

# End-User License Agreement

**Last Updated: 26 March, 2023**

This Akeyless End User License Agreement, including any and all exhibits attached hereto and references incorporated herein (collectively the “**Agreement**”), is entered into by and between Akeyless and the entity or person (other than a Reseller) placing an order for, or accessing, the Akeyless Services (“**Customer**” or “**you**”). Each Customer and Akeyless may be referred to individually as a “**party**” and collectively as the “**parties**”.

This Agreement consists of the terms and conditions set forth below and any attachments, addenda or exhibits referenced in the Agreement, and any order forms that reference this Agreement (“**Order**”) either executed directly between Akeyless and Customer or indirectly between a Reseller and Customer.

The “**Effective Date**” of this Agreement is the date which is the earlier of (i) Customer’s initial access to any of Akeyless Services through any online provisioning, registration or order process or (ii) the effective date of the first Order referencing this Agreement.

ACCEPTANCE OF THE AGREEMENT: BY SIGNING UP TO, ACCESSING, OR USING AKEYLESS SERVICES. YOU HEREBY ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTOOD THE TERMS OF THIS AGREEMENT AND AGREE TO BE BOUND BY THEM. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, YOU MAY NOT USE ANY OF THE SERVICE. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

**WHEREAS**, Akeyless is the developer and operator of a cloud-based SaaS solution enabling (“**Akeyless Technology**”) enterprises and organizations to secure and manage authorizations, access, and permissions to IT and Cloud environments, all as detailed and updated from time to time here: <https://www.akeyless.io/> (collectively the “**Service(s)**”); and

**WHEREAS**, Customer wishes to use the Service, and Akeyless desires to provide Customer with the Service, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## 1. Definitions.

1. **“Account”** means the Customer’s online account enabling the use and management of the Service.
2. **“Account Information”** means information provided by Customer, or by a Reseller in Customer’s behalf, during the registration and creation of the Account, including without limitation, contact information, company name, company’s contact information and billing information associated with the Account.
3. **“Affiliate”** means any entity which is controlled by, controls or is in common control with one of the parties.
4. **“Akeyless”** means Akeyless Security USA Inc. or Akeyless Ltd., as set forth in the applicable Order.
5. **“Confidential Information”** means all nonpublic confidential information disclosed by either party (**“Disclosing Party”**) to the other party (**“Receiving Party”**) in the context of the relationship under this Agreement, that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, can reasonably be understood to be confidential. Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other party’s lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (c) is lawfully disclosed to the other party by a third party without restriction on the disclosure; or (d) is independently developed by the other party.
6. **“Akeyless Content”** means Content made available through the Service, including, but not limited to, the Akeyless Marks, the Akeyless site, the APIs; SDK; Documentation; sample code; software libraries; command line tools; proofs of concept; templates; and other related technology (including any of the foregoing that are provided by Akeyless’ personnel).
7. **“Akeyless Marks”** means any trademarks, service marks, service or trade names, logos, and other designations of Akeyless.
8. **“Authorized User”** means those employees, contractors, and end users, as applicable, authorized by Customer or on Customer’s or its Affiliates’ behalf to use the Services in accordance with this Agreement.
9. **“Content”** means all text, files, images, graphics, illustrations, information, data, software, code, including machine images, audio, video or images.

10. **“Customer Content”** means Content that Customer transfers to Akeyless in any format, processed, hosted or stored during the Term or through the Account, and which reside in, or run on or through, the Services the Service environment or the Account (excluding the Akeyless Content).
11. **“Customer System Integration”** means a code, gateway or other component which enables the integration with the Akeyless Technology, including the Customer fragment if applicable. It is hereby clarified that the Customer System Integration is not part of the Akeyless Technology and shall be owned, operated or controlled by Customer.
12. **“Documentation”** means the Akeyless user manuals, handbooks, and guides relating to the Service available to the Customer either electronically or in hard copy form.
13. **“Losses”** mean any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys’ fees).
14. **“Policies”** mean the Acceptable Use Policy, Privacy Policy and any other policy or terms referenced in or incorporated into this Agreement.
15. **“Reseller”** means an Akeyless-authorized partner or reseller which offers or sells the Services to the Customer.
16. **“Service Specifications”** mean each of the features and services made available by Akeyless, including web services, secure remote access, secret management services, as described in the applicable Order. When you purchase the Services through a Reseller, the Reseller will state in the Order on your behalf the specifications that apply, and Reseller is responsible for the accuracy of any such Order as communicated to Akeyless.
17. **“Service Level Agreement”** or **“SLA”** means the service level agreement available at: <https://www.akeyless.io/service-level-agreement/>.
18. **“Suggestions”** mean all suggested improvements, feedback, commentary, ideas, concepts, inventions, characters, plots, titles, designs, art work, programs, programming techniques, or other statements concerning our Service that you provide to Akeyless.
19. **“Usage Data”** mean analytic, statistic, measurement data and telemetry collected by Akeyless relating to Customer’s use of the Services, such data may include the click stream data within the Services, duration, errors that occur, etc.

