

1.2. Bitdefender shall pay the Provider in accordance with the terms and conditions stipulated the Order. No payment shall be due to Bitdefender unless written agreed in the Order.

1.3 The Provider will complete the services or supply the goods in the terms and quality conditions agreed in Order.

1.4 Bitdefender has the right to be informed, while and how the services are provided or goods are being delivered.

1.5 Bitdefender has the obligation to deliver the goods and services as agreed with the Provider.

1.6 Provider will act in the capacity of an independent contractor as against Bitdefender as well as against third parties and will not be considered as a Bitdefender's legal representative or agent for any purpose, and under no circumstances will Provider act in the name of or on the account of Bitdefender or sign contracts in the name of Bitdefender.

1.7 Notwithstanding anything to the contrary, nothing in the Agreement shall be understood as granting by Bitdefender of any exclusivity rights, any most favor nation rights, any non-competing obligations, any non-solicitation of employees or clients, payment of any penalties, payment of any success fees during or after the termination of the Agreement.

In case the Parties agree on further services or goods that exceed the scope of Order, such services and goods shall be subject to other Order which will be written executed by the Parties separately. Furthermore, Bitdefender reserves the right to purchase services or goods from third parties that supply similar without notice or liability to the Provider.

1.8 In case the Provider decides to cooperate with a third party (e.g. agency) in order to transfer or outsource tasks or job routines for the execution of this Agreement, Bitdefender needs to be informed on the desired scope of involvement within an appropriate period before such cooperation commences.

1.9 Bitdefender may inspect and test all services or goods at reasonable times before, during, and after delivery. All services or goods shall be received subject to Bitdefender's inspection, testing, and approval notwithstanding any inspection or testing by Provider or any prior payment for such services or goods. Services or goods rejected by Bitdefender as not conforming to this Order or the specifications of services or goods shall be replaced or returned to Provider at Provider's risk and expense and, at Bitdefender's request, shall immediately be repaired or replaced.

All services or goods shall be prepared for delivery according to good commercial practice. Title and Risk of loss shall pass to Bitdefender or Bitdefender's designated representatives upon delivery of services or goods to Bitdefender's premises.

1.10 Provider shall notify Bitdefender in writing within two days of receipt of an order if Provider is unable to make any scheduled delivery and shall state the reasons therefore. The absence of such notice constitutes acceptance of the order and commitment to the delivery terms.

1.11 The goods shall be delivered to Bitdefender on the delivery date and at the place of the destination stated in the Order, otherwise the Provider agrees to pay penalties of 0.1% from the value of undelivered goods calculated per day of delay. The failure of the Provider to deliver the goods within 3 calendar days after the delivery date mentioned in Order shall entitle Bitdefender to terminate this Agreement or to claim damages for the prejudices caused following the Provider's failure to comply with its obligations.

1.12 Any goods delivered in excess compared to the quantity set out by the Order may be rejected by Bitdefender within seven (7) days from receipt, and in case this shall be rejected by the Provider, Bitdefender shall have no further obligation or liability to the Provider or to any other person, other than to allow the Provider to withdraw the goods in excess at the place and on the date notified by Bitdefender.

1.13 The ordered services or goods acceptance by Bitdefender shall take place under the execution with no objections of the quality and quantity acceptance protocol. In case the delivered services or goods are not compliant with

Bitdefender quality and quantity requirements, the Parties shall execute a protocol that shall detail Bitdefender objections, as well as the remedy term thereof by the Provider. The failure to remedy in due time the objections raised by Bitdefender shall entitle the latter to cancel this Agreement or to claim damages for the prejudices caused following the Provider's failure to comply with its obligations.

1.14 The Provider bears all risks and costs associated with delivering the goods to the place of destination ready for unloading and cleared for import in accordance with the DDP Terms of Delivery set out by INCOTERMS 2010.

## **2 Payment Terms.**

2.1 The payments that Bitdefender shall make to Provider for services or goods ordered will be operated in 30 days from the date Bitdefender receives the invoice from the Provider. No interest rate shall apply.

2.2 The Provider shall deliver the services or goods to Bitdefender accompanied by any applicable technical documentation and/or specifications. The Provider shall issue the invoice for the delivered services or goods only after it receives from Bitdefender the signed acceptance protocol with no objections.

