

End User License Agreement

IMPORTANT NOTICE

This End User Licence Agreement is between you (the “**End User**” or “**you**”) and BCC Risk Advisory Limited, trading as Edgescan having its registered office at Unit 701, Northwest Business Park, Ballycoolin Road, Dublin 15, Ireland (the “**Service Provider**”, “**us**” or “**we**”).

This EULA governs your access and use of the Software (as defined below). We licence use of the Software to you on the basis of this EULA. We do not sell the Software to you. We remain the owners of the Software at all times.

By accessing the Software you agree to the terms of this EULA which will bind you and your employees (if any). The terms of this EULA include, in particular, limitations on liability in Clause 6 and Clause 9.5(c).

If you as End User do not agree to this EULA, we will not license the Software to you and you must not proceed to utilise or access the Software. In this case you will not receive and have no access to the Software.

You should print a copy of this EULA for future reference.

1. INTERPRETATION

- 1.1. Clause and Schedule headings shall not affect the interpretation of this EULA.
- 1.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3. A reference to a company shall include any company, corporation, or other body corporate, wherever and however incorporated or established.
- 1.4. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.5. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.6. This EULA shall be binding on, and enure to the benefit of, the Parties to this EULA and their respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.
- 1.7. A reference to a statute or statutory provision is a reference to it as amended, extended, or re-enacted from time to time.
- 1.8. A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.9. A reference to writing or written includes fax and email.
- 1.10. Any obligation on a Party not to do something includes an obligation not to allow that thing to be done.
- 1.11. A reference to this EULA or to any other agreement or document referred to in this EULA is a reference of this EULA or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this EULA) from time to time.
- 1.12. References to Clauses and Schedules are to the Clauses and Schedules of this EULA.
- 1.13. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.14. The following definitions apply to this EULA:

“**Affiliate**” includes, in relation to either Party, each and any subsidiary or holding company of that Party and each and any subsidiary of a holding company of that Party.

“**Applicable Laws**” means the law of the European Union or any member state of the European Union to which the Service Provider is subject.

“**Applicable Data Protection Laws**” means all applicable laws and regulations relating to the processing of personal data and privacy including the Irish Data Protection Acts 1998 to 2018, the GDPR and any enactment, statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated and the terms “**controller**”, “**personal data**”, “**processor**”, “**processing**” and “**process**” shall have the meanings given to those terms in such data protection laws and regulations.

“**Business Day**” means a day, other than a Saturday, Sunday or public holiday in Ireland, when banks in Dublin are open for business.

“**Confidential Information**” means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in Clause 7.

“**Effective Date**” means the date of acceptance by you of this EULA.

“**End User Materials**” means all documents, information, items, and materials in any form, whether owned by the End User or a third party, which are provided by the End User to the Service Provider in connection with the Software.

“**End User Data**” means the data inputted by the End User for the purpose of using the Software or facilitating the End User’s use of the Software.

“**End User Personal Data**” means any personal data which the Service Provider processes in connection with this EULA, in the capacity of a processor

on behalf of the End User.

“**EULA**” means this End User Licence Agreement and the Schedules hereto, together with any other document entered into pursuant to this End User Licence Agreement.

“**GDPR**” means the General Data Protection Regulation ((EU) 2016/679).

“**Intellectual Property Rights**” or “**IPR**” means patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, 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.

“**Maintenance Release**” means a release of the Software that corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version.

“**New Version**” means any new version of the Software which from time to time is publicly marketed and offered for purchase by the Service Provider in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product.

“**Parties**” means the parties to this EULA, namely you and us (and “**Party**” shall be construed accordingly).

“**Purpose**” means the purposes for which the End User Personal Data is processed, as set out in a Statement of Work from time to time.

“**Software**” means the “fullstack” vulnerability management, asset profiling, alerting and risk metric software known as “Edgescan” to be provided by the Service Provider to the End User under the terms and conditions of this EULA, further details of which are set out in Schedule 1 of this EULA.

“**Service Provider Personal Data**” means any personal data which the Service Provider processes in connection with this EULA, in the capacity of a controller.

“**Term**” means the term you have subscribed for in respect of the use of the Software as indicated in the sales invoice sent to you by the Reseller.

2. ACCEPTANCE

- 2.1. This EULA is deemed delivered to and accepted by End User on the date on which the End User first accesses the Software.
- 2.2. If you do not have the authority to enter into this EULA or do not agree with its terms, do not use the Software.
- 2.3. Use of the Services is strictly conditional upon the terms and conditions contained herein.

3. GRANT AND SCOPE OF LICENCE

- 3.1. In consideration of you agreeing to abide by the terms of this EULA, we hereby grant you the rights set out in Clause 9.2. We reserve all other rights.
- 3.2. The use of the Software shall be restricted to use of the Software in object code form for the purpose of processing the End User Data for the normal business purposes of the End User.