## 2. Amendments

1. Akeyless is constantly working on providing additional features to the services and improving our existing Services. As such, and since there

may be changes to applicable laws, Akeyless may update and revise the terms of this Agreement. Akeyless will use reasonable efforts to notify you of the changes through communications via your Account, email or other means (including through the Reseller). Once updated Agreement comes into effect, you will be bound by it if you continue to interact with your Account or use the Services. Notwithstanding the above, changes to this Agreement, will take effect immediately without prior notice where such changes are: (i) exclusively to your benefit, (ii) where they are of a purely administrative nature and have no negative effect on you; (iii) where they are directly imposed by law, or (iv) due to important security compliance or risk conditions.

2. Please note that a Reseller is not authorized to modify the terms of this Agreement or make any promises or commitments on Akeyless' behalf. Hence, Akeyless is not bound by any obligations to you other than as set forth in this Agreement.

### **3. Right Granted and Restrictions**

1. Akeyless hereby grants you a non-exclusive, non-transferable (except as otherwise permitted herein) right to access and use the Service during the Term, solely in accordance with this Agreement and for your internal use. Akeyless, or the Reseller, as applicable, shall promptly provide you with all necessary passwords and network links or connections to allow you to access the Service upon the Effective Date as set forth in the Documentation. You are allowed to provide Authorized Users with access to use the Akeyless Services; however, the total number of Authorized Users will not exceed the number set forth in the applicable Order.
2. The Services do not include professional services, Akeyless provides the Services in accordance with the Documentation and shall provide support services subject to the SLA.
3. Except as permitted in the Agreement, you and any of your Authorized Users shall not at any time, directly or indirectly: (i) copy, modify, or create derivative works of the Akeyless Content, the Service or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Service or Documentation to a third party; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Service, in whole or in part; (iv) remove any proprietary notices from the Akeyless Content, Service or Documentation; (v) create a database by systematically

downloading and storing all or any content from the Service; or (vi) use the Service for any illegal, immoral, or unauthorized purpose (including that which would infringe upon the rights of a third party) or that is in breach of applicable law.

4. Akeyless reserves the right to modify, change, update the Service (such as infrastructure, security, technical configurations, application features, etc.) and the Service Specification, Documentations or Content therein or discontinue the Service (or parts of the Service) and will provide you with an appropriate written notice prior to making any material changes that will impact the use of the Services.
5. In order to enable Akeyless to provide you with the Services, you grant Akeyless the right to use, process and transmit, in accordance with this Agreement the Customer Content for the Term. Further, you shall integrate the Akeyless Technology through the Customer System Integration, and if such integration includes third party programs, you acknowledge that it is solely responsible for such providers.

#### **4. Customer Responsibilities.**

1. You are solely responsible for all activities in your Account made by you, your Authorized Users or a third party under your control, and Akeyless will not be held responsible for any unauthorized access to the Account by such parties. You are solely responsible to identifying the authentication of all Authorized Users, for approving the access by such Authorized User and for controlling any unauthorized use of the Account or Services. Akeyless is not responsible for any harm caused by the Authorized Users, including individuals who were not authorized to have access to the Services but who were able to gain access because usernames, passwords or accounts were not terminated on a timely basis or your local computers. You agree to notify Akeyless immediately of any unauthorized access to or use of the Account.
2. You will ensure that Customer Content and your use of the Service will not violate any applicable law. You are solely responsible for the development, content, operation, maintenance, and use of Customer Content and hereby warrants that: (i) the Customer Content will not infringe any rights, including any privacy rights or proprietary rights, of any third parties; and (ii) you have all required rights and authorizations to upload Customer Content to the Service.
3. You are responsible for properly configuring and using the Service subject to the Documentation and otherwise taking appropriate actions to secure,

protect and backup Accounts and Customer Content in a manner that will provide appropriate security and protection. Akeyless does not provide archiving services for the data located on your systems and Account. Akeyless expressly disclaims all other obligations with respect to storage of Customer Content. Notwithstanding the above and subject to Section 8 below, Akeyless is responsible to ensure the security, including backup services, of any Customer Content made available through the Service (i.e., the encrypted keys). Upon termination of this Agreement, you shall be responsible to backup your Customer Content and Akeyless reserves the right to delete such data within 60-days following termination, unless agreed with Akeyless otherwise.

4. You shall be required to accept all patches, bug fixes, updates, maintenance and service packs necessary for the proper function and security of the Service.

