

**Effective 01 August 2008**

**SSH's Standard Service Terms and Conditions for the Support Services of SSH Tectia Product(s)**

**1. APPLICABILITY**

SSH Operations Ltd (below referred to as "Licensor") a non-exclusive sub-licensor and distributor of certain Product(s) of SSH Communications Security Corp (below referred to as "SSH") agrees to provide technical support and software maintenance services ("Support Services") for certain product(s) of SSH ("Product(s)") to Licensee solely on the following terms and conditions ("Standard Service Terms and Conditions").

Unless otherwise agreed in a writing signed by both Parties, these Standard Service Terms and Conditions shall be the sole agreement between the Parties governing the Support Services of Product(s).

**2. DEFINITIONS**

The following capitalized terms shall have the following meanings:

"Documentation" shall mean product descriptions, release notes, and all other written or electronic documentation provided by Licensor to Licensee related to the Product(s) and included with the Product(s);

"Effective Date" shall mean the date of the receipt the respective Service Fee by Licensor;

"Licensee" shall mean a person or entity which has agreed to license Product(s) hereunder;

"Maintenance Release" shall mean a Software Release, which is denoted by an increase in the third digit of a Software Release, being functionally and syntactically similar to previous versions of Major and/or Minor Releases with the exception of the fixes themselves. Maintenance Releases do not typically provide any new functionality;

"Major Release" shall mean a Software Release, which is denoted by an increase in the first digit of a Software Release, includes major new functionality, which may or may not be compatible with previous Major Release version;

Minor Release" shall mean a Software Release, which is denoted by an increase in the second digit of a Software Release, including minor new functionality, but is backward compatible with the correspondent Major Release;

"Product(s)" shall mean the computer software applications in machine-readable, binary code form provided by Licensor hereunder, but excluding the source code, human readable version of such software;

"Software Release" shall mean a software release from Licensor consisting of two (2) or optionally three (3) digits separated by decimal points. The first digit is the Major Release number, followed by the second digit, which is the

Minor Release number, and optionally a third digit corresponding to the Maintenance Release number;

"SSH" shall mean SSH Communications Security Corp, the Finnish parent company of Licensor;

"Support Services" means Licensor's technical support and software maintenance services related to the Product(s).

**3. PRICES**

Licensee shall pay to Licensor the prices for the Support Services provided hereunder ("Service Fee(s)") as indicated in the respective invoice.

Unless the Parties agree to a specific deduction in writing, Licensee shall pay the Service Fee(s) for the Support Service(s) to Licensor with no setoffs or deductions whatsoever.

During the term of this Agreement, Licensor will not increase its list price for Support Services provided to Licensee by more than the higher of (i): five percent (5 %) for each twelve (12) month period; and (ii) the corresponding annual change in the Finnish Customer Price Index published by the Finnish Central Bureau of Statistics.

**4. TAXES AND MISCELLANEOUS CHARGES**

Any taxes and duties (including but not limited to custom duties, import/export duties, stamp duties, value added tax, consumption tax, withholding tax and sales tax) imposed in the country in which the Support Service(s) are delivered will be borne by Licensee (collectively "Taxes").

Any miscellaneous costs including but not limited to banking charges, currency conversion charges and/or delivery costs (collectively "Miscellaneous Costs") will be borne by Licensee.

If Licensor pays any Taxes and/or Miscellaneous Costs, then such amount shall be added to the price of the Support Services and Licensee shall reimburse Licensor for all such Taxes and/or Miscellaneous Costs within fifteen (15) business days following its receipt of documentation evidencing Licensor's payment thereof.

**5. TERMS OF PAYMENT**

Service Fee for the Support Services shall be paid in advance against Licensor's respective invoice.

Licensee shall pay the Service Fee within thirty (30) days of receipt of an invoice from Licensor.

Unless otherwise defined in the respective invoice all payments to Licensor shall be payable in Euros.

## 6. TITLE

Licensee acknowledges and agrees that title to and ownership of the Product(s), Documentation and/or Software Release(s) (including but not limited to all copies thereof) are and shall remain with SSH and/or Licensor or their licensors. Nothing contained in these Standard Service Terms and Conditions shall be construed as transferring any ownership right or interest in the Product(s) to Licensee. Licensee shall not receive any express or implied license or right under any patent, copyright, trademark, trade secret or other proprietary rights, except as expressly set forth in these Standard Service Terms and Conditions.

## 7. SUPPORT SERVICES

Licensor shall provide Licensee with the Support Services subject to payment of applicable Service Fee(s).

The content of the Support Services shall be SSH Tectia Standard Support Services that can be found on [www.ssh.com/products/services/support/standard.html](http://www.ssh.com/products/services/support/standard.html).

