

## Master Subscription Agreement

This Master Subscription Agreement (MSA) governs your subscription to and use of the Services, Software and Support. It forms a legally binding agreement between the Egress Software Technologies Group entity set out in Section 17.11 (We, Us, Our) and you, the organisation accepting it by either: (a) signing it; or (b) signing an Order Form that refers to it (in each case, you, your). It applies (i) to each Order Form that We accept and to each order you place through a reseller (a Reseller); and (ii) to the exclusion of terms you seek, or have sought, to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. If you accept this MSA on behalf of an organisation: (A) you agree to bind it and its relevant Group companies to this MSA and represent and warrant that you have the legal power and authority to do so; and, (B) 'you' and 'your' shall refer to that organisation and its Group companies collectively.

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### 1. NO UNAUTHORISED ACCESS

- 1.1. If you work for, or are a representative of, a direct competitor of Our Group you may not access the Services, Software or Support except with Our prior written consent. No access is permitted for competitive or benchmarking purposes, to determine if they are within the scope of patents, or to evaluate or monitor their functionality, availability or performance.

### 2. TRIAL ACCESS AND NON-GA SERVICES

- 2.1. We may make Services available to you on a trial basis until the earlier of: (a) the end of the trial period; (b) the date you purchase the relevant Service; or (c) termination by Us at Our discretion. Subject to Section 2.2 this MSA will also apply to the trial period. We may notify you of additional terms that apply to a trial and which are incorporated into this MSA by this reference.
- 2.2. CONTENT DURING A TRIAL PERIOD WILL BE LOST UNLESS YOU DOWNLOAD, DECRYPT AND EXPORT IT BEFORE THE END OF THE TRIAL PERIOD. TRIALLED SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OR REPRESENTATION OF ANY KIND AND WE WILL HAVE NO INDEMNIFICATION OBLIGATIONS WITH RESPECT TO THEM. YOU WILL BE LIABLE FOR ANY DAMAGES ARISING OUT OF YOUR USE OF THEM DURING THE TRIAL PERIOD.
- 2.3. Non-GA Services. These may be made available to you pre-release. Non-GA Services may contain defects and errors and will be supported on a best endeavours basis only. NON-GA SERVICES ARE MADE AVAILABLE "AS IS" AND WE HEREBY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS, IMPLIED, STATUTORY OR OTHERWISE IN ACCORDANCE WITH SECTION 8.3. Feedback you provide will be subject to Section 12.4. We reserve the right at any time without prior notice to change, discontinue, suspend or withdraw a Non-GA Service. TO THE FULLEST EXTENT PERMITTED BY LAW WE WILL HAVE NO LIABILITY TO YOU IF WE DISCONTINUE, SUSPEND OR OTHERWISE WITHDRAW A NON-GA SERVICE.

### 3. DEFINITIONS

- 3.1. Add-Ins: one or more Software or Third-Party Software components, add-ins or apps provided by Us for installation onto your network or User devices in order to access and use the Services.
- 3.2. Appointed Beneficiary: (a) a reputable non-governmental organisation supporting environmental improvement anywhere in the world; or (b) a provider of verifiable carbon offsetting, carbon credits or voluntary emission reduction credits nominated by Us.
- 3.3. Confidential Information: information identified or labelled by the disclosing party as confidential, or which ought to be considered confidential to the disclosing party, including non-public information about the disclosing party's: (a) business, finances, customers, prospects, suppliers, investment and growth plans and opportunities; (b) IPR (including ideas, inventions and innovations, whether or not patentable, at whatever stage of evaluation, application or grant), products, services software, software code (both object and source), algorithms (and any additional learnings or improvements to the same or other machine learning functionality), road maps, Non-GA Services (and their existence), documentation, specifications, designs, configurations, infrastructure, deployment methodologies, security measures, performance data, databases, and other trade secrets; and (c) operations, processes, know-how and technical information. Information or analysis derived from the above will also be Confidential Information.
- 3.4. Content: the files, data, text, audio, video, images and other materials that are transferred, stored, shared or hosted on or through the Services and Software by you, Users and Recipients, including any Personal Data in it. It does not include CRM Information, Smart Data, Threat Data, Third-Party Data or System Data.
- 3.5. CRM Information: information on Our customer relationship management databases relating to your business and Our relationship with you.

- 3.6. **DPL:** any laws and regulations relating to the Processing of Personal Data applicable to the jurisdictions in which We deliver the Services to you under this MSA.
- 3.7. **End of Support Policy:** the document of that title at [www.egress.com/legal](http://www.egress.com/legal) from time to time.
- 3.8. **Fees:** the fees payable by you to Us set out on one or more Order Forms for: (a) the delivery, use of and access to the Services and Support, and (b) Professional Services.
- 3.9. **Group:** a party to this MSA together with its holding company, or any subsidiary of either the party or its holding company, or any other company under common control with it from time to time.
- 3.10. **Initial Subscription:** the period of time that a Subscription is permitted to access and use the Services, as defined on the relevant Order Form.
- 3.11. **IPR:** patents, utility models, rights to inventions, copyrights and neighbouring and related rights, rights in computer software, databases, object and source code, trademarks and service marks, business names, domain names, social media handles or identifiers, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, database rights, rights to use, and protect the confidentiality of, Confidential Information (including know-how and Trade Secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
- 3.12. **Non-GA Service:** an application, feature, functionality, or Service that is not generally made available to Our customers and Users (e.g. beta, test, pilot, or limited release).
- 3.13. **On-Premise Software:** any part of the Software necessary to enable you to host all or part of the Services on your networks and infrastructure.
- 3.14. **Order Form:** the document, labelled either 'Order Form', 'Quote' or 'Customer Confirmation' sent out by Us or a Reseller to you containing details of the Services, Software, Support and Subscriptions you have purchased and which you: (a) sign; and/or (b) provide an order document in relation to (e.g. email, purchase order or other document) to confirm your acceptance.
- 3.15. **Personal Data:** any personal information that relates to an identifiable individual natural person. The scope of it may be broader based on local DPL applicable to the delivery of the Services to you.
- 3.16. **Personnel:** Our employees, temporary staff and fixed-term contractors.
- 3.17. **Privacy Framework:** a privacy framework approved by relevant regulatory authorities to protect transfers of Personal Data between one or more relevant territories and to which We or a relevant member of Our Group may certify or register during the Subscription Period.
- 3.18. **Process:** any operation or set of operations performed on Personal Data or sets of Personal Data, whether or not by automated means, as defined in the DPL.
- 3.19. **Professional Services:** services provided by Us to you in accordance with an agreed SOW.
- 3.20. **Recipient:** an individual who either: (a) receives a secure communication from you or a User; or (b) is granted access to Content by any of the foregoing, in each case through use of the Services.
- 3.21. **Renewal:** has the meaning given in Section 9.2.
- 3.22. **Reseller:** has the meaning given at the top of this MSA.
- 3.23. **Services:** Our services delivered either as a fully-hosted, partially-hosted or on-premise model and including the use of, or access to, the Software. This term does not include Professional Services.
- 3.24. **Smart Data:** the record of individual User email behaviour and associations formed from the machine learning and artificial intelligence led processing, collection and analysis of email metadata and Third-Party Data. This excludes Content, CRM Information, Threat Data and System Data.
- 3.25. **Software:** the software that enables Us to deliver, develop, enhance and provide the Services, including the Add-Ins, On-Premise Software, Third-Party Data and Third-Party Software.
- 3.26. **SOW:** a statement of work agreed by both of us which describes certain Professional Services to be provided.
- 3.27. **Sub-Processors:** the companies and third-parties listed at [here](#) from time to time.
- 3.28. **Subscription Period:** the Initial Subscription together with any Renewal(s).
- 3.29. **Subscription:** a single right to access and use the Service, Software and Support during the Subscription Period.
- 3.30. **Support:** the support services We provide as set out at [www.egress.com/legal](http://www.egress.com/legal) from time to time. Your Support level will be Premium unless you have subscribed to: (a) 24/7 Support; and/or (b) enhanced service management, on a relevant Order Form.
- 3.31. **System Data:** (a) usage statistics, system logs, performance and security data, feedback data, records of support requests, and aggregated data about how Our sites, Services, Software, Support and apps are used (e.g. performance counters, access logs, metrics and associated metadata, unique identifiers for devices, technical information about the devices used, the network, operating system and browsers); and (b) data identified as malicious (e.g. malware infections, cyberattacks, Unsuccessful Security Incidents). This excludes Content, Smart Data and Threat Data.
- 3.32. **Third-Party Data:** data either proprietary to third-parties or received through third-party APIs which may be processed by Our Services to enable them to operate in the way described.
- 3.33. **Third-Party Software:** software that is proprietary to third-parties that We licence and which may be included within the Services to provide additional functionality.
- 3.34. **Threat Data:** data identified by the Services as, without limitation: (a) malicious; (b) indicative of cyberattack or other threat; or (c) that which is, or could be, used to exploit vulnerabilities, conduct malicious activity, malware or ransomware infections, data theft or unauthorised access, cyberattacks or other activity. Threat Data may include information showing compromised or weaponised email accounts and addresses. Threat Data includes data derived from the foregoing.
- 3.35. **Unsuccessful Security Incident:** an attempt to gain access to your Content, Smart Data or the

