

# Kaseya Reseller Terms and Conditions

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Kaseya Reseller Terms and Conditions (*"Reseller Terms and Conditions"*)

IMPORTANT: PLEASE READ THESE RESELLER TERMS AND CONDITIONS CAREFULLY AND MAINTAIN [A COPY](#) FOR YOUR RECORDS.

BY SUBMITTING: (A) A user or an order, OR (B) A PROSPECTIVE user or prospective order; OR (C) ANY SIMILAR BUSINESS OPPORTUNITY OR OFFER TO ANY KASEYA ENTITY, OR BY CLICKING THE "ACCEPT" BUTTON, YOU ACCEPT AND AGREE TO BE BOUND BY THESE RESELLER TERMS AND CONDITIONS, THE DOCUMENTATION, AND THE OTHER ITEMS REFERENCED HEREIN AND THEREIN (COLLECTIVELY, THE "AGREEMENT"), ALL OF WHICH ARE INCORPORATED INTO AND FORM PART OF THE AGREEMENT WHERE ("Documentation") means the OFFICIAL written information pertaining to the Agreement and made available by Kaseya to you as updated or amended by Kaseya from time to time. YOU REPRESENT THAT YOU HAVE READ AND UNDERSTAND ALL OF THE PROVISIONS OF THE AGREEMENT.

YOU MUST ACCEPT THE AGREEMENT BEFORE YOU CAN: (A) SUBMIT A user or an order, OR (B) SUBMIT A PROSPECTIVE user or prospective order; OR (C) SUBMIT ANY SIMILAR BUSINESS OPPORTUNITY OR OFFER TO ANY KASEYA ENTITY; OR (D) RECEIVE ANY PRODUCT OR CONSIDERATION OF ANY KIND FROM KASEYA. IF YOU DO NOT AGREE TO ALL OF THE TERMS OF THE AGREEMENT, THEN KASEYA IS UNWILLING to sell any products AND HAS NO OBLIGATION TO PAY ANY CONSIDERATION OR ANY AMOUNTS TO YOU.

THE AGREEMENT IS BETWEEN THE KASEYA ENTITY THAT ACCEPTS THE ORDER FOR THE APPLICABLE PRODUCT ("KASEYA," "WE," OR "US") AND THE INDIVIDUAL OR LEGAL ENTITY THAT SUBMITS THE ORDER OR THAT CLICKS THE "ACCEPT" BUTTON ("RESELLER" "YOU," OR "YOUR"). THE AGREEMENT MAY APPLY TO MULTIPLE KASEYA ENTITIES WITH RESPECT TO DIFFERENT PRODUCTS PROVIDED THAT NO KASEYA ENTITY HAS THE RIGHT TO ENTER ANY CONTRACT ON BEHALF OF OR AS AGENT FOR ANY OTHER KASEYA ENTITY. IF YOU ARE PART OF OR OTHERWISE ENTERING INTO THE AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY, IN WHICH CASE THE TERMS "RESELLER," "YOU" OR "YOUR" WILL REFER TO SUCH ENTITY.

## 1.0 PRODUCTS, NON-EXCLUSIVE APPOINTMENT & TERRITORY.

1.1 Products. The Agreement governs the purchase, resale and use of the IT automation software and related documentation, products, maintenance, support, features and services

provided by Kaseya (the "Kaseya Products") or its third party Suppliers ("Suppliers" of "Third Party Products") (the Kaseya Products and Third Party Products are referred to collectively as the "Products") for which Kaseya in its sole discretion accepts an order.

