

## Panorays Service Terms and Conditions

The following service terms and conditions (“**Agreement**”) are hereby incorporated by reference into the Proposal (as defined below) entered into between you (“**you**” or “**Customer**”) and Panorays Ltd. (“**Panorays**”, “**we**”, “**our**” or “**us**”) and govern your access to, and use of, (i) the Panorays software-as-a-service platform and related documentation, and features, as well as any fixes, updates or upgrades thereto (“**Software**”), (ii) related security information, security scoring and penetration rating services (“**Security Rating Services**”) and (iii) Reports (as defined below), ((i) – (iii) which shall hereinafter be referred to as the “**Services**”).

By accepting this Agreement, accessing and/or using Panorays’ Services or any part thereof, you expressly acknowledge and agree that you have understood and agree to comply with, and be legally bound by, this Agreement. You hereby waive any applicable rights to require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent not prohibited under applicable law. If you do not agree to be bound by this Agreement please do not accept this Agreement, sign in, access or use the Services or any part thereof.

1. **Ability to Accept.** By accessing and/or using the Software, you affirm that you are over 18 years of age.
2. **Proposals.** You may order Services by completing, executing and submitting to Panorays an ordering document, executed by you in the form provided to you by Panorays (“**Proposal**”). Each Proposal will set forth the type and description of the Services being ordered and the applicable fees payable for such Services. Proposals shall become binding upon their written acceptance by Panorays. In the event of a conflict between the terms of this Agreement and a Proposal, the terms of this Agreement shall prevail unless explicitly stated otherwise in a Proposal. Panorays shall not be responsible for providing any service or product not described in the applicable Proposal. For clarity, if you are using the Services to perform a limited self-assessment only, this Agreement shall still apply notwithstanding any lack of Proposal.
3. **Security Rating Services.** Panorays shall provide the Security Rating Services, subject to the terms set forth in your Proposal (if applicable) and this Agreement.
4. **Reports.** The Software allows you to access results, information and reports obtained from and created in connection with the Security Rating Services (“**Reports**”). Subject to the terms set forth in your Proposal (if applicable), the Reports may include Reports pertaining to you, your employees and contractors, or to specific third parties.
5. **Right to Use the Software.** Subject to the terms and conditions of this Agreement and payment of any applicable fees, Panorays grants you a limited, personal, revocable, non-exclusive, non-sublicensable, non-assignable and non-transferable right to access and use the Software on a device which you own or control for internal business purposes, in accordance with any applicable use restriction set forth herein or in the Proposal (if any). The license shall continue until terminated in accordance with Section 19 (*Term and Termination*).
6. **Account.** If you create an Account in connection with your use of the Software (“**Account**”), you must provide accurate and complete information about yourself. You hereby agree: (a) not to allow anyone other than yourself to access or use your Account, not to create an Account for any third party and not to use the account of any third party without their permission; (b) to provide accurate and complete Account and login information; (c) to remain solely responsible and liable for the activity that occurs in connection with your Account; (d) to keep your Account password secure; and (e) to notify Panorays immediately of any breach of security or unauthorized use of your Account.
7. **Restricted Use.** You shall not, and shall not allow any third party to: (a) copy, distribute, broadcast, rent, lease, lend, use for timesharing or service-bureau services, export, modify, adapt, translate, enhance, customize, or otherwise create derivative works of, the Software or any part thereof; (b) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of, the Software or any part thereof; (c) remove or distort any proprietary notices, labels or legends on or in the Services; (d) use any automated means to access or use the Services, nor circumvent or disable any security or technological features of the Services; (e) use, send, upload, post, transmit or introduce any device, code, routine or other item (including without limitation bots, viruses, worms, and Trojan horses) that interferes (or attempts to interfere) with the operation or integrity of the Software, nor any content that is unlawful, infringing, defamatory, deceptive, obscene fraudulent, harassing, pornographic, or abusive; (f) use the Services to design or develop any competing product or service that competes with the Services; (g) use the Services for any unlawful or fraudulent purpose, to breach this Agreement, or infringe or misappropriate any third party intellectual property, privacy, or publicity right; (h) take any action that imposes or may impose, as determined in Panorays’ sole discretion, a disproportionately large load of incoming requests on the Software infrastructure; (i) violate or abuse password protections governing access to the Software; (j) use or direct the Services to interact with IPs or devices for which you are not expressly authorized to do so; or (k) use the Service directly or indirectly to initiate, propagate, participate, direct or attempt any attack, hack, or send bandwidth saturation, malicious or potentially damaging network messages to any device.
8. **Security Data.**