infrastructure and networks that provide the Services (including denial of service attacks, pings, attacks on firewalls or edge servers, port scans, unsuccessful log-on attempts, packet sniffing or other unauthorised access to traffic data) that does not result in a personal data breach in relation to your Content and/or Smart Data.

- 3.36. **UK:** England, Scotland, Wales and Northern Ireland, collectively or individually as the context and circumstance requires.
- 3.37. **User:** your employees and fixed-term contractors, who are permitted by you to access and use the Services, Software and Support through a Subscription.
- 3.38. **Your Instructions:** has the meaning given in Section 6.1.
- 3.39. In this MSA: (a) the terms *including*, *includes*, *e.g.* or any similar expression shall be construed as illustrative and will not limit the scope of words that follow them; (b) references to *writing* or *written* includes email; and (c) an obligation not to do something includes an obligation not to allow that thing to be done.

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#### 4. OUR RESPONSIBILITIES

- 4.1. **Provision of the Services.** We will: (a) provide you with access to the Services set out on Order Forms with reasonable skill and care; (b) use Smart Data and Threat Data to provide insights, advice and reporting to you and Users; (c) provide you with Support; and (d) create a single account for you within the relevant Service(s) and/or associated systems in the name of the entity agreeing to this MSA and entering into the first Order Form (**Your Account**). If you wish separate accounts for individual Group companies, We will need to agree this with you and this may need to separate agreements between Us and those companies. We grant you a non-exclusive, revocable, non-transferable, non-sub-licensable: (a) right to permit Users to access and use the Services during a Subscription Period; (b) licence to install 1 copy (in object code format) of the Add-Ins on User devices; and (c) if relevant to the Services you are subscribed to, to use any Service API. APIs may not be used for testing or to create or produce new applications. If you subscribe to an on-premise or partially hosted Service, We grant you a non-exclusive, revocable, non-transferable, non-sub-licensable licence to download, install and use 1 copy of the On-Premise Software (in object code format) on your private infrastructure during your Subscription Period. Access to and use of the Services and APIs are permitted for your business purposes only except for use of reports and reporting Software which are for your internal business purposes only. Access and use for personal or private use, or by or for the benefit of a third-party, is not permitted. Rights in and to the Software and Services are licensed (not sold). We reserve the right to insert the words "This email is protected by Egress" in the footer of outbound emails which are scanned or encrypted using the Services.
- 4.2. **Provision of Professional Services.** Professional Services set out in a relevant Order Form will be provided in a professional and workmanlike manner, using reasonable skill and care in accordance with industry practice and any relevant SOW. You will have

14 calendar days from the date they are completed to notify Us if they do not conform with the SOW. We will, as your sole and exclusive remedy and Our sole liability for such non-performance, reperform the Professional Services at no additional cost. If you do not notify Us the Professional Services will be deemed accepted. Unless provided as Professional Services: (a) We will not be liable for failures to correctly install Software on your infrastructure or devices; and (b) you are responsible for all customer-side configuration of the Services and Software. If travel is required for Professional Services, We will discuss with you in the following order: (a) ways to avoid unnecessary travel; (b) sustainable forms of travel; and (c) offsetting remaining impacts through an Appointed Beneficiary.

- 4.3. **Changes to the Services.** The Services are generally provided on a software-as-a-service basis. We reserve the right (but are under no obligation) to make changes without prior notice to any aspects of the Services. If these changes result in a material degradation to the capacity, accessibility or available functionality of the Services you may, as your sole remedy and Our sole liability: (a) terminate just the affected Service(s) provided that you give Us not less than 60 days' notice and We do not cure such material degradation within that period; and (b) receive a refund of any Fees prepaid relating to the period after termination. We reserve the right to: (i) discontinue a Service at the end of its current Subscription Period; and (ii) at any time withdraw support in accordance with Our End of Support Policy.

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#### 5. YOUR RESPONSIBILITIES

- 5.1. **Subscriptions.** Subscriptions must be allocated to Users within Your Account. You must not authorise Users in excess of the number of Subscriptions purchased or allocate Subscriptions to individuals outside Your Account. Subscriptions cannot be shared or used by more than one User but can be permanently reassigned to another User within Your Account. We may use technical licence control features to ensure compliance. You are responsible for: (a) your Users; and (b) the security and confidentiality of log-in details and are responsible for all acts and omissions of anyone who uses them (whether or not authorised or undertaken by you) unless they are caused by Our breach of this MSA. You must notify Us promptly of unauthorised use of a Subscription. Additional Subscriptions may be purchased during a Subscription Period but Subscriptions cannot be reduced during the Initial Subscription or a Renewal. Any reductions must be notified to Us or a Reseller at least 60 calendar days' prior to your next Renewal and will be effective during the following Renewal only.
- 5.2. **Acceptable Use Policy (AUP).** You must comply, and ensure Users comply, with Our [Acceptable Use Policy](#) (as amended from time to time).
- 5.3. **Your obligations.** You will comply, and will ensure that your Users comply, with the terms of this MSA and with all laws, rules and regulations applicable to your and their use of the Services, Software and Support. You are responsible for their acts and omissions and must notify Us promptly if you become aware of any breach

of this MSA. You are responsible for ensuring your infrastructure is: (a) sufficient to operate and access the Services; and (b) compatible with the Software. You must: (i) only use the Services in accordance with this MSA and any documentation or instructions referred to or which We provide; (ii) co-operate with Us where reasonably required; (iii) upgrade software, services, systems and infrastructure: (A) promptly in line with Our or the relevant owner's patching recommendations or to protect against security risks, vulnerabilities, viruses, bugs, malicious code or activity; (B) in any event, within 12 months of an upgrade, new release or new version being made available; and (C) as required by Our End of Support Policy; and (iv) provide Us with reasonable assistance at no cost in investigating Service outages, security problems or suspected or known breaches of this MSA (or documents referred to in it) by you or Users.