The Parties expressly agree that each new Software Release delivered to Licensee under these Standard Service Terms and Conditions shall without further actions become the Product(s) under terms and conditions of the license agreement under which such Product(s) are licensed from Licensor by Licensee.

Licensor shall have the right to change the content of Technical Support Services.

## 8. EXCLUSIONS OF SUPPORT SERVICES

Licensor shall not be required to provide the Support Services if the need for the Support Services is due to, cause by or arises from any of the following:

- Any modification or repair of the Product(s) by a party other than Licensor, or Licensee's failure to follow Licensor's instructions on operations and use;
- Use of the Product(s) with any hardware, software, magnetic media or service that is not provided, approved or authorized by Licensor;
- Damage or failure of the Product(s) due to, caused by or arising from Force Majeure;
- Failure of Licensee to use either current or one (1) preceding Major or Minor Release (not including Maintenance Release(s)).

## 9. SUPPORT SERVICES' TERM AND AUTOMATIC RENEWAL(S)

The initial term for the Support Services shall begin on the Effective Date and continue the following twelve months' term. Thereafter Support Services shall become automatically prolonged and invoiced for twelve months terms at a time if not terminated by either Party's written

notice three (3) months before the end of the initial term or any subsequent prolongation term. In case Licensee fails to pay the Support Fee in due time Licensor shall have right to immediately discontinue the Support Services and thereafter Licensee shall have no right to use any other Release(s) of the Product(s) than the ones Licensee has received during the paid Support Service term and/or under the purchase order of the respective Release of the Product(s).

After the termination and/or discontinuation of the Support Services the Parties may agree to reinstate Support Services subject to Licensee's payment of a fee equal to Licensor's then current fees for the Support Services, provided, however, that Licensee pays to Licensor the retroactive Service Fees equal to the amount Licensee would have paid for the duration of the time from when the Support Services was terminated and/or discontinued to when the Parties reinstated the Support Services.

## 10. CONFIDENTIALITY

For the purposes of this Section confidential information (below referred to as "Confidential Information") is defined as any information received by a Party ("receiving Party") from the other Party ("disclosing Party"), whether before or after the Effective Date, which is marked or described by the disclosing Party in writing as being "Confidential", "Secret" or "Proprietary". The Parties specifically acknowledge that the Product(s) and Documentation, the source code of the Product(s), and the terms and conditions of these Standard Service Terms and Conditions are Confidential Information.

The confidentiality obligation under this Section shall not cover knowledge which

- (i) was at the time of receipt published or otherwise generally available to the public;
- (ii) has after receipt by a Party been published or become generally available to the public otherwise than through any act or omission on part of the receiving Party;
- (iii) was lawfully in the possession of the receiving Party at the time of receipt without any restrictions on disclosure;
- (iv) was rightfully acquired from third parties without any undertaking of confidentiality imposed by such third parties;
- (v) was developed independently by the receiving Party without reference to the Confidential Information; or
- (vi) is required by applicable law or regulation or by legal process to be disclosed, so long as the receiving Party provides the disclosing Party with prompt written notice of such requirement to enable the disclosing Party to seek an appropriate protective order. If no such order is obtained within a reasonable time, the receiving Party may, without liability hereunder, disclose such portion of the Confidential Information

that on the advice of the receiving Party's legal counsel is legally required to be disclosed.

Both Parties agree to maintain Confidential Information in confidence and shall use the same degree of care, but in no event less than reasonable care, to avoid disclosure of Confidential Information as it uses with its own confidential and proprietary information of similar type and importance. Both Parties agree to disclose Confidential Information only to those of its employees and subcontractors who have a bona fide need to know solely for the purpose (and to the extent) of exercising its rights contemplated under these Standard Service Terms and Conditions.

Any Confidential Information supplied by Licensor shall: (a) be used for the sole purpose of installing, using, evaluating and maintaining the Product(s); (b) not be used by the Licensee (or any other party) in a manner detrimental to Licensor's interest; and (c) not be reproduced, used or disclosed to other parties by the Licensee without Licensor's prior written consent. All Confidential Information supplied by Licensor is, and shall remain SSH's and/or Licensor's property.

The obligations set forth in this Section shall remain in force for a period of five (5) years as of the date of disclosure of the Confidential Information in question, regardless of an earlier termination of these Standard Service Terms and Conditions. Notwithstanding the foregoing, source code of the Product(s) shall be kept confidential indefinitely.

#### **11. AMENDMENT**

No changes or amendments to these Standard Service Terms and Conditions shall be effective unless reduced to writing and signed by Licensor.

#### **12. ASSIGNMENT**

These Standard Service Terms and Conditions will bind and inure to the benefit of each Party's permitted successors and assigns. Licensee shall not, without the prior written consent of Licensor, assign or otherwise transfer its rights and obligations under these Standard Service Terms and Conditions in whole or in part. Any attempt to assign these Standard Service Terms and Conditions in derogation of this Section will be null and void.