1.2 Appointment. Subject to the terms and conditions of this Agreement, Kaseya hereby appoints Reseller as a non-exclusive Reseller of the Products for resale to and use by its direct customers and managed service provider customers and those who install or use Products through its direct customers or managed service provider customers (collectively "User/s"). Reseller's territory shall be as set forth in the Documentation or as otherwise agreed by Reseller and Kaseya (the "Territory"). Reseller agrees that it shall not directly or indirectly market, sell or otherwise promote the Products outside the Territory unless otherwise agreed by Kaseya

1.3 Non-Exclusive. Each party acknowledges and agrees that this appointment from Kaseya is non-exclusive, and Kaseya may appoint other Resellers and may use its own sales personnel to market, promote and sell the Products and nothing contained herein shall prohibit or otherwise restrict Kaseya from soliciting or doing business with Users or marketing, promoting, or referring leads to third parties engaged in a business similar to or competitive with Reseller. Furthermore, Kaseya may, at any time and in its sole discretion, refuse to approve the resale of the Products to any User for any reason or no reason without liability or payment obligation of any kind.

## 2.0 TERM, TERMINATION AND SURVIVAL.

2.1 The term of the Agreement is indefinite until terminated. Either party may terminate this Agreement for convenience for any reason or no reason and with no termination liability or cost upon ten (10) calendar days written notice to the other.

2.2 Any termination of this Agreement shall not relieve either party from any obligations hereunder due and owing prior to termination of this Agreement. Upon any termination or expiration of this Agreement: (i) all rights and licenses of Reseller to sell additional Products shall terminate; (ii) Reseller shall destroy or purge any and all Products related to this Agreement from all media in Reseller's possession or under its control on which any of the Products are stored, and each party will return or destroy the other parties' Confidential Information and certify the above in writing to the other party; and (iii) provided that Reseller complies with this Agreement in all respects (including the requirement to timely make payments due Kaseya hereunder), this Agreement shall continue in effect solely with respect to Reseller orders existing at the time of termination solely for the term of such User's then current order (i.e. indefinitely with respect to paid up software or for the current term of the maintenance or software subscription).

2.3 The parties specifically acknowledge and agree that without any Kaseya liability or obligation of Kaseya to pay Reseller any amount,: (i) Kaseya or its third party contractors will exclusively contract, invoice and collect payments from the Users for any orders placed after

termination or for term renewals made after termination; and (ii) in cases where Reseller fails to make payments required under the Agreement, Reseller agrees to pay or assign any and all future amounts due Reseller from Users with respect to the Products to Kaseya or its designee and Kaseya may directly invoice and collect from all Users for amounts otherwise owed Reseller for the Products.

### 3.0 PRICING, PAYMENTS, TAXES, FEES & SURCHARGES.

3.1 Pricing & Payments. Kaseya will charge Reseller for Products at discount from list price as set forth in the Documentation. Reseller will make payment in the currency specified by Kaseya for Products according to the schedule set forth in the Product order acceptance; provided that any amount due in any month must be received by Kaseya prior to the end of the following month. Unpaid amounts will be subject to a monthly late fee of 1.5% of the outstanding balance or the maximum legally allowable interest rate, whichever is lower. Reseller must notify Kaseya of any disputed charges within thirty (30) days from the payment due date, otherwise Reseller hereby agrees to such charges and Kaseya will not be subject to making adjustments. Payment will be made to Kaseya via wire transfer to the bank account as directed by Kaseya. Without altering the terms of any order acceptance or waiving any rights of Kaseya to collect interest or enforce the terms of the order acceptance, Kaseya will make reasonable efforts to provide a monthly statement to the Reseller on the 15th of the month outlining all the payments that are due as of the end of the preceding month. Reseller agrees that Kaseya may apply any amount owed by Reseller or any of Reseller's Affiliates to Kaseya or any of its Affiliates to offset any amount owed by Kaseya or its Affiliates to Reseller or any of Reseller's Affiliates.

3.2 User Pricing & Payments. Subject to the terms of this Agreement, with respect to Users, Reseller shall be solely and exclusively responsible for all contracting, price setting, charging, invoicing and collecting.

3.3 Taxes, Withholding. Reseller shall be solely responsible for any applicable VAT, sales, use or any other taxes (collectively "Taxes") payable under, or arising out of, or in connection with, this Agreement and will not withhold any Taxes from payment to Kaseya. Any prices provided by Kaseya are exclusive of Taxes.