5.4. Testing. You shall not, and shall not allow any third-parties to, perform any technical security integrity review, penetration test, load test, denial-of-service simulation or vulnerability scan on the Software and/or Services without Our prior written consent. Additional charges may apply where consent is granted.

5.5. Key Contact Details. You must provide Us with key contact details for notifications of: (a) Service outages; (b) security incidents; and/or (c) data protection breaches. YOU MUST ENSURE THESE ARE KEPT UP-TO-DATE. Where sent by email, any notice shall be deemed to be served 1 hour after transmission or, if not sent on a business day, at 9am on the next business day provided that no failure or other DNS message is received by Us. Any notification is not, and will not be construed as, acknowledgement by Us, a member of Our Group or any Sub-Processor of any fault or liability in respect of it. We will have no obligation to notify you under this Section 5.5 or otherwise under this MSA of any Unsuccessful Security Incident.

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## 6. PROCESSING OF CONTENT AND SMART DATA

6.1. Your instructions. We shall Process Personal Data only as set out below unless We are required to do so by the laws of the European Union, an EU Member State, the UK, or other DPL to which We are subject. This MSA (including any additional terms under Section 6.3), your Support requests and use of tools provided by the Services contain your instructions to Us and Our Group in relation to the Processing of Content and Smart Data for and on behalf of you and Users (Your Instructions). In using the Services, Content may be shared by you and Users with Recipients. For the purposes of Section 10, Content and Smart Data are not "disclosed" to Us. We will not access, use, Process or disclose Content or Smart Data other than as set out in the foregoing of this Section except: (a) as necessary to maintain or provide the Services in accordance with Your Instructions; (b) in accordance with Sections 11 and 15.2; or (c) as approved by you. You expressly acknowledge the interception, technical processing, transmission and storage of Content, Threat Data and Smart Data as necessary to provide the Services. You accept that no matter where Content and Smart Data is stored, We do not control or limit the locations from which you, Users

and Recipients may access or use it and it is your responsibility to ensure that neither you nor Users, access or use the Software, Services and/or Support in a country with laws that would require Content and/or Smart Data to be hosted in that country. You will ensure that Your Instructions comply with all applicable laws, and that Our Processing of Content and Smart Data in accordance with them will not cause Us or Our Group to violate any applicable law. We will immediately inform you if, in Our opinion, Your Instructions infringe any DPL however We are not obliged to perform a comprehensive legal examination of them. Additional instructions outside of the scope of this MSA will be subject to written agreement and payment of any additional Fees.

6.2. Protective measures. We have implemented and will maintain appropriate technical and organisational measures in relation to the Services taking into account the state of the art, the costs of implementation, and the nature, scope, context and purposes of Processing, as well as the likelihood and severity of risk to the rights and freedoms of data subjects. This includes measures relating to the physical security of Our facilities used to deliver them, measures to control access rights to Our assets and relevant networks, and processes for testing these measures. In accordance with Our obligations under applicable law, We may undertake digital forensic investigations in relation to the use of the Services and Subscriptions. You are responsible for using, and ensuring that your Users use, the controls and advice provided by the Services correctly and consistently.

6.3. We: (a) are fully responsible for the acts, omissions and defaults of Our Personnel and Sub-Processors as if they were Our own; (b) will ensure that Personnel authorised by Us in relation to the Processing of Content and Smart Data are subject to a duty of confidentiality and are aware of the confidential nature of Content and Smart Data; (c) restrict the involvement of such Personnel to those that need to be involved in order for Us to fulfil Our obligations; and (d) ensure that Our Personnel undergo regular training on data protection issues, confidentiality obligations and responsibilities.

6.4. Additional Processing Terms. If relevant to your use of the Services, the terms of Our: (a) data processing addendum; and/or (b) Business Associate Agreement will apply. These are incorporated by reference into this MSA. These documents are each available (and for you to sign if you wish to do so) at [www.egress.com/legal](http://www.egress.com/legal).

6.5. Privacy Policy. We will collect, use, disclose and otherwise Process Personal Data in accordance with Our [Privacy Policy](#), the terms of this MSA and any document referred to within it, and, to the extent that We or a relevant member of Our Group are self-certified or registered with a Privacy Framework that protects transfers of Personal Data under relevant DPL, the terms of that Privacy Framework.

6.6. Use of Sub-Processors. You authorise Us to engage Sub-Processors to fulfil Our obligations under this MSA.

6.7. Microsoft Office Online. Use by you and Users of Microsoft Office Online within Our Secure Workspace Service will be subject to the terms of your agreement with Microsoft. More details can be found [here](#).

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## 7. SUBSCRIPTION FEES AND PAYMENT

- 7.1. Fees and payment terms. You will pay all Fees set out on Order Forms in the currency stated within 30 calendar days from invoice date (without set-off, counterclaim, deduction or withholding). Fees accrue from the earlier of: (a) the date a User first accesses the Service; (b) the start date of the Subscription Period on the relevant Order Form. Fees are non-cancellable and, subject to Sections 4.3 and 9.5, non-refundable. Fees are based on purchased Subscriptions and not usage or deployment. Pricing is Our Confidential Information.
- 7.2. Payment Information. You must provide Us with up-to-date payment information and notify Us of any changes to it. Fees are invoiced in full in advance unless otherwise agreed. Renewal Fees are invoiced in full before the date of renewal. Fees for additional Users will be invoiced where identified or ordered by you.
- 7.3. Disputed Invoices. You must notify Us within 21 calendar days of receipt of an invoice if you dispute it, telling Us why. If only part is disputed, you must pay the undisputed amount. We will work with you to resolve your dispute.
- 7.4. Overdue Fees. If Fees are overdue then We will notify you and, without prejudice to Our rights or remedies, may: (a) suspend access to the Services and Support; and (b) charge late payment interest from their due date until full payment is received at the rate of the lesser of 1.5% per month or the greatest rate permitted by applicable law (Interest); or (c) require you to pay a sum equal to the Interest, or a portion of the Interest, to an Appointed Beneficiary, with (b) and (c) in such proportions as We may specify. If We take action to pursue collection of overdue, undisputed Fees you will pay the reasonable associated costs. If you are late paying invoices, We may make shorter payment terms a condition of Renewal.
- 7.5. Taxes. Fees are exclusive of taxes, withholdings, levies or duties of any nature (including local, state, federal, VAT, sales tax, customs duties, foreign taxes or similar) (taxes). We will charge taxes that We are obliged to collect from you unless you give Us a properly completed and lawful exemption certificate. If taxes are payable you will pay them (or reimburse Us if We have paid them) except taxes based on Our net income, employment or real estate. If a payment owed to Us is withheld based on a claim that such withholding is required pursuant to tax laws such payment shall be increased as necessary to result in a net payment to Us of the amounts otherwise payable under this MSA.
- 7.6. Future Functionality. You agree your purchase is not dependent on delivery of future functionality or features, or on any oral, written or public comments made by Us regarding such future functionality or features.