2.3 Bitdefender shall not be responsible for any taxes (or interest or penalty thereon) arising on account of the negligent failure of Provider to properly invoice, report, or remit any taxes arising from the execution of this Agreement. Provider will timely report and remit any of taxes in connection with this Agreement to the appropriate fiscal authorities.

2.4 If a certificate of tax residence or similar document or proceeding is to be obtained by the Provider in order to exempt the sale from sales or use tax liability or the payment by Bitdefender from the withholding tax or similar taxes, the Provider will obtain and provide Bitdefender with such certificate, document or proceeding, before the first payment within every calendar year Bitdefender is entitled to stop any payments until the Provider provides such document(s).

2.5. For the services rendered by the Provider, the payment will be done based on a full detailed report of the Provider's activity. Bitdefender will receive screenshots to proof the activity of the service/campaign. Before assuming any payment obligation Bitdefender may inspect Provider's work in process and audit all relevant documents.

2.6 In case Bitdefender has paid for the services or goods in excess of the amount set out by the Order, the Provider shall immediately reimburse the amount in excess.

## **3. Materials.**

31 All the information, documentation and materials that Bitdefender may send to Provider under this Agreement, are property of Bitdefender, shall be kept confidential and shall only be used by Provider in order to accomplish the object of the Order(s). Provider acknowledges and agrees that, in consideration of the payment made by Bitdefender of the remuneration due under this Agreement, all photography, brochures, manuals, film, signage, and all other materials (collectively referred to as "Materials") generated by or for it in the performance of this Agreement shall be deemed "work made for hire" and shall be Bitdefender's exclusive property, subject to any third party rights, restrictions, or obligations which Provider will notify Bitdefender prior of delivery to Bitdefender of the respective Materials. Upon Bitdefender's request, Provider shall return to Bitdefender all such materials, together with any reproductions thereof that Provider, its employees and/or its subcontractors may have made.

32 With regard to the materials provided by Bitdefender to Provider, Bitdefender shall grant the Provider with a limited revocable, non-exclusive, non-transferable and non-sub licensable right to use the materials for the execution of the Agreement for the duration of the Agreement. No further rights of use shall be granted to the Provider. The Partner are particularly not authorized to forward or make the materials or data, partially or in their entirety, available to third parties nor to facilitate their access thereto, or to modify or otherwise alter any material or data partially or in their entirety, to transfer said materials or data, partially or in their entirety, over into any other patterns of works, and/or use said materials or data to create a database of their own and/or an information service without Bitdefender written approval.

33 By entering into this Agreement and for the duration thereof, the Provider shall grant to Bitdefender the non-exclusive, transferable, irrevocable and unlimited right to use its property materials made available by the Provider in accordance with this Agreement except for those considered as Work for Hire as stated above. The Provider hereby guarantees to be authorized and able to grant the above-mentioned rights.

34 Bitdefender is authorized to use the materials of the Provider as well as its trade names (including the brands of the goods or services) as a reference in the context of its own marketing activities, particularly for referencelists.

35 There is no assignment and/or transfer to Provider of intellectual property rights belonging to Bitdefender.

## **4. Trademarks.**

4.1 If especially allowed by Bitdefender in written, Provider is authorized to use Bitdefender Trademark in the conditions stated in the Brand guidelines only for the Service described in the Order, but it is not allowed to register any company or commercial name, trademark or domain names that consists of or contains the name " Bitdefender" or any similar name or other Trademarks owned by Bitdefender and neither is not allowed to bid on Bitdefender name or Bitdefender phrases in any research engine marketing campaigns. If this obligation is breached, Bitdefender will consider this a material breach and Provider shall immediately transfer or assign the rights to any such registration to Bitdefender and pay the damages caused to Bitdefender. Provider will not reproduce, copy, and duplicate the Bitdefender Products or trademarks owned by Bitdefender without the written consent of Bitdefender, except as necessary in the ordinary course of performing Provider's obligations under this Agreement. Provider shall not engage in any of the practices with the intention of generating business regarding Use of legally protected terms and signs, in particular protected by

trademark law, of Bitdefender or third parties, e.g. in search machine marketing, without prior consent of Bitdefender or such third party.

## **5. Confidentiality.**

51 Neither Party shall disclose any confidential and/or proprietary information belonging to the other party unless agreed in writing by the said party. This obligation shall not apply to information received which: (i) is or becomes known by the recipient without an obligation to maintain its confidentiality; (ii) is or becomes generally known to the public through no act or omission on the part of the recipient; or (iii) is independently developed by the recipient without the use of confidential or proprietary information. In the event that either Party is required to disclose confidential and proprietary information pursuant to law, it shall notify the other Party of the required disclosure.