3.4 Unpaid Charges. In the event charges due are not paid in full, for any reason, within thirty (30) days from the due date, Kaseya shall have the right to suspend all or any portion of the Products until such time as all undisputed charges and applicable late fees have been paid. Following such payment, Kaseya may reinstate Products to Reseller only upon satisfactory assurance of Reseller's ability to pay for Products, including modified payment terms.

3.5 Price Changes. Pricing is subject to change upon notice by Kaseya to Reseller. Any changes made to such pricing shall not retroactively affect any obligation incurred hereunder prior to the time of such change. The price modifications shall take effect after notice unless

Reseller provides written notice to Kaseya that Reseller does not accept the proposed modifications to pricing, in which case the parties shall negotiate in good faith regarding the proposed changes. If the parties are unable to agree on the changes, then Kaseya may terminate this Agreement immediately without further obligation or liability. Notwithstanding the foregoing, Kaseya reserves the right to add additional charges for any new or additional Products provided to Reseller by Kaseya under this Agreement at any time.

#### 4.0 RESELLER OBLIGATIONS.

4.1 Product Promotion, Sales Goals and Business Plan. Reseller agrees to use its best efforts to promote, offer and sell the Products within the Territory. Reseller, at its own expense, agrees to: (i) maintain a webpage on the Reseller's website with links back to <http://www.kaseya.com>, (ii) promote the Products through the Reseller's website, newsletter and other forms of market awareness, and (iii) develop, evolve and implement marketing strategies that promote the Products.

4.2 Order Process and Acceptance. Reseller agrees to utilize Kaseya's standard order process as amended by Kaseya from time to time and to provide all User information required by such process. Kaseya will send email confirmation(s) for order acceptance including the net payment amounts and payment schedule for the order. Reseller may not cancel or amend an order once it has been received by Kaseya without Kaseya's written consent.

4.3 Customer Non-solicit. Reseller, its subsidiaries, Affiliates, and agents agree that during the term of this Agreement and for one year thereafter, it shall not, directly or indirectly, refer, solicit, sell to or encourage or cause any current client of Kaseya or its Resellers or agents to stop, alter or reduce its use of the Products or any products similar thereto which are directly or indirectly supplied by Kaseya.

4.4 No Redistribution. Unless approved by Kaseya in writing, Reseller may not allow other entities to resell or otherwise redistribute the Products and Reseller acknowledges that, in such event, Kaseya or its Suppliers may, with no liability to Reseller or its Users, terminate the Products to any affected Users as well as contact such Users and offer the sale of the Products from Kaseya directly.

4.5 Reseller Product and Services. Reseller shall be solely responsible for providing all products and services of Reseller or its suppliers not set forth in this Agreement and Reseller agrees to indemnify, defend and hold Kaseya, its Affiliates (as defined in Rule 405 of the Securities Act of 1933) and their employees and Suppliers harmless from any Losses, as defined herein, which arise out of or result from any such products or services.

4.6 Terms and Conditions. Reseller shall only sell to Users that comply with and shall be responsible for causing all Users using or accessing the Products to be bound by the

“Agreement” as defined in the EULA and Terms and Conditions set forth at <http://www.kaseya.com/Legal.aspx> (the “T&C’s”). In addition, Reseller shall be responsible for causing all Users accessing the Third Party Products to agree to be bound by the terms and conditions of use and privacy policy of such Third Party Product Supplier as each may be amended from time to time. Suppliers’ shall be third party beneficiaries of the rights and protections set forth in this Agreement.

#### 5.0 INDEPENDENT CONTRACTOR.

Reseller is an independent contractor, and nothing contained in this Agreement shall be construed to (i) give either party the power to direct and control the day-to-day activities of the other, (ii) constitute the parties as partners, joint venturers, co-owners agents, franchisee or franchisor or otherwise, or (iii) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. Reseller is not an employee of Kaseya and is not entitled to any employee benefits. All financial and other obligations associated with each party’s business are the sole responsibility of such party. Reseller represents and warrants that it: (a) will not make any representation, warranties, or guarantees on behalf of Kaseya, and (b) will not disparage Kaseya in any manner or otherwise harm Kaseya’s business or reputation.

