

# Human Risk Services (Engage, Aware, Incydr) Terms and Conditions

These Terms and conditions (“**Human Risk Terms**”) govern Customer’s use of the Mimecast Engage, Aware and Incydr services (collectively “**Human Risk Services**”) and are an addendum to and form part of the services agreement which is in place between the parties, or which will be enacted concurrently with these Human Risk Terms (the “**Agreement**”). Any capitalized terms not otherwise defined herein have the same meanings as those noted in the Agreement. If there is any conflict between these Human Risk Terms and the Agreement (and, if applicable, any separate data processing agreement between the parties), then these Human Risk Terms shall take precedence.

**BY CLICKING ‘I ACCEPT’ YOU (i) AGREE TO THE TERMS AND CONDITIONS OF THESE HUMAN RISK HUMAN RISK TERMS WHICH WILL FORM A BINDING CONTRACT BETWEEN MIMICAST AND THE CORPORATION, BUSINESS OR ENTITY YOU REPRESENT (THE “CUSTOMER”); (ii) AGREE THAT HUMAN RISK SERVICES ARE SUBJECT TO BOTH THESE HUMAN RISK TERMS AND THE AGREEMENT; AND (iii) REPRESENT AND WARRANT THAT YOU HAVE THE POWER AND AUTHORITY TO BIND THE CUSTOMER TO THESE HUMAN RISK TERMS. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THESE HUMAN RISK TERMS, OR YOU DO NOT HAVE THE POWER AND AUTHORITY TO ACT ON BEHALF OF AND BIND THE CUSTOMER, DO NOT PROCEED TO ACCEPT THESE HUMAN RISK TERMS OR CONTINUE WITH USE OF THE HUMAN RISK SERVICES.**

## 1. Human Risk Services.

1.1 Mimecast provides certain services which are intended to provide Human Risk Awareness and Training. Customer will be provided with these Human Risk Terms when purchasing such Services. Customer can enable certain application program interfaces (“**APIs**”) to enable the Human Risk Services to work in conjunction with certain third-party services, systems, and/or applications. The process to gain access to the APIs will be made available to Customer upon request. Customer is responsible for ensuring that the information provided to Mimecast to enable any API is and remains accurate and up to date.

1.1.1 Where Mimecast supplies Customer with a Mimecast API, all access keys, authentication procedures, and data to which Customer gains access or which is provided to Customer in connection with Customer’s use of the Mimecast API, excluding Customer Data, is the Confidential Information of Mimecast. Mimecast may revoke access to any API at any time without notice to Customer if Mimecast, in its reasonable discretion, believes necessary or appropriate (for example if the Customer is in breach of these Human Risk Terms or the Agreement or if, in Mimecast’s reasonable opinion, there is a risk to the Services or any part thereof, or a risk to Mimecast or other Mimecast Customers).

1.1.2 Customer acknowledges and agrees that Mimecast is not responsible for any third-party APIs and no representations, warranties or commitments are made regarding the same. It is Customer’s sole responsibility to ensure it has valid licences for, and access to, all applicable any third-party APIs necessary to access and derive benefit from the Human Risk Services. Customer’s access and use of such any third-party APIs shall be governed solely by the terms and conditions of such any third-party APIs. If a third-party modifies its APIs so that they no longer interoperate with the Human Risk Services or imposes requirements on interoperability that are unreasonable for Mimecast, Mimecast may cease or suspend its provision of interoperability between the Human Risk Services and the affected third-party API, without liability.

1.1.3 Mimecast is not responsible for the security of the Customer Data until such time that the Customer Data enters the Mimecast environment, and all such transfers are conducted on Customer’s own volition and risk. To the extent Customer Data is retrieved from or provided by third-party APIs, Mimecast will not be liable for the condition of such Customer Data, including, but not limited to any Customer Data that is incorrect, incomplete, corrupt, or missing.

1.2 The Human Risk Services may include Material. Mimecast and its third-party licensors will retain all interest in and ownership of the Material. Mimecast grants to the Customer a non-exclusive licence to use the Material for the duration of Customer’s purchase of the Human Risk Services. “**Material**” includes collateral such as training materials, video training modules, user surveys, and user assessments made available to Customer by Mimecast hereunder.

1.3 If Customer uses the Human Risk Services to upload Customer’s own written, photographic, and/or videographic collateral, including any names, images, or other intellectual property of a third party, (“**Collateral**”) to Mimecast’s platform, then Customer agrees that such Collateral: (i) will not infringe on the intellectual property rights or any rights related to publicity or the privacy of any third party; (ii) will not be defamatory, libelous, threatening or harassing in nature; (iii) will not be in violation of any applicable laws (including those laws relating to obscenity or pornography); and (iv) does not purport to be originated from a governmental agency (including, without limitation, agencies related to law enforcement, tax or immigration). The requirements of this Section 1.3 are supplemental to, and

not in replacement of, any other restrictions contained in these Human Risk Terms or the Agreement. In the event Mimecast receives notice from a third party alleging that any Collateral is in breach of this Section 1.3, then Mimecast will, to the extent allowable by law, promptly notify Customer and Customer will immediately remove such Collateral from the platform.