Licensor may assign these Standard Service Terms and Conditions to any of its Affiliates, and in connection with a sale of business to which these Standard Service Terms and Conditions relates.

#### **13. INDEPENDENT CONTRACTOR**

Licensor and Licensee are each engaged in an independent business. Each Party shall, at all times, perform its obligations as an independent contractor and not as the agent, employee or servant of the other Party. Each Party shall, at all times, be solely responsible for: (a) the

employment, direction, supervision, compensation and discharge of its own employees, agents and subcontractors, including compliance with social security, withholding and all other regulations governing such matters; and (b) its own acts and those acts of its employees, agents and subcontractors.

#### **14. CONTROLLING LAW AND VENUE**

These Standard Service Terms and conditions shall be interpreted and construed in accordance with the laws of the Germany, without regard to conflicts of law principles. Further, the application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded and disclaimed.

#### **15. SETTLEMENT OF DISPUTES**

All disputes arising out of or in connection with these Standard Service Terms and Conditions shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one (1) arbitrator appointed in accordance with the said Rules. The place of arbitration shall be Düsseldorf, Germany. All proceedings shall be conducted in the English language.

#### **16. FORCE MAJEURE**

Licensor shall not be deemed to have breached any obligation under these Standard Service Terms and Conditions if such breach results from causes that are beyond Licensor's reasonable control.

#### **17. WARRANTIES**

LICENSOR MAKES NO WARRANTIES HEREUNDER, EITHER EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

#### **18. LIMITATION OF LIABILITY**

EXCEPT IN CASE OF A VIOLATION OF LICENSOR'S INTELLECTUAL PROPERTY RIGHTS, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER THIS SERVICE AGREEMENT TO THE OTHER PARTY FOR ANY LOST PROFITS, LOSS OF BUSINESS, LOSS OF USE, LOST SAVINGS OR OTHER CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY OR PUNITIVE DAMAGES, EVEN IF THE LIABLE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

EXCEPT IN CASE OF A VIOLATION OF LICENSOR'S INTELLECTUAL PROPERTY RIGHTS, IF EITHER PARTY SHOULD BECOME ENTITLED TO CLAIM DAMAGES FROM THE OTHER PARTY UNDER THIS SERVICE AGREEMENT, THE LIABLE PARTY WILL BE LIABLE ONLY FOR THE AMOUNT OF THE OTHER PARTY'S ACTUAL DIRECT DAMAGES, NOT TO

EXCEED THE TOTAL AMOUNT OF MONIES RECEIVED BY LICENSOR FROM LICENSEE UNDER THIS SERVICE AGREEMENT DURING THEN CURRENT TERM.

understandings (whether written, oral or otherwise) pertaining thereto and constitute the entire agreement between Licensor and Licensee.

The Parties agree that the limitations of liability set out in this Section are to be enforced to the maximum extent permitted by law, but will not be deemed to limit any liability to an extent that is impermissible under applicable law.

## **19. TERM AND TERMINATION**

These Standard Service Terms and Conditions shall be deemed to have been entered into on the Effective Date and shall remain in force one (1) year of the Effective Date, or until terminated as set below.

These Standard Service Terms and Conditions may be terminated without cause by either Party with three (3) months' written notice to the other Party.

These Standard Service Terms and Conditions may be terminated by the non-defaulting Party with immediate effect by written notice to the other Party in any of the following events:

- If the other Party becomes insolvent, is adjudged bankrupt or becomes the subject of dissolution, liquidation or bankruptcy proceedings that are not dismissed within ninety (90) days after they are instituted whether voluntarily or involuntarily or if the other Party applies for judicial or extra-judicial settlement with its creditors, makes an assignment for the benefit of creditors, or otherwise discontinues business;
- If the other Party is in breach or default of the material terms or conditions of these Standard Service Terms and Conditions and shall fail to remedy such breach or default within sixty (60) days of receipt of a written notice from the other Party asserting the breach or default,

## **20. EXPORT CONTROL**

The Parties hereto shall comply with all the relevant export control laws, regulations and restrictions such as but not limited to those imposed by the European Union, Finland or the United States of America. Licensee specifically acknowledges that the Product(s) and Documentation supplied by Licensor are subject to said export control laws, regulations and restrictions and must not be re-exported, transhipped, diverted or transferred, directly or indirectly, contrary to the said laws, regulations and restrictions.

## **21. ENTIRE AGREEMENT**

Unless otherwise agreed, these Standard Service Terms and Conditions set forth all of the promises, agreements and conditions regarding its subject matter, supersedes all prior