## **5. Fees and Payment.**

1. All fees and payment terms are as set forth in the applicable Order ("**Fees**"). Except as expressly set forth in this Agreement, all payment obligations are non-cancelable and Fees are non-refundable. Fees do not include taxes, you are responsible for paying all taxes associated with your Fees, including without limitation all use or access of the Akeyless Services by your Authorized Users. Taxes will not be deducted from payments to Akeyless, except as required by applicable law, in which case you will increase the amount payable as necessary so that, after making all required deductions and withholdings, Akeyless receives and retains (free from any liability for taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. Where applicable, you will provide your VAT/GST Registration Number(s) on the Order to confirm the business use of the purchased services.
2. If you purchased the Services through a Reseller, pursuant to a separate agreement or Order signed and executed between you and Reseller, such agreement or Order will specify the terms regarding invoicing, taxes and payments. You will pay the applicable amounts to the Reseller, as agreed between you and Reseller, and the Reseller shall pay Akeyless as agreed between Reseller and Akeyless. Akeyless will only be obligated to provide the Services to you where an effective Order or reseller agreement is executed between Reseller and Akeyless. Akeyless may share information with the Reseller that affect the fees and payments.

3. Akeyless may suspend or terminate your rights granted in this Agreement, including the suspension or termination of your access to the Account or any interaction with the Services, if Akeyless does not receive the Fees from you or from the Reseller, as applicable.
4. The corresponding Fees paid or payable by the Reseller to us for your use of the Services will be deemed the Fees actually paid or payable by you to us under this Agreement for purposes of calculating the liability cap in Section 12.

#### **6. Term, Termination and Suspension.**

1. Unless otherwise specified under an Order, this Agreement is effective as of the Effective Date and will remain in effect until suspended or terminated in accordance with this Agreement (“**Term**”).
2. Termination for Cause. Each party may immediately terminate this Agreement in the event the other party is in breach of this Agreement and fails to cure the breach within thirty (30) days of receipt of written notice from the non-breaching party (or the Reseller, as applicable), or in order to comply with the orders or requests from governmental entities. Furthermore, Akeyless may terminate this Agreement immediately in the event: (i) Akeyless does not receive the applicable payments from the Reseller for the Services provided to you; (ii) of institution of bankruptcy, receivership, legal insolvency, reorganization, or other similar proceedings by or against you or the Reseller under any applicable laws, if such proceedings have not been dismissed or discharged within thirty (30) days after they are instituted.
3. Akeyless may suspend your or your Authorized Users’ access to or use of any portion or all of the Service immediately upon notice to you (directly or indirectly, through the Reseller, as applicable) if your use of the Service: (i) poses a security risk to the Service or any third party; (ii) could adversely impact Akeyless’ systems, the Service or the Akeyless Content; (iii) will be a liability to Akeyless or its Affiliates; or (iv) could be fraudulent.
4. Upon termination or expiration of this Agreement: (i) your rights provided under this Agreement will immediately terminate; (ii) each party will immediately return or destroy other party’s Content or Confidential Information in its possession; and (iii) any Sections herein that by their nature should continue to apply following termination shall continue to remain in effect.



5. You acknowledge that following termination or expiration of this Agreement, you are responsible to backup, extract and copy the Customer Content and Akeyless is not obligated to retain or store such the Customer Content.

## **7. Proprietary Rights.**

1. You retain all ownership and intellectual property rights in and to the Customer Content. Akeyless or its licensors retain all ownership and intellectual property rights to the Services, including Akeyless Content, Documentation and Suggestions, and derivative works thereof, and to anything developed or delivered by or on behalf of Akeyless under this Agreement.
2. Except as expressly provided herein, no part of the Services may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording, or other means; and you shall make every reasonable effort to prevent unauthorized third parties from accessing the Services.

## **8. Security and Data Protection.**

1. Akeyless may, directly or through third party measurement tools, collect and use Usage Data solely for the purpose of improving, operating, and supporting the Services. Akeyless will not share the Usage Data with any third party and shall process it solely in accordance with the privacy policy available at: <https://www.akeyless.io/privacy-policy/>.
2. In the event the Customer Content includes personal information or personal data, the Data Processing Agreement available at: <https://www.akeyless.io/data-processing-agreement/> shall govern the processing of such personal information or personal data.

## **9. Confidentiality**

1. Receiving Party may only use the Confidential Information as permitted under this Agreement and in connection with its use or provision (as applicable) of the Service. Receiving Party will take all reasonable measures to avoid disclosure, dissemination, or unauthorized use of the Confidential Information, including, at a minimum, those measures that Receiving Party takes to protect its own confidential information of a similar nature. Receiving Party shall restrict disclosure of Confidential Information to those of its employees and contractors with a reasonable need to know such information and which are bound by written



confidentiality obligations no less restrictive than those set out herein. The non-disclosure and non-use obligations set forth in this Section shall survive the termination or expiration of this Agreement for a period of 3 years and for trade secrets, indefinitely.