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## 8. REPRESENTATION AND WARRANTIES

- 8.1. Mutual. Each party: (a) represents that it has validly entered into this MSA and has the power to do so; (b) warrants that: (i) it will comply with all binding laws, rules and regulations applicable to its activity under this MSA; and (ii) has and will maintain all necessary authority, rights, licences, consents, policies and

permissions to enable it to perform its obligations under this MSA.

- 8.2. Our warranties. We warrant that, provided the latest version of Our Add-Ins and/or On-Premise Software are being used, the Services will perform materially in accordance with the applicable [datasheet](#). If We breach this warranty and fail to remedy the defect within 30 days of your notice to Us describing the alleged failure, your exclusive remedy will be to terminate the affected Service under Section 9.4(a) and receive a refund of Fees paid in advance relating to the period after the effective date of termination under Section 9.5(e).
- 8.3. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS MSA, SERVICES, SOFTWARE AND SUPPORT ARE MADE AVAILABLE "AS IS" AND WE HEREBY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS, IMPLIED, STATUTORY OR OTHERWISE CONCERNING THEM OR ANY DOCUMENTATION OR MATERIALS PROVIDED BY US (INCLUDING IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE).

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## 9. TERM, SUSPENSION AND TERMINATION

- 9.1. Term of this MSA. This MSA comes into force on the date you first accept it by whatever means and continues until all Subscriptions expire or have been terminated.
- 9.2. Term of Subscriptions. The Initial Subscription of each Subscription is set out on the relevant Order Form and starts on the earlier of: (a) the date a User first accesses the Service; or (b) the start date set out on the relevant Order Form. SUBSCRIPTIONS AUTOMATICALLY RENEW FOR A FURTHER 12-MONTH PERIOD (A RENEWAL) UNLESS EITHER PARTY HAS GIVEN THE OTHER NOT LESS THAN 60 CALENDAR DAYS' NOTICE PRIOR TO ITS EXPIRY TO CANCEL IT ON EXPIRY. If Renewed before expiry any increase in Fees will be limited to the then rate of the UK Consumer Price Index plus 5% (unless We provide you, either directly or through a Reseller, with notice of a different increase at least 90 days' prior to the Renewal date). This restriction will not: (a) limit any increase caused by changes in the number or type of Subscriptions; or (b) apply to a Subscription Renewed after its expiry. We do not commit to offering promotional discounts on Renewals. If you look to reduce your Subscriptions, or the length of your Renewal from those during the immediately prior Initial Subscription or Renewal (as applicable), this may result in re-pricing without regard to your current per-Subscription pricing. Notices may be given by Us by email or electronically submitted invoice or notice.
- 9.3. Suspension. We can suspend access to an account, a Subscription, Service(s) and/or Support if We: (a) have the right to do so under Section 7.4 or otherwise to terminate this MSA and/or an Order Form; (b) are required to by a legal, governmental or regulatory authority; or (c) need to in an emergency or to respond to a security risk or fraudulent activity. Suspension will not prevent Our ability to later terminate. During suspension under (a) you will remain responsible for payment of Fees but will not be entitled to service

credits. Once the reasons necessitating suspension have resolved, We will restore your access.

- 9.4. Termination. A party to this MSA may terminate it or only an Order Form: (a) immediately by notice to the other if the other is in material breach of this MSA (or a relevant part of it) which is not remediable; (b) through 30 days' written notice to the other of a material breach if the breach remains unremedied on expiry of that period; (c) immediately if the other is subject to a petition in bankruptcy or other process relating to insolvency, receivership, liquidation or assignment for the benefit of creditors (or any similar or analogous action or steps in any jurisdiction relevant to a party's activities under this MSA); or (d) as provided in this MSA. We may terminate this MSA and/or an Order Form in whole or in part immediately if required to by a legal, governmental or regulatory authority or to comply with any legal or regulatory obligation, or if you have failed to make a payment to Us or a Reseller after a reminder to do so.
- 9.5. Effect of termination or expiry. Upon termination or expiry of all Order Forms and SOWs: (a) all licences and rights granted shall immediately cease; (b) We will stop permitting access to the Services, and you will stop trying to access or use them; (c) each party will return, or if instructed destroy, equipment, property and other items and copies that we have belonging to the other (except that We may retain Confidential Information where required by law, and that CRM Information and System Data will be deleted and retained in accordance with Section 9.7); (d) you will delete any and all copies of Software from your infrastructure and devices and will confirm to Us in writing (email sufficient) that you have successfully done so; (e) any unpaid Fees (whether one-off, recurring or contracted for but unpaid) shall become immediately due and payable. Only if you are terminating in accordance with your rights under this MSA will any Fees paid in advance be refunded to you pro-rata to the extent they relate to a period after the effective date of termination. In no event will termination or expiry of an Order Form or this MSA howsoever caused relieve you of your obligation to pay to Us all Fees for the period prior to the effective date of termination or expiry. To the extent that any Order Forms are not terminated or have not expired, notwithstanding the foregoing terms of this Section 9.5: (i) any licences and rights granted in relation to the Services set out on such remaining Order Forms shall continue in force till the end of their Subscription Period, and you and Users may continue to access and use the Services, Software and Support accordingly; (ii) We may retain Confidential Information required by Us for the continued delivery of such remaining Services; and (iii) you will remain responsible for the payment of all Fees relevant to such remaining Order Forms and SOWs through to the end of their Subscription Period.
- 9.6. Access to Content on termination or expiry. If you have not already saved decrypted versions of your Content you will have the period set out in Our Retention Policy to request a copy (or a method for decrypting locally stored Content). We reserve the right to charge for assistance provided at Our then current rates. Following expiry of the retention period, in accordance with Our Retention Policy We will securely destroy or dispose of Content then in your accounts to the fullest

extent technically possible and will have no obligation to store it and no liability to you or any User as a result of its destruction or disposal.

- 9.7. Retention. The Services may provide controls that can be used to retrieve, block access to or delete Content, and so Content may be subject to user defined retention or access periods. CRM Information, Content, System Data, Threat Data and Smart Data will be retained and deleted by Us in accordance with Our Retention Policy in force from time to time at [www.egress.com/legal](http://www.egress.com/legal).
- 9.8. Survival. Any rights, remedies, obligations or liabilities accrued prior to termination or expiry will not be affected, in particular 3, 4.2, 4.3, 6 (only to the extent that Content and/or Smart Data is held for a limited period under Section 9.7), 7.1, 7.4, 7.5, 8 -17 (inclusive) shall survive termination or expiry of this MSA for whatever reason.