- 8.1. Collection of Security Data. For the purpose of and in connection with the provision of the Services, as set forth in your Proposal, Panorays shall collect (and you may provide to Panorays) certain public and/or non-public data (“**Security Data**”) directly or indirectly pertaining to you or to specific third parties which are being evaluated.
  - 8.2. Authorization. You hereby grant to Panorays a non-exclusive right to collect, use, process, display, analyze copy and store the Security Data in order to: (1) create Reports and provide the Services; and (2) administer and make improvements to the Services. You hereby acknowledge that the Software does not operate as an archive or file storage service. You are solely responsible for the backup of Security Data and you alone can implement back up plans and safeguards appropriate for your requirements.
  - 8.3. Liability for Security Data. UNDER NO CIRCUMSTANCES WHATSOEVER WILL PANORAYS, ITS SUBCONTRACTORS AND AFFILIATES BE LIABLE IN ANY WAY FOR ANY SECURITY DATA INCLUDING, WITHOUT LIMITATION, FOR ANY ERRORS OR OMISSIONS THEREIN, FOR ANY INFRINGEMENT OF THIRD PARTY RIGHTS, OR LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE COLLECTION OR USE BY PANORAYS OF THE SECURITY DATA, OR THE TRANSFER OF SECURITY DATA TO YOU.
9. **Personal Data.**
- 9.1. You hereby warrant and represent that you will provide all appropriate notices, obtain all required informed consents, comply at all times with all applicable privacy and data protection laws and regulations (including the EU General Data Protection Regulation (“**GDPR**”)) for allowing Panorays to use the data in accordance with this Agreement (including, without limitation, the provision of such data to Panorays, the transfer of such data by Panorays to its affiliates and subcontractors, including transfers outside of the European Economic Area).
  - 9.2. You expressly acknowledge and agree that you agree to comply with, and be legally bound by, the Panorays’ Data Processing Agreement (“**DPA**”) available on [link](#), which is hereby incorporated into and forms part of this Agreement.
  - 9.3. In the event you fail to comply with any data protection or privacy law or regulation, the GDPR and/or any provision of the DPA then: (a) to the maximum extent permitted by law, you shall be fully liable for any such breach, violation and/or infringement by Panorays and Panorays’ affiliates and subsidiaries (including, without limitation, their employees, officers, directors, subcontractors and agents); and (b) in the event of any claim of any kind related to any such breach, violation or infringement, you shall defend, hold harmless and indemnify Panorays and Panorays’ affiliates and subsidiaries (including, without limitation, their employees, officers, directors, subcontractors and agents) from and against any and all losses, penalties, fines, damages, liabilities, settlements, costs and expenses, including reasonable attorneys’ fees.
10. **Proprietary Rights.**
- 10.1. Ownership. The Software is licensed and not sold to you under this Agreement. You expressly acknowledge that as between you and Panorays, Panorays solely and exclusively owns any and all worldwide right, title and interest in and to the Software and Security Rating Services, including all worldwide intellectual property rights therein, and including any modifications thereto and any reports and data derived thereunder, regardless of whether they are developed by either party. Nothing in this Agreement constitutes a waiver of Panorays’ intellectual property rights under any law.
  - 10.2. Feedback. If you contact Panorays with any suggestions or feedback data regarding the Services, which may include suggestions for, or feedback concerning, customizations, features, improvements, modifications, corrections, enhancements, derivatives or extensions (collectively, “**Feedback**”), such feedback shall be deemed to be the sole property of Panorays and Panorays will be free to adopt such Feedback for any of its products or services, use it in any other manner, disclose, reproduce, license or otherwise distribute and exploit the Feedback as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise. You hereby waive any right to the Feedback, including but not limited to, any right for royalties or any other consideration, and undertake to treat the Feedback as Confidential Information (as defined below) of Panorays.
  - 10.3. Trademarks. Subject to the terms and conditions of this Agreement, you hereby grant to Panorays a limited, non-exclusive, non-transferable, non-assignable, non-sub-licensable, and revocable license to use, reproduce, distribute, and display in promotional materials the names, marks, and logos provided by you for purposes of publicity and marketing only, including referencing you as Panorays’ customer.
11. **Third Party Software**. You expressly acknowledge that the Software may include third party components (“**Third Party Software**”), which shall be used by you solely in conjunction with the Software, and shall not be used for any other purpose without the prior written consent of Panorays. Such Third Party Software is provided “As-Is” without any warranty of any kind, and subject to the license terms attached to such Third Party Software, the provisions of this Agreement shall apply to all such Third Party Software providers and Third Party Software as if they were

Panorays and the Software respectively. In the event of any inconsistencies or conflicting provisions between the Third Party Software licenses and the provisions of this Agreement, the provisions of the Third Party Software licenses shall prevail.