52 Bitdefender's Confidential and/or Proprietary Information includes, without limitation: (i) any and all information, whether in oral, written or other tangible form, disclosed by Bitdefender to Provider whether or not such Confidential and / or Proprietary Information is designated as confidential or proprietary or would reasonably be understood to be confidential or proprietary; (ii) any of Bitdefender's Product, Modules, Source Code, software, know how, methodologies, business strategies, trade secrets, know-how, protocols, pricing information, processes, technologies, tools, support manuals; (iii) Bitdefender Customer personal information and any compilations thereof and (vi) the terms, conditions and existence of this Agreement. These provisions shall survive the termination of the Agreement for an unlimited period.

53 Provider shall maintain commercially reasonable security measures in substantial compliance with industry standards and best practices applicable to organizations which sell product and perform services similar to those provided by Provider to Bitdefender under this Agreement, including organizational, technical, and administrative safeguards to protect Bitdefender confidential information in the possession, custody, or control of Provider.

## **6. Business Conduct.**

61 Provider shall: a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption and not engage in any activity, practice or conduct which would constitute an offence under the anti-bribery and anti-corruption laws and regulations; b) not make any payments or provide anything of value, directly, indirectly, or through any other means whatsoever, to any official or employee of any governmental, legislative, regulatory entity, or use any illegal, unethical, or improper methods, in connection with this Agreement; c) not use any part of any payments made by Bitdefender to the Provider directly, indirectly, or through any other means whatsoever, (i) for any purpose that would constitute a violation of the laws of the country where the Services shall be rendered, the countries where Bitdefender and the Provider are organized, or any other country whose laws may apply to either of the parties or to their respective Affiliates, (ii) in order to procure any benefit from any government employee, or (iii) for any illegal, unethical, or improper purpose, whether or not in connection with this Agreement, and the Provider warrants that it will not use any such funds in a way that violates this provision; d) Ensure that each employee, agent, representative and subcontractor of or associated with the Provider in connection with this Agreement reviews and complies with the standards of conduct set out in this article. Breach of this clause shall be deemed a material breach of this Agreement entitling Bitdefender to terminate it immediately.

62 The Provider understands that during the term of this Agreement it may publicly refer to Bitdefender, orally and in writing, as a Provider with the prior approval of Bitdefender.

63 Provider also agrees to comply with all applicable local laws and regulations (including, without limitation to data protection, privacy and import and export compliance laws and regulations) in connection with its performance under this Agreement.

64 If goods provided hereunder include hazardous materials, Provider represents and warrants that Provider and its personnel providing goods to Bitdefender understand the nature of and hazards associated with the design and/or service or goods including handling, transportation, and use of such hazardous materials, as applicable to Provider. Prior to causing hazardous materials to be on Bitdefender's property, Provider shall obtain written approval from Bitdefender. Provider will be responsible for and indemnify Bitdefender from any liability resulting from the actions of Provider or its contractors in connection with the providing of such hazardous materials to Bitdefender; and/or the use of such hazardous materials in providing Services/ supplying goods to Bitdefender.

65 Upon Bitdefender's request, Provider will promptly, at its cost, provide Bitdefender with a statement of origin for all Services or goods and with applicable customs documentation for Services or goods wholly or partially manufactured outside of the country of import.

66 Provider agrees to comply with Bitdefender's Policies published on Bitdefender's website or as notified by Bitdefender, including but not limited to Bitdefender's Code of Business Conduct, Bitdefender Brand Policy, Bitdefender Privacy Policies located at: <https://www.bitdefender.com/site/view/legal-privacy.html> .

67 **Information Security Warranty.** [Partner] warrants that it (i) is not and has not been subject to any investigation or legal action related to information security practices that have not been shared with him prior to delivery under the terms of this Agreement; (ii) has established and implemented policies, programs and procedures related to information security which are commercially reasonable and in compliance with the Bitdefender security Standards ( check [here](#)); (iii) in the event any incident occurs during the term of the Agreement, shall execute any agreed remediation plans within a commercially reasonable timeframe.