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## 10. CONFIDENTIALITY

- 10.1. Confidentiality. Both of us understand that it is likely that access to each other's Confidential Information will be required in order to perform our respective obligations under this MSA. Each party will keep the other's Confidential Information in confidence using the same degree of care that it uses to protect its own confidential information (but not less than reasonable care) and: (a) not use or exploit it in any way except for the purposes set out in this MSA; (b) only disclose it to those of its and its Group company's directors, personnel, representatives, agents, advisors and sub-processors who need to know it for the purposes of this MSA. Where such disclosure is made, the relevant party will be responsible for ensuring that suitable confidentiality obligations are in place with the receiving party; (c) unless disclosable under this Section or Section 11 not make it available to any third party; and (d) on request, return or destroy all copies of the other's Confidential Information in its possession or control.
- 10.2. Exclusions. Information is not Confidential Information if it is: (a) known to the receiving party without restriction before disclosure; (b) publicly available through no fault of the receiving party; (c) disclosed to the receiving party by a third-party not under a duty of confidence; (d) independently developed by the receiving party without use of, reference to, or reliance on the disclosing party's Confidential Information; or (e) is disclosed with the disclosing party's prior written consent.

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## 11. LAW ENFORCEMENT REQUESTS

- 11.1. Disclosure Requests. If We receive a valid and binding request or order of a governmental body (e.g. a court order, law enforcement demand or other local equivalent) relating to your Confidential Information, Content or Smart Data, We will attempt to re-direct the requestor to seek disclosure directly from you (and may provide your basic contact information to enable them to do this). If, notwithstanding those efforts, We are compelled to disclose the Confidential Information,

Content or Smart Data then, provided We are allowed to do so, We will provide notice to you so that you may seek a protective order or other remedy.

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## 12. IP AND PROPRIETARY RIGHTS

12.1. Rights in Data. Subject to Section 12.2 you own, and will own, all IPRs in and to your Content and Smart Data. We and Our Group own all rights, title and interest (including IPRs) in and to the organisation and storing of CRM Information and System Data but not in or to any of your IPRs that may exist within those data sets.

12.2. Reservation of Rights. We, Our Group or licensors own all rights (including current and future developed IPRs), title, interest in and to the Services, Software, Threat Data, Third-Party Data, Support and Our Confidential Information (including documentation, outputs, developments, deliverables, code, changes, updates and new versions of them, and in any learning enhancements to the artificial intelligence and machine learning themselves that are generated by its and their outputs and analysis of any data), in each case whether such are developed or created, revised or modified in response to your requests, suggestions, or ideas, even if performed as Professional Services. Except as set out in this MSA We do not, and will not be deemed to, grant you or a User any rights in or licences to any of the foregoing.

12.3. Licence to Us. On behalf of yourself and Users, you grant Us, Our Group and Sub-Processors a fully-paid up, non-exclusive, royalty-free, sub-licensable licence to process, copy, cache, store, display and reproduce Content and Smart Data in accordance with this MSA.

12.4. Ideas. You, for and on behalf of yourself and Users grant Us a fully-paid up, royalty free, worldwide, perpetual, irrevocable, transferable, sub-licensable (including through multiple tiers) right to use, modify, distribute and incorporate into the Software and Services (without attribution of any kind) any suggestions, enhancement requests, recommendations, proposals, correction or other feedback or information provided relating to the Services, Software and/or Support. If you give Us feedback relating to Third-Party Software then you similarly grant Us the right to permit the relevant licensor to use, modify, distribute and incorporate into its products, software and services your feedback on the terms set out above.

12.5. Patents, Design Rights and Trademarks. Patents and design rights protect certain IPRs within the Services and Software. Details can be found at [here](#). You agree not to display or use any of Our or Our Group's trademarks or logos in any way without Our express prior written permission.

12.6. Publicity. We may use your name and logo in client and customer listings and marketing material (including on Our website) and you grant Us a non-exclusive, worldwide, royalty-free licence to do so. We may: (a) use your company name and logo in targeted outreach within your sector; and (b) request that you act as a reference for Our Services. Following successful deployment of the Services, we will jointly prepare and publish a press release announcing your use of the relevant Service(s).

12.7. Licence to use your name and logo in third-party communications. Where strictly relevant to the delivery of the Services, you grant Us and Our Group a fully-paid up, non-exclusive, royalty-free, sub-licensable, worldwide licence to use your organisation's name (and any associated logo, tradenames and trademarks, in each case whether or not registered) in order to deliver the relevant Service.

12.8. Third-Party Software. Use of Third-Party Software within the Services and Software is subject to the terms of this MSA and may only be used in conjunction with that Software or Service, not separately.

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## 13. INDEMNITY

13.1. Indemnification by Us. We will defend you against any third-party claim that the Services, Software or Support infringe any third-party IPR and will indemnify you for amounts awarded against you in judgment or paid in settlement of such a claim; provided that: (i) you comply with the terms of this Sections 13.1 and 13.3; (ii) the claim does not arise from your intentional tortious act or negligence; and, (iii) you have not compromised or settled such a third-party claim. In defence or settlement of such a claim We may at Our expense and discretion: (a) obtain the right for you to continue using the infringing or allegedly infringing material; (b) replace or modify the Services, Software or Support so it or they no longer infringe; or (c) terminate this MSA through notice to you and refund any Fees paid in advance for the unused remainder of your current Subscription Period. You will co-operate with Us in relation to the option We take. We will not be liable to the extent an alleged infringement is based on: a modification of the Services, Software or Support other than by Us; the combination with a third-party product, data or software; your breach of this MSA; an issue that could have been resolved if you had updated or upgraded to a later version of the Services, Software or Support; or, claims of infringement of IPR in which you have an interest or license. This Section sets out your sole and exclusive right and remedy (and Our entire obligation and liability) for claims that the Services, Software, and/or Support infringe, misappropriate, or otherwise violate IPRs or other rights of a third-party.

13.2. Indemnification by You. Subject to Our obligation to indemnify you in accordance with Section 13.1, you will defend and indemnify Us, Our Group and Sub-Processors against any losses, damages, liabilities, fines, penalties, suits and costs and expenses (including reasonable legal fees) arising from any demand or claim or regulatory action arising from or related to: (a) an allegation that your Content infringes any IPR or breaches this MSA; and/or (b) that you do not have a lawful basis or other right under applicable DPL to transfer your Content to Us and Our Group or to permit Us, Our Group and Sub-Processors to process it in accordance with this MSA. The terms of this Section 13.2 will not apply to allegations or actual infringement of Our, Our Group's, or a Third-Party Software supplier's IPR.