#### 6.0 INTELLECTUAL PROPERTY.

6.1 License. Subject to the terms and conditions of this Agreement, Kaseya hereby grants Reseller and its authorized Users a license to the Products as set forth in the T&C’s; provided that Reseller’s license shall apply only to its internal use in production in Reseller’s support center and for demonstration of the Product’s to prospective Users and not for any other purpose, including providing managed services. Except as specifically set forth herein, Kaseya or its Suppliers retain all right, title, and interest, including all intellectual property rights, relating to or embodied in the Products, including without limitation all technology, web addresses, software, or systems relating to the Products. Reseller agrees not to reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any software related to the Products.

6.2 Use Of Marketing Materials. Kaseya may make available certain marketing Materials (“Materials”) to Reseller for use by Reseller in marketing the Products. Reseller acknowledges and agrees that Kaseya owns the copyright in such Materials and reserves all copyright therein. Reseller may modify the marketing Materials to incorporate Reseller’s name and trademark(s); provided, however, that Reseller must obtain Kaseya’s written approval prior to the use, distribution or disclosure of any modified Materials. To the extent that these modified Materials constitute a “derivative work” as that term is defined in Title 17 of the United States Code and interpreted by the Federal courts or any similar law, rule or regulation anywhere in the world, Kaseya shall own all right, title, and interest in such modified Materials and all copyright therein;

provided, however, that Kaseya shall obtain no right, title, or interest in Reseller's name and trademarks as such may be incorporated in the modified Materials. Reseller may use these Materials to market and promote the Products under the terms and conditions of this Agreement, but except as expressly set forth in this Section, these Materials shall not be copied, reproduced, modified, transmitted, displayed, performed, distributed, or otherwise used in whole or in part in any manner without Kaseya's prior written consent.

6.3 Surrender of Materials. Upon termination of this Agreement and as directed by Kaseya, Reseller shall: (1) surrender and deliver to Kaseya, at Reseller's expense, all copies of the above Materials provided by Kaseya that are in the possession, control, or custody of Reseller at the time of such termination, whether or not such Materials were modified by Reseller as provided in the previous paragraph; or (2) destroy all copies of the above Materials, and certify such destruction in writing to Kaseya.

6.4 Marks. Kaseya grants you a revocable, nonexclusive license to use the Materials and Kaseya marks in accordance with Kaseya's Trademark Guidelines set forth at <http://www.kaseya.com/Legal/Trademark-Guidelines.aspx>. You agree that you will not directly or indirectly: (a) obtain any right, title, or interest in any Kaseya mark or any string identifier, whether in the form of a Universal Resource Locator (URL) or in any other form, representing or linking with any network address, such string identifier comprising in whole, comprising in part, or in any way similar to any word portions of any Kaseya mark; or (b) employ any word portion of, or any Kaseya marks, including without limitation using or facilitating use of such word portion in connection with any Internet search engine, any Internet website, or any Internet browser, so as to direct or re-direct communications network traffic. You acknowledge and agree that Kaseya is the owner of all right, title and interest in and to the Products, Materials and marks and that other than as set forth in this Agreement retains all such rights.

6.5 No Other Rights Granted. Except as explicitly set forth in this Section, the parties agree and acknowledge that neither party is granted any license, express or implied, to or under any patent, copyright, trademark, service mark, trade secret or other intellectual property right of the other party.

## 7.0 INDEMNIFICATION, LIMITED WARRANTY AND LIMITATION OF LIABILITY.

7.1 Indemnity. Reseller shall indemnify, defend and hold Kaseya, its Affiliates and their employees and Suppliers harmless from any and all third party claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including reasonable attorneys' fees ("Losses") arising out of, relating to, or resulting from the negligence, breach of this Agreement or violation of applicable law, rule, regulation by Reseller or your Affiliates, or their respective owners, officers, directors, employees or representatives

7.2 Limited Warranty. RESELLER UNDERSTANDS AND AGREES THAT KASEYA'S PRODUCTS ARE PROVIDED "AS IS" AND "AS AVAILABLE". KASEYA DISCLAIMS ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT.

