

## **SDK TRIAL TERMS AND CONDITIONS**

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### **1. Disclaimer and Limited Warranty**

(1) The sole purpose of the SDK, is to allow you to evaluate it, free of charge, for a limited period of time prior to entering into a Transaction.

(2) THE SDK AND DOCUMENTATION ARE PROVIDED TO YOU "AS IS" AND TO THE EXTENT AUTHORIZED BY LAW, AVIRA MAKES NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, REGARDING THE SDK OR DOCUMENTATION, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. AVIRA ALSO EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES RELATING TO NON-INFRINGEMENT OF THIRD PARTY RIGHTS, MERCHANTABILITY, SATISFACTORY QUALITY, OR ABILITY TO INTEGRATE THE SOFTWARE WITH OTHER PRODUCTS.

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(1) Avira hereby grants you a royalty-free, limited, non-exclusive, non-sublicensable, non-transferable license for the testing period to (i) install the SDK (as updated from time to time) solely and exclusively on a hard- and software environment owned and controlled by You and set-up by You for the sole purpose of testing the operability and functionality of the SDK (hereinafter referred to as the "Test System"); (ii) to copy, use and reproduce the SDK solely and exclusively within the Test System, in each case solely and exclusively for the purpose of testing; provided that, the Test System must not be used as productive system or for other than internal purposes under any circumstances; and (iii) to use any documentation provided as amended from time to time.

(2) Except for the license rights expressly granted you have no right, title or interest in and to the SDK, any component(s) thereof, or associated documentation or to any Confidential Information. You may not file or pursue any patents, trademarks, copyrights or any other intellectual property derived from the Confidential Information or use of the SDK.

(3) You may not access the source code of the SDK or any component(s) thereof. You are expressly prohibited from editing, revising, changing or otherwise modifying or seeking to decompile the SDK object code or to attempt to reverse engineer or otherwise generate source code versions therefrom unless you receive written approval from Avira or if permitted pursuant to applicable mandatory law.

### **3. Limitation of Liability**

IN NO EVENT WILL AVIRA BE LIABLE TO YOU OR ANY THIRD PARTY WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, FOR ANY DAMAGES, WHETHER FORESEEABLE OR NOT, INCLUDING ANY LOST PROFITS, LOST SAVINGS OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF THE USE OF THE SDK. IN GERMANY, (i) AVIRA'S LIABILITY IN CASE OF NEGLIGENT INFRINGEMENT OF MATERIAL OBLIGATIONS OF THE AGREEMENT BY AVIRA SHALL BE LIMITED TO FORESEEABLE DAMAGES WHICH ARE TYPICAL FOR THIS TYPE OF CONTRACT AND (II) AVIRA'S STRICT LIABILITY FOR DEFECTS EXISTING AT THE TIME OF CONCLUSION OF THE AGREEMENT PURSUANT TO SEC. 536 A PARA. 1, ALTERNATIVE 1 GERMAN CIVIL CODE (BGB) IS HEREBY EXPRESSLY EXCLUDED.

### **4. Confidential Information**

(1) During the period where you are evaluating the SDK and the parties are discussing and/or negotiating a potential mutual cooperation ("Transaction"), both parties may exchange certain Confidential Information. "Confidential Information" shall mean information or data, whether written or oral, stored electronically or by any other means, disclosed to and received by a party or its Representatives (defined below) that relates to the other party or the Transaction, (a) which is not generally available to the public or known in the industry in which the other Party is or may become engaged, or (b) which would reasonably be considered confidential and/or proprietary, or (c) which is marked "Confidential" or "Proprietary" by the party providing such information. Without limiting the generality of the foregoing, Confidential Information includes (i) any and all information relating to research, products, services, developments, inventions, discoveries, ideas, concepts, software, designs, drawings, engineering, specifications, documentation, processes, techniques, models, source code, object code, diagrams, flow charts, procedures, business and marketing plans or strategies, business opportunities, financial information, pricing information, sales information, know-how, and customer information; (ii) potential sources of financing; and (iii) all analysis, compilations, forecasts, studies or other documents prepared in connection with the review and possible consummation of the Transaction. In the event Confidential Information is the basis of, is incorporated into, or is reflected in other documents,

whether separately or jointly generated by the parties, such other documents shall be deemed Confidential Information subject to the terms of this Agreement. "Representatives" shall mean the respective directors, officers, employees, affiliates, representatives (including, without limitation, financial advisors, brokers, attorneys and accountants) or agents of each party who have been informed of the confidential nature of disclosed information and who agree to act in accordance with the non-disclosure requirements below.

(2) The receiving party, for a period beginning with the date of disclosure and continuing for three (3) years or as long as the disclosing party treats the applicable Confidential Information as a trade secret, will comply with the non-disclosure requirements as follows: (i) the receiving party shall not use or disclose the Confidential Information to any person or entity, except as otherwise expressly permitted; (ii) each Party shall maintain and protect the confidentiality of the other party's Confidential Information with the same degree of care as is normally used in the protection of its own confidential and proprietary information and (iii) neither party will use Confidential Information for any purpose other than contemplating the Transaction. Additionally, without the prior consent of the disclosing party, neither a receiving party nor its Representatives shall use or disclose to any third party: (a) the fact that any evaluation, investigation, discussions or negotiations are taking place concerning a possible Transaction between the Parties; (b) the fact that either party has requested or received Confidential Information from the disclosing party; or (c) any of the terms, conditions or other facts with respect to the possible Transaction. The receiving party shall also be responsible for the acts of its Representatives.

(3) The non-disclosure restrictions shall not apply with respect to Confidential Information which (i) is already available to the public; (ii) becomes available to the public through no fault of either party or its Representatives; (iii) is already known to the receiving party or which have been developed by or for the receiving party at any time independently of the information disclosed to it by the disclosing party on a non-confidential basis, as shown by written records in the receiving Party's possession at the time that the Confidential Information was received; (iv) becomes available on a non-confidential basis from a source that is not under a non-disclosure obligation to either Party; or (v) is required by law to be disclosed.