## **7 Data Collection/Processing.**

7.1 In application of the Agreement of goods or services, and in consideration of personal data that may be processed in the course or as part of the execution of the Agreement, parties agree to comply with the terms of this Data Processing

Agreement (DPA) as provided herein [https://www.bitdefender.com/media/materials/legal/DPA\\_Supplier\\_SCCs.pdf](https://www.bitdefender.com/media/materials/legal/DPA_Supplier_SCCs.pdf) and amended periodically or when necessary. The DPA is part of this Agreement and its provisions supersede the Agreement for aspects related to personal data processed by the Provider for and on behalf of Bitdefender.

7.2 Provider shall only process and use information that is related to or by which a natural person can be identified, contacted, or located that is provided by Bitdefender or obtained by Provider in connection with this Agreement (“Bitdefender Personal Information”), to perform its obligations under this Agreement.

Provider shall strictly limit the disclosure of Bitdefender Personal Information to only those Provider employees, contractors, and agent or contractor of any Subprocessor who may have access to the Bitdefender Personal Information, ensuring in each case that the recipients are only the ones who need-to-know and only to the extent necessary for the performance of such obligations. Provider shall ensure that its employees, contractors, and third parties processing Bitdefender Personal Information have received timely and appropriate privacy training, and are bound by confidentiality obligations not less restrictive than those contained in this Agreement. Provider may not sell, rent, or lease Bitdefender Personal Information.

7.3 Bitdefender shall not allow the Provider to use any of the Bitdefender Personal Information that might be collected by Provider, except for performing its obligations under this Agreement. And if a Provider will transfer any personal data information to Bitdefender, it shall be in compliance of the applicable laws.

7.4 Provider represents and warrants that (i) it shall respect and comply with all applicable laws and regulations related to Data Protection and Privacy including EU laws (REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) and US laws, (ii) it shall not collect and store any information or data unless necessary for the performance of the services mentioned in the Orders, (iii) it shall use the collected data, data which will be collected only if necessary for the performance of the services mentioned in the Orders, only in accordance with the legal procedures applicable for the specific type of use (e.g. opt-in procedure, double opt-in procedure as necessary) otherwise Provider shall be held responsible for all claims and prejudices incurred to Bitdefender and its related costs/expenses.

7.5 Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Provider shall implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

7.6 When acting as a Data Processor of Bitdefender, the Provider agrees to:

- a. not appoint a Subprocessor or disclose any personal data on behalf of Bitdefender unless required or authorized by the Bitdefender.
- b. assist Bitdefender by implementing appropriate technical and organizational measures, insofar as this is possible according to the services or product provided, for the fulfilment of Bitdefender’s obligations, as reasonably understood by Bitdefender, to respond to data subjects’ requests in exercising their rights under the Data Protection Laws by:
  - (i) promptly notifying Bitdefender if it receives a request from a data subject under any Data Protection Law in respect of Bitdefender Personal Information; and
  - (ii) ensuring that it does not respond to that request except on the documented instructions of Bitdefender or as required by Applicable Laws to which the Provider is subject, in which case Data Processor shall to the extent permitted by Applicable Laws inform Bitdefender of that legal requirement before the Data Processor responds to the request.
- c. notify Bitdefender without undue delay upon Provider becoming aware of a data breach affecting Bitdefender Personal Information, providing Bitdefender with sufficient information to allow Bitdefender to meet any obligations to report or inform data subjects of the data breach under the Data Protection Laws.
- d. cooperate with Bitdefender and take reasonable commercial steps as are directed by Bitdefender to assist in the investigation, mitigation and remediation of each such data breach.
- e. provide reasonable assistance to Bitdefender with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Bitdefender reasonably considers to be required by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to processing of Bitdefender Personal Information.
- f. promptly and in any event within 10 business days of the date of cessation of any Services involving the processing of Bitdefender Personal Information delete and procure the deletion of all copies of such personal data.
- g. make available to Bitdefender on request all information necessary to demonstrate compliance with these Terms, and shall allow for and contribute to audits, including inspections, by Bitdefender or an auditor mandated by Bitdefender in relation to the processing of Bitdefender Personal Information; information and audit rights of Bitdefender arise to the extent that the Agreement between Bitdefender and Provider does not otherwise give them information and audit rights meeting the relevant requirements of Data Protection Law.
- h. not transfer or authorize the transfer of Bitdefender Personal Information to countries outside the EU and/or the European Economic Area (EEA) without the prior written consent of Bitdefender. If personal data processed under the Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, Provider and Bitdefender shall ensure that the personal data are adequately protected by relying on EU approved standard contractual clauses for the transfer of personal data, unless agreed otherwise.