7.3 Limitation of Liability. EXCEPT FOR THE PARTIES' INDEMNIFICATION AND CONFIDENTIALITY OBLIGATIONS, NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES, INCLUDING COST OF COVER, LOST PROFITS, LOST GOODWILL, LOST USE OR PERFORMANCE OF ANY PRODUCTS, SERVICES, OR OTHER PROPERTY, LOSS OR IMPAIRMENT OF DATA OR SOFTWARE, OR OTHERWISE EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, EXCEPT FOR DAMAGES THAT ARE REQUIRED BY LAW TO BE PAID AND CANNOT BE LIMITED BY CONTRACT, YOU AGREE THAT ALL DAMAGES ARE EXCLUDED EXCEPT FOR THE DIRECT DAMAGES SO THAT KASEYA'S MAXIMUM CUMULATIVE LIABILITY AND RESELLER'S EXCLUSIVE REMEDY FOR ANY REASON AND UPON ANY CAUSE OF ACTION OR CLAIM IN CONTRACT, TORT, FOR INDEMNIFICATION OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY RESELLER TO KASEYA UNDER THIS AGREEMENT DURING THE 2 (TWO) MONTHS PRIOR TO SUCH LIABILITY.

## 8.0 MISCELLANEOUS.

8.1 Compliance With Law and Export Regulations. Reseller represents that it shall comply with: (a) all laws, rules and regulations and obtain and maintain all required licenses, permits, certificates and authorizations; and (b) with the Kaseya policies, conditions and workplace rules provided to you including Kaseya's Confidentiality Policy set forth as Exhibit A hereto (collectively the "Policies") as such Policies may be updated from time to time in Kaseya's sole discretion. Reseller acknowledges that the Products are subject to controls under applicable export laws and agrees that it will not and shall not permit any User to export or re-export the Product in any form in violation of the export laws of any jurisdiction.

8.2 Advertising And Publicity. Except for Materials already made public, neither Party will distribute any news releases, articles, brochures, speeches, or advertisements concerning this Agreement, nor use the other Party's name or trademarks (or any variation thereof), without the other Party's prior written consent.

8.3 Governmental Agencies. Reseller represents and warrants that the following paragraph shall be included in any contract between Reseller and the United States Government or other governmental agencies: "Use of the Products by the United States Government or other governmental agencies shall be as "restricted computer software" or "limited rights data" as set

forth in 48 CFR 52.227-14, or as "commercial computer software" or "commercial computer software documentation" under DFARS 252.227-7202, or under such other similar applicable terms and conditions to prevent the transfer of rights in and to the technology to the government or such agency other than under normal commercial licensing terms and conditions.

Contractor/manufacturer is Kaseya International, Limited, Fourth Floor (South), Channel House, Green Street, St. Helier, Jersey, JE2 4UH or its Suppliers.”

8.4 Force Majeure. Neither Party shall be liable for delays and/or defaults in its performance under this Agreement (other than Reseller’s obligation to pay fees) due to causes beyond its reasonable control, including, but without limiting the generality of the foregoing: acts of god or of the public enemy; fire or explosion; flood; actions of the elements; epidemics, telecommunication system failure; war; acts of terrorism; riots; embargoes; quarantine; viruses; strikes; lockouts; disputes with workmen or their labor disturbances; total or partial failure of transportation, delivery facilities, or supplies; acts or requests of any governmental authority; or any other cause beyond its reasonable control, whether or not similar to the foregoing.

8.5 Verifying Compliance And Reseller Records. Reseller will keep accurate records in the normal course relating to this Agreement including regarding amounts charged to Users. Reseller will promptly provide true and accurate copies of any such records to Kaseya upon request and grants to Kaseya and its independent accountants the right to examine Reseller's books, records and accounts during Reseller's normal business hours to verify compliance with the Agreement. In the event such audit discloses non-compliance with the Agreement, without limiting any other remedy hereunder, Reseller shall promptly pay to Kaseya the appropriate fees, plus the reasonable cost of conducting the audit.