12. **No Legal Advice.** Some of the Services may include assessments relating to recent data and privacy regulations. For the avoidance of doubt, the Services do not constitute legal advice, nor a certification or guarantee with respect to present or future compliance with any data protection or privacy laws and/or regulations. The questions included in any questionnaire are selected by Customer and not by Panorays. Specific outcomes, results and evaluations which may be provided as part of the Services should not be relied upon by you or third parties as proof of compliance with data protection and privacy laws and/or regulations. PANORAYS, ITS AFFILIATES AND/OR SUBCONTRACTORS MAKE NO WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, AS TO THE INFORMATION PROVIDED BY IT OR BY THIRD PARTIES IN CONNECTION WITH THE SERVICES (INCLUDING ANY DATA PROTECTION AND PRIVACY COMPLIANCE WORK) PERFORMED BY PANORAYS HEREUNDER. PANORAYS, ITS AFFILIATES AND/OR SUBCONTRACTORS ALSO DISCLAIM ANY RESPONSIBILITY FOR ANY INFORMATION OR REPRESENTATIONS, MADE OR PROVIDED BY YOU. PANORAYS, ITS AFFILIATES AND SUBCONTRACTORS DO NOT INTEND NOR REPRESENT THE PROVISION OF LEGAL ADVICE THROUGH ANY OF ITS SERVICES, WORK OR DOCUMENTATION. YOU ARE ADVISED TO CONSULT SEPARATELY WITH LEGAL ADVISORS, AS YOU SEE FIT.
13. **Confidentiality.** Each party agrees to keep confidential and to use only for purposes of performing its obligations under this Agreement, any proprietary or confidential information of the other party disclosed pursuant to this Agreement (“**Confidential Information**”). The obligation of confidentiality shall not apply to information which is publicly available through authorized disclosure or which is required by law, government order or request to be disclosed (provided that the receiving party shall give written notice to the other party prior to such disclosure and reasonably cooperate, at the objecting party’s expense, to take legal steps to resist or narrow such request). You acknowledge that the Services and any information in connection therewith shall be deemed as Panorays’ Confidential Information. Upon any termination of this Agreement, each party shall return to the other party all Confidential Information of the other party, and all copies thereof, in the possession, custody or control of the party unless otherwise expressly provided in this Agreement.
14. **Payments.** In consideration for the Service rendered by Panorays to you, you shall pay the applicable, non-refundable subscription fees specified in the Proposal (if any), at such times and for such periods as set forth therein. If not otherwise specified in the Proposal, all fees shall be paid annually and shall be due and payable within thirty (30) days of the date of invoice. Late payment shall be subject to a late fee equal to 1.5% per month or, if less, the maximum amount allowed by applicable law. All amounts payable hereunder shall not be subject to any set-off or deduction. All fees are exclusive of any applicable taxes, duties and similar governmental charges, and you are responsible for payment of all such amounts, including sales tax, value added tax (VAT), withholding taxes, export, import and other duties imposed by any governmental agency in connection with this Agreement. If any withholding tax is required by applicable law to be paid to the local tax authorities in relation to payments due to the Panorays under this Agreement, you shall gross-up the payments to ensure remittance of the full amounts owed without any deduction. Upon remittance of the required withholding taxes to the appropriate tax authorities, you will provide Panorays with official receipts from the appropriate taxing authorities to establish that any applicable taxes have been paid.
15. **Warranty Disclaimer.** THE SERVICES ARE PROVIDED “AS IS”, AND PANORAYS DISCLAIMS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT OF THIRD PARTY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS. PANORAYS OR ANY OF ITS AFFILIATES, SUBCONTRACTORS AND AGENTS WILL NOT BE LIABLE OR RESPONSIBLE FOR: (a) ANY TECHNICAL PROBLEMS OF THE INTERNET (INCLUDING WITHOUT LIMITATION SLOW INTERNET CONNECTIONS OR OUTAGES); AND/OR (b) ANY ISSUE THAT IS ATTRIBUTABLE TO YOUR HARDWARE OR SOFTWARE OR YOUR INTERNET OR DATA SERVICES. PANORAYS DOES NOT OFFER A WARRANTY OR MAKE ANY REPRESENTATION REGARDING ANY CONTENT OR INFORMATION AVAILABLE THROUGH THE SERVICES, INCLUDING WITHOUT LIMITATION THE REPORTS. YOUR USE OF AND RELIANCE UPON THE SERVICES IS ENTIRELY AT YOUR SOLE DISCRETION AND RISK, AND PANORAYS, ITS AFFILIATES, SUBCONTRACTORS AND/OR AGENTS SHALL HAVE NO RESPONSIBILITY OR LIABILITY WHATSOEVER TO YOU OR TO ANY THIRD PARTY IN CONNECTION WITH ANY OF THE FOREGOING.
16. **Limitation of Liability.** IN NO EVENT WILL PANORAYS, ITS AFFILIATES, SUBCONTRACTORS AND/OR AGENTS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF USE, DATA, GOODWILL, BUSINESS, PROFITS, USE OF MONEY, INTERRUPTION IN USE OR AVAILABILITY OF DATA, STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER

ASSETS, FINES OR OTHER PENALTIES FOR NONCOMPLIANCE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OF THE SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON CONTRACT, WARRANTY, CONFIDENTIAL INFORMATION, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT PANORAYS (AND ITS LICENSORS) HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IN ADDITION, PANORAYS' TOTAL CUMULATIVE LIABILITY FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT WILL BE LIMITED TO AND WILL NOT EXCEED THE FEES PAID TO US BY YOU DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM, OR FIFTY (\$50) US DOLLARS, WHICHEVER IS GREATER.

**17. Indemnification.**

17.1. You agree to defend, indemnify and hold harmless Panorays, its affiliates, and its respective officers, directors, employees and agents, and subcontractors from and against any and all claims, damages, obligations, losses, liabilities, costs and expenses (including but not limited to attorney's fees) arising from: (i) your use of, or inability to use, the Services; (ii) your violation of this Agreement; and (iii) your violation of any third party right, including without limitation any copyright, property, or privacy right (for example, any claim that Security Data and/or Personal Data infringes or violates the rights of any third party). Without derogating from or excusing your obligations under this Section, Panorays reserves the right (at your expense), but is not under any obligation, to assume the exclusive defense and control of any matter which is subject to an indemnification by you if you choose not to defend or settle it. You agree not to settle any matter subject to an indemnification by you without first obtaining Panorays' express written approval.

17.2. Panorays agrees to defend, indemnify and hold harmless Customer from and against any and all third party claims, damages, obligations, losses, liabilities, costs and expenses (including but not limited to attorney's fees) arising from any suit or claim that the Software, Services and/or Panorays intellectual property infringes the rights of, or misappropriates the property of, any entity or person. This indemnity is subject to Customer providing Panorays with written notice of the claim and allowing Panorays sole control of the defense and/or settlement thereof.

**18. Modification to Software.** Panorays reserves the right, at any time, to: (i) discontinue, change, update or modify the Software or any aspect or feature thereof; (ii) reduce or otherwise modify the storage capacity of the Software; and (iii) remove or limit your access to any aspect or feature of the Software, provided that Panorays shall use reasonable efforts to ensure such discontinuance, change, update, or modification does not materially affect the quality or performance of the Software licensed to Customer.

**19. Term and Termination**

19.1. This Agreement is effective until terminated in accordance with this Section or until the end of the subscription term as set out in the applicable Proposal.

19.2. The license granted hereunder shall terminate immediately upon: (i) termination of this Agreement in accordance with Section 19.1; or (ii) written notice from Panorays to you in the event of your use of the Services for purposes other than the purposes permitted under this Agreement by you and/or any other failure by you to comply with any provision of this Agreement.

19.3. Upon termination of this Agreement, you shall cease all access to and use of the Software and the Security Rating Services. This Section 19.3 and Sections 7 ("*Restricted Use*"), 8.3 ("*Liability for Security Data*"), 10 ("*Proprietary Rights*"), 12 ("*No Legal Advice*"), 13 ("*Confidentiality*"), 15 ("*Warranty Disclaimer*"), 16 ("*Limitation of Liability*"), 17 ("*Indemnification*"), and 20 ("*Assignment*") to 23 ("*General*") shall survive termination of this Agreement.

**20. Assignment.** This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you but may be assigned by Panorays without restriction or notification.

**21. Modification of Agreement.** Panorays reserves the right to modify this Agreement at any time by publishing the revised Agreement in the Software. Such change will be effective ten (10) days following the foregoing notification thereof, and your continued use of the Services or any part thereof thereafter means that you accept those changes. No amendment of or waiver of this Agreement, or modification thereof that materially impacts your access to or use of the Services will be enforceable unless agreed in writing by the parties hereto.

**22. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Israel and only the competent courts located in Tel Aviv-Jaffa, Israel, shall have jurisdiction over any dispute arising from this Agreement.

**23. General.** If any provision, or part thereof, of this Agreement is held to be unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable and such reform shall not affect the

enforceability of such provision under other circumstances, or of the remaining provisions hereof under all circumstances. This Agreement, and any other legal notices published by us in connection with the Services, shall constitute the entire agreement between you and Panorays concerning the Services. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term, and a party's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. YOU AGREE THAT ANY CAUSE OF ACTION THAT YOU MAY HAVE ARISING OUT OF OR RELATED TO THE SERVICES MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

Last updated: *January, 2020*