7.7 Provider’s employees, contractors or agents, charged with attributions under the Agreement between the Provider and Bitdefender for the services contracted by the Bitdefender, shall be considered representatives of the Provider during the execution of the Agreement (“Provider Personal Information”). Bitdefender shall process Provider Personal Information if there is a legal requirement to process such data or if such data is needed for the execution or monitoring

the execution of the Agreement in place between Provider and Bitdefender and for the following purposes: communication for conclusion and execution of the Agreement, to verify the quality of the rendered services, for record keeping if there is access given to Bitdefender's applications or if any activity of the Provider is done in a Bitdefender work point, in order to ensure the information security and to monitor the access and activity done under the Agreement and for billing records if such data is requested by law for a period no longer than 10 years. Provider agrees to inform its employees, contractors or agents designated for the execution of the Agreement regarding these provisions and their rights under Applicable Data Protection Laws.

7.8 If Provider delivers access to marketing lists and databases as mentioned in the Orders, the Provider hereby represents and warrants that (i) it has obtained the email address/contact information in accordance with the legal procedures applicable for the specific type of use as mentioned in the Orders; (ii) it shall comply with all applicable laws and regulations, including, but not limited to Data Protection regulations and (iii) it will act dutifully and in good faith and will not alter the image of Bitdefender, otherwise the Provider shall be responsible for all the prejudices caused. In addition, Provider represents and warrants that it has obtained unambiguous consent from the customers if necessary, to use the contact data in view of negotiating a potential business relationship with the consumer and the Provider shall indemnify and hold harmless in full Bitdefender and its Representatives against any and all damages, costs and expenses of any nature whatsoever (including, without limitation, attorneys' fees) incurred by Bitdefender or its Representatives in connection with the breach of such representation and warranty.

7.9 Any inquiry of the Provider, regarding data protection related to the Agreement, including those related to its obligations under article 7.5, shall be addressed to Bitdefender at the address provided in the Agreement or at [privacy@bitdefender.com](mailto:privacy@bitdefender.com).

## **8. Warranties.**

8.1 In consideration of the above, Provider hereby represents and warrants that (i) it possesses all rights, licenses, authorizations or permits necessary to enter in this Agreement and to grant the rights set forth herein to Bitdefender, free of any claims, liens, or conflicting rights in favor of any third party, (ii) it shall comply with all applicable laws and regulations related to the services provided under this Agreement, including, but not limited to Data Protection regulations and (iii) it will act dutifully and in good faith and will not alter the image of Bitdefender, otherwise the Provider shall be responsible for all the prejudices caused; (iv) and the person signing the Order Form has the legal authority to bind the Provider.

8.2 Provider makes also the following warranties regarding services or goods furnished hereunder, which warranties shall survive any delivery, inspection, acceptance, or payment: (i) Services or goods will not infringe any third party's intellectual property rights; (ii) Provider has the necessary right, title, and interest to provide said Services or goods to Bitdefender, and the Services or goods will be free of liens and encumbrances; (iii) all Services or goods shall be new, of the grade and quality specified, free from defects in workmanship and material and conform to all descriptions, and specifications furnished or published by Provider; (iv) Services shall be provided in a good workmanlike and competent manner in accordance with the highest professional standards in Provider's trade or industry, and shall meet the descriptions, specifications, and the performance standards stated in Order. Provider shall guarantee workmanship for twelve (12) months after Services are provided. If Provider breaches any of the foregoing warranties, or Services or goods are otherwise defective or non-conforming, after Bitdefender's acceptance of Services or goods, Provider shall, at Bitdefender's option, promptly repair, replace, or refund the amount paid for such Services or goods. Provider shall bear the cost of shipping and risk of loss of all defective or non-conforming Services or goods while in transit.