8.6 Waiver. The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement, the waiver of any term or condition of this Agreement, or the granting of an extension of time for performance, shall not constitute the permanent waiver of any term or condition of this Agreement.

8.7 Assignment. Neither Reseller nor Kaseya may assign or transfer any right, obligations or duty, in whole or in part, or any other interest hereunder, except that Kaseya may freely assign the Agreement to an Affiliate or successor by merger, reorganization, consolidation or sale of some or all of its assets, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

8.8 Severability. Should any part, term or provision of this Agreement be declared invalid, void or unenforceable, then such provision shall be construed, as nearly as possible, to reflect the intentions of the parties with all terms and provisions remaining in full force and effect.

8.9 Notices. Kaseya may give notice by means of a general notice on the software or service, electronic mail to Reseller’s e-mail address on record in Kaseya's account information, or by



written communication sent by first class mail or pre-paid post to Reseller's address on record in Kaseya's account information. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email).

8.10 Applicable Law. This Agreement shall be governed by the laws of Jersey, Channel Islands without regard to its choice of law provisions. The parties consent to the exclusive jurisdiction and venue of the courts sitting in Jersey, Channel Islands with respect to any dispute, controversy or claim arising out of or relating to this Agreement. In any action arising out of or relating to this Agreement, the prevailing party will be entitled to recover its reasonable attorneys' fees and other costs in addition to any other relief that may be awarded.

8.11 Third Party Beneficiary. Except as specifically set forth herein with respect to Suppliers, no provision of this Agreement will in any way inure to the benefit of any third person (including the public, at large) so as to constitute any such person a third-party beneficiary of the Agreement or any of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

8.12 Entire Agreement. The Agreement constitutes the entire agreement between the Parties with regard to the subject matter herein and no other agreement, promise or practice between the Parties will be binding on the Parties.

Exhibit A

#### CONFIDENTIALITY POLICY

1. The Reseller acknowledges that, in connection with the Agreement, the Products or services or otherwise, the Reseller may have had access to or received or may have access to or receive information that is technical, financial, marketing, staffing and business plans and information, strategic information, proposals, requests for proposals, specifications, drawings, prices, costs, Customer Information (as defined below), procedures, proposed products, processes, business systems, software programs, techniques, services and a variety of other information and Materials (the "Confidential Information"); it being understood that Confidential Information also includes the fact that such information has been provided and any information that should reasonably have been understood by Reseller, because of legends or other markings, the circumstances of disclosure or the nature of the information itself, to be proprietary or confidential to Kaseya, or its Affiliates and their officers, directors, employees, shareholders, customers, agents, successors and assigns. The Reseller agrees that as between Reseller and Kaseya, all such Confidential Information is, and shall be considered, confidential and proprietary to Kaseya. The Reseller agrees that it shall:

(a) protect and preserve the confidential and proprietary nature of all Confidential Information;

- (b) not disclose, give, sell or otherwise transfer or make available, directly or indirectly, any Confidential Information to any third party (including the Reseller's agents and contractors) for any purpose, except as expressly permitted in writing by Kaseya;
- (c) not use, or make any records or copies of, the Confidential Information, except as specifically needed in order to perform its obligations under the Agreement;
- (d) limit the dissemination of the Confidential Information to such entities and individuals whose duties justify the need to know the Confidential Information, and then only provided that such entities and individuals are obligated to comply with all terms of this Confidentiality Policy;
- (e) return (or, at Kaseya's request, destroy) all Confidential Information and any copies thereof (in whatever form) (i) as soon as it is no longer needed or (ii) immediately upon Kaseya's request, and certify to Kaseya in writing that this has been done;
- (f) notify Kaseya immediately of any actual, potential, threatened or attempted access to, loss, misplacement or unauthorized use or disclosure of Confidential Information, in whatever form;
- (g) to the extent that Customer Information is processed as part of the Agreement: (i) merely act as the data processor and the Kaseya is the data controller; (ii) only process Customer Information on behalf of, and in the name of the Kaseya, and only in accordance with the instructions of the Kaseya; and
- (h) comply with any security procedures attached to this Confidentiality Policy and any other reasonable security procedures as may be prescribed by Kaseya for protection of the Confidential Information.