13.3. Obligations of the indemnified party. The party indemnified under Section 13.1 or 13.2 above agrees to: (a) provide prompt notice of a claim and co-operate

with the indemnifying party's defence or settlement of it at the indemnifying party's cost; (b) not make any admission or statement in relation to the claim or attempt to settle it; (c) mitigate any losses or costs that it does, or may otherwise, incur. The indemnifying party will have sole authority to control the defence and/or settlement of any claim provided that it may not settle any claim against the indemnified party without the indemnified party's prior written consent unless it unconditionally releases the indemnified party and its Group from liability and does not impose any penalties or obligations on the indemnified party and/or its Group or admit fault on their behalf.

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## 14. LIABILITY

- 14.1. Disclaimer of Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS MSA, TO THE FULLEST EXTENT PERMITTED BY LAW, NO PARTY WILL, UNDER ANY CIRCUMSTANCES BE LIABLE TO THE OTHER PARTY, ITS GROUP OR USERS FOR ANY: (A) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES; OR, (B) CONSEQUENTIAL, INCIDENTAL, SPECIAL, EXEMPLARY OR INDIRECT DAMAGES, INCLUDING LOSS OF PROFITS, BUSINESS, DATA, SOFTWARE, GOODWILL, REVENUE, ANTICIPATED SAVINGS OR OPPORTUNITY, BUSINESS INTERRUPTION, WASTED EXPENDITURE, DAMAGE TO IMAGE OR REPUTATION, CORRUPTION OF DATA, EVEN IF THAT PARTY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. THE PRECEDING EXCLUSION WILL NOT APPLY TO A PARTY'S INDEMNITY OBLIGATIONS (BUT SOLELY TO THE EXTENT SUCH AMOUNTS ARE PAID TO A THIRD PARTY UNDER SUCH INDEMNITY). IN NO CIRCUMSTANCES SHALL ANY OF OUR LICENSORS BE LIABLE TO YOU UNDER THIS MSA.
- 14.2. No Control over transmission. YOU ACCEPT THAT WE HAVE NO CONTROL OVER THE CONTENT TRANSMITTED TO OR FROM THE SERVICES AND THAT WE DO NOT EXAMINE OR MODERATE THEIR USE OR THE NATURE OF CONTENT. WE THEREFORE EXCLUDE AND DISCLAIM ALL LIABILITY OF ANY KIND ARISING FROM THE TRANSMISSION OR RECEPTION OF CONTENT OR OTHER INFORMATION OF WHATEVER NATURE THROUGH THE SERVICES TO THE FULLEST EXTENT PERMISSIBLE BY APPLICABLE LAW. WE ARE NOT RESPONSIBLE FOR DELAYS, DELIVERY FAILURES OR OTHER LOSS OR DAMAGE RESULTING FROM THE TRANSFER OF DATA OVER COMMUNICATION NETWORKS AND FACILITIES NOT OWNED BY US OR UNDER OUR DIRECT CONTROL AND YOU ACKNOWLEDGE THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND ISSUES INHERENT TO THE USE OF SUCH FACILITIES.
- 14.3. Cap on Liability. SUBJECT TO THE OTHER TERMS OF THIS SECTION 14, AND EXCEPT FOR: (I) EACH PARTY'S INDEMNITY OBLIGATIONS; AND, (II) YOUR PAYMENT OBLIGATIONS HEREUNDER, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS MSA (INCLUDING TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY YOU TO US EITHER DIRECTLY OR VIA
- A RESELLER (AS APPLICABLE) IN RELATION TO THE SERVICE GIVING RISE TO THE CLAIM DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM OR SERIES OF CONNECTED CLAIMS. UNDER NO CIRCUMSTANCES WILL OUR TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO OUR INDEMNITY OBLIGATIONS EXCEED THREE TIMES THE TOTAL AMOUNT PAID BY YOU TO US (EITHER DIRECTLY OR VIA A RESELLER (AS APPLICABLE) IN RELATION TO THE SERVICE GIVING RISE TO THE CLAIM DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM OR SERIES OF CONNECTED CLAIMS.
- 14.4. Independent Allocations of Risk. EACH PROVISION OF THIS MSA THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS MSA BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN US. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS MSA. THE LIMITATIONS IN THIS SECTION 14 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS MSA.
- 14.5. Sole responsibility. You have sole responsibility for the results and conclusions obtained from use of the Services and Support. You acknowledge that advice given by Services is based on analysis of User behaviour and is designed to assist, and not replace, your and Users' own decision making and judgment. We will have no liability for damage caused by errors or omissions caused by a failure by you to take reasonable action at Our direction.
- 14.6. Failure to upgrade. We will not be liable for any liability, cost, claim or action arising directly from your failure to comply with your obligations under Section 5.3(iii).
- 14.7. Exclusions: Some jurisdictions may not allow the exclusions or limitations set out above and so they may not apply to Our relationship with you. In such circumstances, Our liability for such damages will be limited to the greatest extent permitted by applicable law in that jurisdiction. In particular, nothing in this Section 14 or elsewhere in this MSA acts to exclude or limit liability that cannot be excluded or limited by applicable law (including in the UK, death or personal injury caused by Our or Our Group's negligence, or fraud or fraudulent misrepresentation).
- 14.8. Third-Party Integrations. The Services may contain features designed to interoperate with applications or services you contract directly with third-parties to receive. Any: (a) operation or transaction completed via any integration with such a third-party service is between you and the relevant third party, and not Us; (b) Processing of data received from such third-party service by the Services is based on the latest data made available by that third-party service and We are not responsible for its availability or accuracy; (c) third-party services may be subject to network connectivity, service disruptions and availability beyond Our control. As We cannot guarantee the availability of such third-party integrations, We may cease providing them at any time, including where the relevant third-party ceases to make its application or service available for interoperation or changes the way it does so in a way



that is not reasonably acceptable to Us. Our provision of features enabling interoperability with any third-party application or service does not constitute endorsement or approval by Us of it.

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## 15. USAGE RIGHTS AND REPORTING

- 15.1. Restrictions. We may review your use of Subscriptions. If you host the relevant part of the Services or Software, you will confirm no less than quarterly in writing the number of Subscriptions deployed. If a review reveals you have exceeded the number of Subscriptions purchased then We (or a Reseller) may invoice you for, and you will pay, the Fees for the additional Subscriptions through to your next Renewal date (calculated on Our price list in force at the time and back-dated to the beginning of the relevant quarter).
- 15.2. Statistical Reports, analysis and updates. We may: (a) compile statistical reports from System Data, Threat Data and other information relating to the performance, operation and use of the Services and identified threats; (b) process Smart Data to create anonymous data sets; (c) use System Data, Threat Data and anonymous data from the Services for security and operations management, creation of statistical analyses, pro-active maintenance and investigations and for research and development purposes; and (d) use Threat Data to improve, update and modify the Services that We provide to Our customers and their users, including any block/allow lists, prevention measures, threat detection, analysis and awareness, reports and records. We may make reports and information using any of the foregoing publicly available or otherwise share them with third-parties provided that they will not incorporate Content, Smart Data or personal or Confidential Information in a form that could serve to identify you or any User. We retain all IPR in this data, these reports and information.