8.3 EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT OR EULA OF BITDEFENDER PRODUCTS, BITDEFENDER MAKES NO WARRANTIES EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THOSE OF MERCHANTABILITY OR LOSS OF PROFIT OR FITNESS FOR A PARTICULAR PURPOSE, NON-INTERFERENCE, ACCURACY OF DATA, OF INFORMATIONAL CONTENT, NON-INFRINGEMENT OF THE THIRD PARTIES COPYRIGHT OR OF THIRD PARTY RIGHTS OF PRIVACY AND PUBLICITY BY FILTERING, DISABLING, OR REMOVING SUCH THIRD PARTY'S SOFTWARE, SPYWARE, ADWARE, PROGRAMMING, COOKIES, EMAILS, ADVERTISEMENTS OR THE LIKE, WHETHER ARISING BY STATUTE, LAW, COURSE OF DEALING, CUSTOM AND PRACTICE, OR TRADE USAGE. IN NO EVENT SHALL BITDEFENDER BE LIABLE FOR DAMAGES, DIRECT OR INDIRECT, INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGES SUFFERED BY THE PARTNER, AUTHORIZED SUPPLIER, END USER, OR OTHER THIRD PARTY ARISING FROM BREACH OF WARRANTY OR BREACH OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL GROUND OF ACTION. In no event shall Bitdefender be liable for any damages of any kind, including, without limitation, direct or indirect damages arising out of the use, performance, or delivery of the Services, even if Bitdefender has been advised of the existence or possibility of such damage.

8.4 Nothing in this Agreement shall be construed and interpreted as granting Provider other rights than those mentioned herein.

## **9. Indemnification.**

9.1 Provider shall be solely liable for any representations or warranties made by it or its sales representatives in its advertising, brochures, manuals, or by its agents, employees, or representatives, whether in writing or orally which are not in accordance with Bitdefender documentation, or with the special conditions mentioned in the Order or with Bitdefender policies.

9.2 Provider agrees to defend, indemnify, and hold Bitdefender, and its officers, directors, agents, and employees, harmless against all costs, actions, liabilities, expenses, and losses (including reasonable attorney fees and costs) arising from or in connection with: Provider's breach of the representations stated in art 8, the Provider's actions or

inactions in case of an intentional or negligent breach of contract; acts or omissions of Provider relating to the services provided which includes, but is not limited to claims that the services, or use thereof, caused or may cause personal injury, death, or real or personal property damage, Provider's failure to promptly perform its obligations in connection with Agreement; any claims of third parties regarding breach of their rights of data protection, any actual or alleged unfair business practices, false advertising, or fraud resulting from services or documentation supplied by Provider. Provider agrees to pay all costs of liability, settlement and defense, including attorney fees and costs.

Provider shall defend, indemnify, and hold Bitdefender, its affiliates, agents, directors, officers, employees, consultants and subcontractors harmless from any costs, expenses (including reasonable attorneys' fees), losses, damages, or liabilities incurred because of actual or alleged third party infringement of any patent, copyright, trade secret, trademark, mask work, or other intellectual property right arising out of the use of Services or goods. Bitdefender shall promptly notify Provider of any such claim or demand. If an injunction issues as a result of any claim or action, Provider agrees at its expense and Bitdefender's option to either: (i) procure for Bitdefender the right to continue using Services or goods; (ii) replace them with non-infringing Services or goods; (iii) modify them so they become non-infringing; or (iv) refund to Bitdefender the amount paid for any Services or goods returned to Provider or destroyed. This indemnification shall not apply to the extent modifications are made to the Services or goods are specified by Bitdefender and such infringement would not have occurred but for complying with such detailed specifications.

## **10 TERM AND TERMINATION.**

10.1 The effects of this Agreement's provisions are valid for the period indicated in the Order. After the termination the party can renew it only by signing a written Agreement, governed by these Terms. The following termination rights are in addition to the termination rights that may be provided elsewhere in this Agreement.

10.2 The Agreement is terminated on the date of its expiration. If one party fails to fulfill any of its obligations under the present Agreement, the other party has the immediate right to cancel the contract by giving a 15 day prior written notice concerning the breaching of the contract without any other formalities.

10.3 Bitdefender has the right to terminate the Agreement at any time without the requirement of showing cause by giving the other party thirty (30) days prior written notice, without any other formalities

10.4 Immediate Right of Termination. Bitdefender shall have the right to immediately terminate this Agreement by giving written notice to Provider in the event that Provider does any of the following: i) Engages in any illegal, unfair, or deceptive business practices or unethical conduct whatsoever, whether or not related to the Services provided to Bitdefender; ii) Fails to comply with the performance terms of the Services or delivery terms as stated in the Order; iii) Does not comply with Business Conduct obligations and Bitdefender trademarks and trade names usage guidelines and obligations.

10.5 There shall be no charges for termination of Orders. In case of an early termination, Bitdefender has the right of refund of the advances paid or any amounts regarding services not provided. Each party shall refrain from any act, direct or indirect, or anything that would infringe the related intellectual property rights of the other.