2. Customer Information broadly means any personally identifiable information of Kaseya its Affiliates and their officers, directors, employees, shareholders, customers, agents, successors and assigns including but not limited to: (a) personal data as defined in EU Directive 95/46/EC, Japanese Personal Information Protection Act and Hong Kong Personal Data (Privacy) Ordinance; (b) non-public personal information and Personal Health Information as defined, respectively, in the United States Gramm-Leach-Bliley and Health Insurance Portability and Accountability Acts; (c) personal information as defined in the Canadian Personal Information Protection and Electronic Documents Act, the New Zealand Privacy Act, and the Australian Privacy Act 1988; (d) sensitive personal data or information as defined in the Indian Information Technology Act; and (e) any information similarly designated or protected to the forgoing under any law in any jurisdiction.

3. Reseller agrees to comply with all laws, orders, and regulations including all privacy confidentiality, notification and consumer protections laws including those applicable to Customer Information and the handling and processing thereof. The Reseller shall ensure and

be responsible for the compliance with the terms of the Confidentiality Policy by any person or entity who obtains Confidential Information from or through Reseller.

4. Except with respect to Customer Information, the obligations set forth herein shall not apply to information that can be shown by written documentation: (1) becomes generally available to the public other than as a result of a disclosure by the Reseller, (2) was available to the Reseller on a non-confidential basis prior to its disclosure by Kaseya or its agents, (3) is disclosed to the Reseller on a non-confidential basis from a source other than Kaseya or its agents, provided, however, that such source is not bound by a confidentiality obligation to Kaseya or its agents; or (4) was independently developed without reference to or reliance upon the Confidential Information.

5. In the event that the Reseller is required, by subpoena, court order, or other similar process, to disclose Confidential Information, the Reseller shall provide Kaseya with prompt written notice and documentation thereof, so that Kaseya may seek a protective order or other appropriate remedy and Reseller shall cooperate with Kaseya in any such efforts.

6. Reseller will implement and maintain at all times appropriate technical, security and organizational measures to: (i) ensure the security and confidentiality of the Confidential Information, (ii) identify potential threats or hazards to the security or integrity of the Confidential Information and protect against any anticipated threats or hazards, and (iii) protect against unauthorized access to or use of the Confidential Information.

7. Upon any breach of this Confidentiality Policy by Reseller, Kaseya may terminate any or all of the Agreement in whole or in part without any liability or termination penalties of any kind

8. In the event of any actual or threatened unauthorized access to Confidential Information or breach of this Confidentiality Policy, Reseller shall at Reseller's expense: (a) immediately notify Kaseya; (b) cooperate with Kaseya to take all measures to stop or limit the access, use or damages caused thereby; (c) implement changes and safeguards to prevent further access or use; and (d) as directed by Kaseya send notifications or communications to affected individuals or entities. The parties acknowledge that Confidential Information is unique and valuable, and that use or disclosure in breach of this policy will result in irreparable injury to Kaseya or its clients for which monetary damages alone would not be an adequate remedy. Therefore, the Reseller agrees that Kaseya, without prejudice to any rights to judicial relief it may otherwise have at law or in equity, shall be entitled to equitable relief, including injunction and specific performance, in the event of any breach of the provisions of this policy and that the Reseller shall not oppose the granting of such relief.. The Reseller also agrees that it will not seek and agree to waive any requirement for the securing or posting of a bond in connection with Kaseya's seeking or obtaining such relief. Any such relief will be in addition to and not in lieu of any appropriate relief in the way of monetary damages. No forbearance, failure or delay in

exercising any right, power or privilege is waiver thereof, nor does any single or partial exercise thereof preclude any other or future exercise thereof, or the exercise of any other right, power or privilege.

9. Neither Kaseya nor any of its suppliers or agents or any of their customers are making any representation or warranty as to the accuracy or completeness of the any information (including without limitation Confidential Information) provided by them. The Reseller agrees that Kaseya shall have no liability resulting from the use of such information by Reseller.