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## 16. DISPUTE RESOLUTION

- 16.1. Both of us shall attempt in good faith to resolve any dispute arising out of or relating to this MSA by negotiation between personnel who have authority to settle it. Notwithstanding the foregoing, both of us will be entitled to enforce our respective IPRs, to protect Confidential Information and to seek equitable relief at any time. Nothing in this MSA will prevent either of us from seeking equitable or injunctive relief at any time.
- 16.2. If a dispute has not been resolved within 30 calendar days of the first written request by either party to resolve it, then we may each pursue any other available remedies.
- 16.3. All communication relating to a dispute will be by electronic means and, subject to any contrary obligation in relevant rules or court guides, any bundles will be electronic. If paper bundles are required we will both use reasonable endeavours to use recycled paper, non-solvent-based ink and cardboard dividers, tabs and folders. Subject to legal retention, bundles shall be disposed of through secure, confidential recycling.

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## 17. GENERAL

- 17.1. Waiver. Failure or delay in exercising a right or remedy in this MSA or by law will not waive it and will not prevent or restrict further exercise of it.
- 17.2. Severance. If part of this MSA is found by a court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other terms will remain in force. Any invalid, unenforceable or illegal term will be interpreted to give effect to our commercial intention. If that is not possible, it will be severed but the rest shall remain in full force.
- 17.3. Force Majeure. Neither party will be liable for any delay in performance or failure to perform our respective obligations under this MSA due to a cause or event outside its reasonable control except that you cannot claim relief in respect of your payment obligations.
- 17.4. Special Conditions. If any special condition that conflicts with this MSA is expressly set out on an Order Form, this MSA shall be deemed adjusted accordingly in respect of the Subscriptions ordered on that Order Form only.
- 17.5. Entire Agreement. This MSA (together with the documents referred to in it, and each Order Form and SOW entered into) constitutes the whole agreement between us, superseding any previous arrangement, understanding or agreement between us relating to their subject matter. The terms of any separate non-disclosure agreement shall not apply to Our relationship under this MSA or to delivery of the Services. We both agree that in entering into this MSA, we do not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (written or otherwise) of any person other than as expressly set out in it. This Section does not limit or exclude liability for fraud or fraudulent misrepresentation.
- 17.6. Assignment. You may only assign this MSA in its entirety to a successor in interest in the event of a sale or merger of your business provided that you provide Us with written notice of the same not less than 30 days prior to the date of the proposed assignment. Other than that, you cannot assign, novate, transfer, charge, sub-contract or deal with this MSA in whole or in part without Our prior written consent. This MSA will be binding on and inure to the benefit of each of us and our respective permitted successors and assigns. We reserve the right to transfer Our obligations, rights and permissions under this MSA to any organisation to which We may transfer Our business or assets (including if We, or a relevant part of Us or Our assets, are proposed to be purchased or acquired by a third-party).
- 17.7. Export and Sanctions Compliance. You acknowledge that the Software and/or Services may be subject to export control laws and trade sanctions laws (Export and Sanctions Laws). You are solely responsible for complying with Export and Sanctions Laws applicable to you and your Content, and the use by you and Users of the Services, Software and Support. We shall not be liable for a failure to: (a) perform Our obligations if sanctions on you, a member of your Group or a beneficial owner, or any of the foregoing are placed on a list of prohibited or restricted parties; or (b) transfer Content to any third-party subject to such controls. You warrant and represent that: (i) you and Users are

not citizens of, or located in, a country that is subject to trade sanctions or restrictions (including Cuba, Iran, North Korea, Syria, Russia, and the Crimea, Donetsk, Luhansk, Kherson and Zaporizhzhia regions of Ukraine), and will not access or use, or export, re-export, divert, or transfer the Services or Software in or to those territories; (ii) you and your Group are not (and neither is any party that directly or indirectly owns or controls you or a member of your Group) subject to sanctions or on a list of prohibited or restricted parties; and (ii) you will not allocate a Subscription to a prohibited or restricted party. You will give Us prompt notice if any of the foregoing circumstances change. We may terminate or suspend this MSA, an Order, Subscription and/or Your Account as a result of any breach of this Section. All payments to Us must be in funds and through banking channels not blocked or frozen by any authority. We are not responsible for any name or end use screening on your or a User's behalf.

- 17.8. Anti-Bribery and Corruption. Each party confirms that it has not been offered or otherwise received any illegal or improper bribe, payment, gift or other item, thing or experience of value from any of the other party's personnel. If a party identifies any such thing it must notify the other party promptly.
- 17.9. No Partnership. We are both independent contractors. Nothing in this MSA is intended to or shall operate to create a partnership, joint venture, agency or employment between us or authorise either of us to act as agent for or to bind the other.
- 17.10. Third-Party Rights. There are no third-party beneficiaries under this MSA except that Our Group companies and licensors of Software, Third-Party Data and Third-Party Software may enforce the provisions of Section 12 to the extent necessary to protect their respective IPR.
- 17.11. Governing Law, Notices and Jurisdiction. The Egress entity you are contracting with, to whom you should serve notices, and the law and jurisdiction that apply to this MSA are as set out in the table below in this Section 17 (except that We will be able to bring action against you in any jurisdiction relevant to the protection of Our IPR or that within Third-Party Data or Third-Party

Software). We both disclaim application of the United Nations Convention on the International Sale of Goods.

- 17.12. Notices. To avoid printing documents and the release of greenhouse gas through transportation of post, notices or other communications given by either of us under or in connection with this MSA shall, unless not permitted by applicable law, be sent by: (a) you to [legal@egress.com](mailto:legal@egress.com); and (b) Us to the email address then associated with your administration account. Notices will be effective when sent provided that, subject to the remainder of this Section 17.12, no failure or other DNS message is received by the sending party. Each of us may change our respective address to another single address through 10 calendar days' prior written notice. Rejection or refusal to accept, or inability to deliver because of a changed address of which no notice has been received, will constitute receipt. If notice is not by law permitted to be given solely by email, notices must be sent by you to Our relevant address below, and by Us to the address on your Order Form (subject to any change notified in accordance with this Section). A notice will be deemed delivered at the time at which it would have been delivered in the normal course of post if sent by overnight delivery, pre-paid first-class post or recorded delivery post; or immediately if delivered by hand (unless in each case delivery is not during working hours, in which event they will be effective at 9am on the next working day).
- 17.13. Amendments and variations. No variation of, or to, this MSA shall be effective unless it is in writing and signed by both you and us (or our respective authorised representatives). This Section does not apply to documents or information referred to at a URL within this MSA which may be updated from time to time by Us.
- 17.14. Order of precedence. In the event of a conflict or inconsistency, the following order of precedence shall apply: (a) the Order Form; (b) the document referred to at Section 6.4 (in respect of obligations under the relevant DPL only); and (c) this MSA.