10.6 Any claim for charges for custom work made for Bitdefender, along with a summary of all mitigation efforts, must be submitted to Bitdefender in writing within thirty (30) days after receipt of Bitdefender termination notice.

## **11. Governing Law and Venue.**

11.1 This Agreement shall be governed by the applicable law from Bitdefender headquarters as mentioned in the Order. Any dispute arising out of or relating to the Agreement which is not amicably resolved shall be referred to, settled and finally resolved by the competent court from Bitdefender headquarters. The venue of any dispute related to this Agreement will be from Bitdefender headquarters. The prevailing party in any such dispute shall be entitled to recover costs and expenses associated with resolving such dispute, including reasonable attorney fees.

## **12. FORCE MAJEURE**

12.1 Neither Party shall be in breach of the Agreement in the event it is unable to perform its obligations as a result of natural disaster, war, emergency conditions, labor strike, acts of terrorism, the substantial inoperability of the Internet, the inability to obtain supplies, or any other reason or condition beyond its reasonable control; provided, however, if such reasons or conditions remain in effect for a period of more than thirty (30) calendar days, either Party may terminate the Agreement affected by such force majeure following the written notice to the other Party.

## **13. Miscellaneous.**

13.1 The correspondence and any note between the Parties will be made by mail (letters), fax, e-mails or any other means of transmitting data which allows the sender to prove the receipt of the message by the addressee.

13.2 Bitdefender reserves the right to amend provisions of these Terms at any time without providing reasons, provided that such amendment do not lead to the Agreement as a whole being restructured, by publishing on website. For the purposes of this clause, in particular any such provisions that refer to the nature and scope of contractual services, the term or termination of the Agreement shall be regarded as material provisions. Should the Provider not object to the validity of the amended Terms within 30 days the amended terms shall be deemed accepted.

13.3 Except as specifically provided in this Agreement, the Parties agree that no failure or delay on the part of either of the Parties to exercise any right or privilege under this Agreement will operate as a waiver thereof.

13.4 The Provider may not assign or transfer this Agreement or any of its rights or obligations hereunder, without the prior written consent of the Bitdefender. Any attempted assignment in violation of the foregoing provision shall be null and void and of no force or effect whatsoever. Bitdefender may assign or delegate its rights and/or obligations, or any part thereof under the Order to any or all of its affiliates.

13.5 No modification, deletion, addition or waiver of any of these Terms shall be effective, except pursuant to a written

agreement executed by Bitdefender and Provider which specifically amends or supersedes these Terms; no contrary or additional terms or conditions contained in any communications from Provider shall serve to modify, amend, or supplement these Terms; payment or Acceptance of delivery by Bitdefender shall not serve to waive any rights it has under these Terms. These Terms and Order Form, as so accepted by Provider, constitutes the entire contract between the parties with reference to the Services or Goods mentioned in Order Form and supersedes any prior agreement.

**13.6** Except as specifically provided in this Agreement, the Parties agree that no single or partial exercise of any right or privilege under this Agreement will preclude any other or further exercise thereof or the exercise of any other right or privilege by each Party under the terms of this Agreement.

**13.7** The Parties mutually consent to use an electronic signature and in this event the Order Form will not include an original ink signature and parties shall have no obligation to provide a copy of such document. A document signed with an Electronic Signature shall be binding on Parties as if the document had been originally executed by a party with an ink signature. An email shall never constitute Electronic Signature or be otherwise binding. Subject to the limitations set forth above, the parties agree that a document executed using an Electronic Signature and/or delivered in electronic format may be introduced into evidence in a proceeding arising out of or related to the document as if it was a printed copy of the document executed by the parties with original ink signatures. Parties shall have no obligation to retain copies of documents with original ink signatures.

**13.8** These Terms and Conditions, any Orders, and any amendments to those documents shall constitute the entire agreement between the Parties with respect to the subject matter herein and shall replace all prior promises or understandings, written or oral.

**13.9** In the case of any doubt or controversy arising out of, or in connection with the interpretation of any of the terms and conditions of this Agreement, the English version shall prevail at all times.

**13.10** Notwithstanding that this Agreement has been prepared by Bitdefender, Provider and Bitdefender confirm that this Agreement constitutes the understanding of the parties and is intended to be construed in a manner that is consistent with the subject matter and activities contemplated by, and the terms and conditions of, the Agreement. No rule of strict construction with respect to this Agreement shall be applied against either party.