1.4 Customer shall, where appropriate, provide notice to all employees with regard to the use of the Human Risk Services and obtain all relevant acceptance for such use. It is not intended that Customer shall collect or process biometric data through the Human Risk Services nor make any employment-related decisions of its Permitted Users based solely on information obtained via Mimecast Services. Mimecast shall bear no responsibility or liability for Customer's use of the Human Risk Services in contradiction to this Section.

1.5 Customer will implement and maintain reasonable and appropriate controls to ensure that those accessing the Services are permitted to do so in accordance with Customer's internal policies and applicable law.

1.6 To the extent that the provision of the Human Risk Services requires download and/or installation of software components such as end-point agents, Customer shall ensure that such components are appropriately deployed to the Permitted Users and Customer hereby acknowledges that failure to do so may impact access to, and efficacy of, the Services.

1.7 Customer acknowledges that certain Human Risk Services may include a managed services offering. By subscribing to a managed service offering, Customer is enabling Mimecast to maintain an assigned role in the Customer's Mimecast account with limited access to certain Customer Data and/or Customer dashboards, necessary for such offering. Mimecast may provide the managed service in any jurisdiction where Mimecast maintains support personnel.

## **2. Ownership.**

2.1 Ownership. Customer's rights in the Human Risk Services are limited to those expressly stated in these Human Risk Terms. Mimecast and its third-party licensors will retain all ownership interest and intellectual property rights in and to the Human Risk Services and its underlying systems, Mimecast APIs and all Material.

2.2 Licenses. Customer hereby grants to Mimecast all necessary rights and licenses to process Customer Data for the purposes of providing the Human Risk Services. Customer acknowledges and agrees that improving threat detection, analysis, awareness and prevention is critical to the functionality of the Human Risk Services. Accordingly, Customer grants to Mimecast the necessary rights and licenses to collect and process limited data for the maintenance, improvement, and enhancement of the Services, including but not limited to, developing and improving threat detection, analysis, awareness, and prevention capabilities. Further information regarding the details of such processing is found in the [Trust Center](#) and/or any data processing agreement executed by and between the parties.

2.3 Aggregated Usage Data. Mimecast processes certain aggregated data derived from the Services, including usage data, such as utilization statistics, reports, logs and information regarding spam, viruses and/or other malware ("Aggregated Usage Data"). Mimecast owns all Aggregated Usage Data.

## **3. Disclaimer, Liability and Indemnity.**

**3.1. THE SERVICES DO NOT QUALIFY AS LEGAL OR EXPERT ADVICE. CUSTOMER SHOULD CONSIDER WHETHER THE SERVICES ARE APPROPRIATE FOR CUSTOMER'S NEEDS, AND WHERE APPROPRIATE, SEEK LEGAL OR EXPERT ADVICE. MIMECAST DOES NOT REPRESENT THAT THE SERVICES WILL ACHIEVE INTENDED RESULTS, BE UNINTERRUPTED OR ERROR FREE OR MEET CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES AND AGREES THAT REPORTS, GRAPHS, ANALYSES OR SIMILAR INFORMATION WHICH MAY BE PROVIDED AS PART OF THE SERVICES (COLLECTIVELY, "INFORMATION"), ARE BASED ON INFORMATION KNOWN TO MIMECAST AT THE TIME AND PROVIDED FOR CUSTOMER'S INTERNAL BUSINESS PURPOSES ONLY. MIMECAST WILL USE REASONABLE EFFORTS TO PROVIDE ACCURATE AND UP-TO-DATE INFORMATION BUT MAKES NO GUARANTEE AS TO THE ACCURACY OR COMPLETENESS OF THE INFORMATION PROVIDED.**

**3.2 CUSTOMER WILL DEFEND, INDEMNIFY, AND HOLD MIMECAST HARMLESS FROM ANY THIRD-PARTY CLAIM RELATING TO CUSTOMER'S BREACH OF SECTIONS 1.3 AND/OR, 1.4 HEREIN. MIMECAST WILL PROVIDE PROMPT WRITTEN NOTICE OF THE APPLICABLE CLAIM TO CUSTOMER AND COOPERATE IN CUSTOMER'S DEFENSE, AS REASONABLY REQUESTED BY CUSTOMER AND AT CUSTOMER'S EXPENSE. CUSTOMER WILL NOT SETTLE ANY SUCH THIRD-PARTY CLAIM IN A MANNER WHICH REQUIRES MIMECAST TO ADMIT FAULT OR PAY ANY MONETARY AMOUNTS OF ANY TYPE WITHOUT MIMECAST'S EXPRESS PRIOR PERMISSION. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY LIABILITY CAPS INCLUDED IN THE AGREEMENT DO NOT APPLY TO CUSTOMER'S OBLIGATIONS UNDER THIS SECTION 3.2.**