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Where your contracting entity is domiciled	Egress entity entering into this MSA and any Order Forms, and subject to Section 17.12, address for service of legal notices	Governing law	Courts with exclusive jurisdiction
The USA and South America	Egress Software Technologies, Inc. (a Massachusetts corporation, ID number 001158155) One Marina Park Drive, Suite 1410, Boston, MA 02210, US <a href="mailto:legal@egress.com">Simultaneous copy to: legal@egress.com</a>	Subject to Section 18.1, State of Delaware (without regard to choice or conflict of law rules)	Boston, Massachusetts
Canada	Egress Software Technologies Inc (an Ontario Corporation, number 885902-7) 30 Via Renzo Drive, Suite 200, Richmond Hill, L4S 0B8, Ontario, Canada <a href="mailto:legal@egress.com">Simultaneous copy to: legal@egress.com</a>	Province of Ontario	Province of Ontario
European Union or European Economic Area	Egress Software Technologies Limited (registered number: 06393598, registered as a foreign legal entity on the Dutch Chamber of Commerce) CCI: 74110462 Herengracht 420, 1017 BZ Amsterdam, The Netherlands	Dutch Law	See below Section 19

Where your contracting entity is domiciled	Egress entity entering into this MSA and any Order Forms, and subject to Section 17.12, address for service of legal notices	Governing law	Courts with exclusive jurisdiction
	<a href="mailto:legal@egress.com">Simultaneous copy to: legal@egress.com</a>		
Australia, New Zealand and Singapore	Egress Software Technologies Pty Ltd (ACN: 667 428 971), Spaces, 80 Ann Street, Brisbane, Queensland 4000, Australia <a href="mailto:legal@egress.com">Simultaneous copy to: legal@egress.com</a>	Federal laws of Australia and the State of Queensland	Brisbane, Queensland, Australia
UK and rest of the World	Egress Software Technologies Limited (registered number: 06393598) 12th Floor, The White Collar Factory, 1 Old Street Yard, London, EC1Y 8AF, UK <a href="mailto:legal@egress.com">Simultaneous copy to: legal@egress.com</a>	England and Wales (including non-contractual disputes and claims)	England and Wales (including non-contractual disputes and claims)

**18. UNITED STATES SPECIFIC PROVISIONS**

- 18.1. Federal Government End Use Provisions. We provide the Software and Services for ultimate federal government end use in accordance with the following: The Services consist of “commercial items” as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Services shall be as provided in this MSA, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this MSA specifically granting those rights.
- 18.2. UCC. We both specifically disclaim application of Article 2 of the Uniform Commercial Code as codified.
- 18.3. Arbitration. Subject to Section 18.6, any dispute or controversy arising out of, relating to, or concerning any interpretation, construction, performance, or breach of this MSA (or any other document or agreement that forms part of it) will be settled by arbitration to be held in Massachusetts, in accordance with the rules then in effect of the American Arbitration Association. The arbitrator may grant injunctions or other relief in the dispute or controversy. The decision of the arbitrator will be final, conclusive and binding on both of us. Judgment may be entered on the arbitrator’s decision in any court having jurisdiction. We will each pay 50% of the costs and expenses of the arbitration, and each of us will separately pay our own counsel’s fees and expenses.
- 18.4. Waiver of Jury Trial. Section 18.3 constitutes a waiver of a right to a jury trial for all disputes relating to all aspects of our relationship (except this shall not limit a party’s rights to seek equitable remedies as provided in Section 18.6) including the following: (a) claims for breach of contract (express and implied), breach of the covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress, misrepresentation or interference with contract or prospective economic advantage, or defamation; and

(b) any and all claims for violation of any federal, state or municipal law.

- 18.5. Equitable remedies. Either of us may apply to any court of competent jurisdiction for a temporary restraining order, preliminary injunction, or other interim or conservatory relief, as necessary, without breach of this MSA or abridgement of the powers of the arbitrator.
- 18.6. Consideration. Each of our respective promises to resolve claims by arbitration in Section 18.4 and the provisions of this MSA, rather than through the courts, is consideration for the other’s like promise.

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**19. EU/EEA SPECIFIC PROVISIONS**

- 19.1. Courts with exclusive jurisdiction. Disputes arising out of or in connection with this MSA, its subject matter or formation (including non-contractual disputes or claims) will be exclusively brought to the Amsterdam District Court following proceedings before the Chamber for International Commercial Matters (the NCC District Court). Any action where an interim or protective measure is sought or another decision for which the court in summary proceedings is designated by law, may also be brought to the NCC District Court in summary proceedings. Any appeal shall be exclusively brought to the Amsterdam Court of Appeal before the NCC Court of Appeal Chamber. All proceedings will be in English.
- 19.2. If the NCC District Court or the NCC Court of Appeal are incompetent for any reason each party irrevocably agrees that the courts of Amsterdam, the Netherlands shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this MSA, its subject matter or formation (including non-contractual disputes or claims).

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**20. BELGIUM SPECIFIC PROVISIONS**

- 20.1. Section 8.2 shall read as follows: We warrant that, provided the latest version of Our Add-Ins and/or On-Premise Software are being used, the Services will perform materially in accordance with the applicable documentation then available at [www.egress.com/datasheets](http://www.egress.com/datasheets). If We breach this

warranty and fail to remedy the defect within 30 days of your notice to Us describing the alleged failure, your exclusive remedy will be to terminate the affected Service in accordance with Sections 9.4 and 9.5(f), excluding the right to specific performance under Article 1134 of the Belgian Civil Code (without prejudice to applicable mandatory laws).

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**21. UK SPECIFIC PROVISIONS**

- 21.1. Modern Slavery. You confirm your compliance with the Modern Slavery Act 2015 and associated guidance. You confirm: (a) you have read, are familiar with and shall not perform an act or omission in contravention with, the letter or spirit of the Act; and (b) you conduct regular, comprehensive due diligence and have internal policies to address any suspected human rights abuse in your business where applicable.
- 21.2. Non-solicitation. During the Subscription Period and for 12 months after termination or expiry of this MSA you shall not directly or indirectly, solicit or entice away (or attempt to do so) from Us or Our Group companies any person employed or engaged by Us or them in provision of the Software, Services, Support or management of this MSA. If you breach this Section you shall on demand pay to Us, not as a penalty but as liquidated damages intended to compensate Us for the harm resulting from your breach, a sum equal to 1 year's basic salary for that person. These liquidated

damages are reasonable and proportionate to protect Our legitimate interests.

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**22. AUSTRALIA SPECIFIC PROVISIONS**

- 22.1. Notwithstanding the terms of Sections 8 and 14, if you are resident in Australia and the total Fees that you have agreed to pay to Us are AUD 100,000 or less each year then Our Services come with guarantees that cannot be excluded under Australian Consumer Law. As a result We agree that to the extent that We are liable under a statutory guarantee that cannot be excluded under Australian Consumer law in relation to Our Services, Our liability is limited to: (a) supplying the relevant Service(s) again; or (b) payment of the costs of having the relevant Service(s) supplied again.
- 22.2. Where your contracting entity is domiciled in Australia, for the purposes of the Governing Law and Jurisdiction shown in the table above, you hereby: (a) consent to the jurisdiction of the Courts in Brisbane, Queensland, Australia; and (b) stipulate to the convenience, efficiency and fairness of proceeding in such courts. You covenant that you will not assert any objection to proceeding in such courts based on any alleged inconvenience, inefficiency, or unfairness of such courts.

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