2. Akeyless will hold your Confidential Information that resides within the Services in confidence for as long as such information resides in the Services environment. Akeyless will protect the confidentiality of the Customer Content residing in the Services environment in accordance with the Akeyless security practices as detailed on the Akeyless site, in the Policies, in the Documentation and in the [DPA](#).

#### **10. Indemnification.**

1. Each Party ("**Indemnitor**") shall defend, indemnify, and hold harmless the other Party, its affiliates and licensors, and each of their respective employees, officers, directors, and representatives ("**Indemnitees**") from and against any Losses arising out of or relating to any third-party claim concerning: (a) breach of third-party intellectual property rights; and (b) Indemnitor's gross negligence, willful misconduct or fraud.
2. The obligations under this Section will only apply if the Indemnitees: (a) promptly notifies the Indemnitor in writing regarding the claim; (b) permits Indemnitor to control the defense and settlement of the claim; and (c) reasonably cooperates with the Indemnitor (at Indemnitor's expense) in the defense and settlement of the claim. In no event will Indemnitor agree to any settlement of any claim that involves any negative commitment of the Indemnitees, without the written consent of the Indemnitees.

#### **11. Warranties and Disclaimers.**

1. Akeyless hereby represents and warrants that: (i) it has full legal authority to enter into this Agreement; (ii) it has the professional skills and knowledge necessary in order to provide the Services and where applicable, the Service Specifications; (iii) the Services will comply with the applicable Documentation, Service Specifications and Order; (iv) the Services do not infringe on the proprietary rights of any third party; and (v) that it and the Services will comply with applicable law.
2. EXCEPT AS SET FORTH ABOVE, THE SERVICES, AKEYLESS CONTENT AND SERVICE SPECIFICATIONS, ARE PROVIDED "AS IS". EXCEPT TO THE EXTENT PROHIBITED BY LAW, AKEYLESS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE

AKEYLESS CONTENT AND SERVICE SPECIFICATIONS; AND DISCLAIMS ALL WARRANTIES, INCLUDING ANY IMPLIED OR EXPRESS WARRANTIES: (I) OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT; (II) ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE; (III) THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED; OR (IV) THAT ANY CONTENT WILL BE SECURE OR NOT OTHERWISE LOST OR ALTERED.

#### **12. Limitations of Liability.**

1. NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE OR PROFITS (EXCLUDING FEES UNDER THIS AGREEMENT), DATA, OR DATA USE. AKEYLESS MAXIMUM LIABILITY FOR ALL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ORDER FORM, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID TO AKEYLESS FOR THE SERVICES UNDER THE ORDER THAT IS THE SUBJECT OF THE CLAIM IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM.

#### **13. Miscellaneous.**

1. Assignment. Neither party may assign or otherwise transfer this Agreement or its rights and obligations hereunder to a third party without the other party's prior written consent; provided, however, that each party may assign this Agreement at any time without the other party's consent: (a) in connection with a merger, acquisition or sale of all or substantially all of its business or assets; or (b) to any Affiliate or as part of a corporate reorganization. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the Parties and their respective permitted successors and assigns. Akeyless may not subcontract its obligations under this Agreement without your prior written consent. In the event such consent is granted, Akeyless shall be responsible for such subcontractor's compliance with the terms of this Agreement and performance and outcome of the Services.
2. Entire Agreement. This Agreement (including any Order Form in connection with the Agreement) is the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior

or contemporaneous representations, understandings, agreements, or communications between the Parties, whether written or verbal.

3. Force Majeure. Akeyless and Affiliates will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond its reasonable control, including, but not limited to, acts of God, labor disputes or other industrial disturbances, electrical or power outages, utilities or other telecommunications failures, earthquake, global pandemic, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.
4. Jurisdiction; Governing Law. This Agreement shall be governed and construed by the laws of the State of New York, USA without giving rise to any conflict of law provisions therein. The Parties hereby agree to the exclusive jurisdiction of the courts of the State of New York and the United States District Court located in the Borough of Manhattan.
5. Independent Contractors; Non-Exclusive Rights. The Parties are independent contractors, and this Agreement will not be construed to create a partnership, joint venture, agency, or employment relationship between the Parties. Neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other.
6. No Third-Party Beneficiaries. Except as set forth herein, this Agreement does not create any third-party beneficiary rights for any individual or entity that is not a party to this Agreement.
7. No Waivers. Failure by Akeyless to enforce any provision of this Agreement will not constitute a waiver of such provision nor limit its right to enforce such provision later. All waivers by Akeyless must be in writing to be effective.
8. Severability. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to the effect and intent of the original portion. If such construction is not possible, the invalid or unenforceable portion will be severed from this Agreement, but the rest of the Agreement will remain in full force and effect.