4. LICENCE RESTRICTIONS

- 4.1. You shall not, except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties and except to the extent expressly permitted under this EULA or by us from time to time:
 - (a) copy, modify, duplicate, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means, except where such action is incidental to normal use of the Software;
 - (b) resell, rent, lease, sub-license, loan, translate, merge, adapt, vary or modify the Software;
 - (c) make alterations to, or modifications of, the whole or any part of the Software, or permit the Software or any part of it to be combined with, or become incorporated in, any other programs; and/or
 - (d) derive specifications from, disassemble, decompile, reverse compile, reverse-engineer, reduce to human-perceivable form, record or create derivative works based on the whole or any part of the Software,

and we reserve the right, without liability or prejudice to our other rights to you, to limit, suspend or disable your access to or use of the Software and/or any material that breaches the provisions of this Clause.

5. ACCEPTABLE USE RESTRICTIONS

- 5.1. You shall not:
 - (a) use the Software in any unlawful manner, for any unlawful purpose, or in any manner inconsistent with this EULA, or act fraudulently or maliciously, for example, by hacking into or inserting malicious code, including viruses, or harmful data into the Software;
 - (b) access or use the Software in connection with provision of any services to third parties, unless expressly authorized by us;

- (c) access all or any part of the Software in order to build a service which competes with the Software;
- (d) without our prior written consent, allow the Software to become the subject of any charge, lien or encumbrance;
- (e) attempt to obtain, or assist third parties in obtaining, access to the Software, other than as provided under this EULA. You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Software and, in the event of any such unauthorised access or use, promptly notify us;
- (f) infringe our Intellectual Property Rights or those of any third party in relation to your use of the Software (to the extent that such use is not licensed by this EULA);
- (g) transmit any material that is defamatory, offensive or otherwise objectionable in relation to your use of the Software (we retain absolute discretion in determining whether or not an item is defamatory, offensive or objectionable);
- (h) use the Software in a way that could damage, delay, disable, overburden, impair or compromise our systems or security or interfere with other users; and
- (i) collect or harvest any information or data from the Software or our systems or attempt to decipher any transmissions to or from the servers running the Software (including but not limited to, by using technology or methods such as those commonly referred to as "web scraping," "data scraping," or "screen scraping"),

and we reserve the right, without liability or prejudice to our other rights to you, to limit, suspend or disable your access to or use of the Software and/or any material that breaches the provisions of this Clause.

6. LIMITATION OF LIABILITY

6.1. This Clause 6 sets out the entire financial liability of the Service Provider (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the End User:

- (a) arising under or in connection with this EULA;
- (b) in respect of any use made by the End User of the Software or any part of it; and
- (c) in respect of any representation, warranty, indemnity, statement or tortious act or omission (including negligence) arising under or in connection with this EULA.

6.2. Except as expressly and specifically provided in this EULA:

- (a) the End User assumes sole responsibility for results obtained from the use of the Software, by the End User, and for conclusions drawn from such use. The Service Provider shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided by the End User in connection with the Software or any actions taken by the Service Provider at the End User's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this EULA; and
- (c) the Software are provided to the End User on an "as is" basis.

6.3. Nothing in this EULA excludes the liability of the Service Provider:

- (a) for death or personal injury caused by the Service Provider's negligence; or
- (b) for fraud or fraudulent misrepresentation; or
- (c) any other liability which may not be excluded by law.

6.4. Subject to Clause 6.2 and Clause 6.3, the Service Provider shall not be liable to the End User whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for:

- (a) any business interruption; or
- (b) any loss or corruption of data or information or other equipment or property; or
- (c) any economic loss or damage; or
- (d) incurring of liability for loss or damage of any nature whatsoever suffered by third parties (including in each case incidental and punitive damages); or
- (e) any loss of actual or anticipated profit, interest, revenue or business or damage to goodwill and/or any similar loss; or
- (f) any loss of anticipated savings,

where any of the losses set out in Clauses 6.4(a) to 6.4(f) are direct or indirect; or

- (g) any indirect, special, or consequential loss, costs, damages, charges or expenses.

- 6.5. The Service Provider shall not be liable for any breach of the terms of this EULA to the extent that such breach is a result of the End User's failure to comply with Clause 4 (LICENCE RESTRICTIONS) and/or Clause 5 (ACCEPTABLE USE RESTRICTIONS).
- 6.6. The Service Provider's total liability in contract, tort (including negligence), breach of statutory duty, misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this EULA shall be limited to one hundred per cent (100%) of the fees paid by the End User for the use of the Software during the 12 month period immediately preceding the date on which the claim arose.
- 6.7. All dates supplied by the Service Provider for the delivery of the Software shall be treated as approximate only. The Service Provider shall not in any circumstances be liable for any loss or damage arising from any delay in delivery beyond such approximate dates.
- 6.8. The End User agrees that, in entering into this EULA, either it did not rely on any representations (whether written or oral) of any kind or of any person other than those expressly set out in this EULA or (if it did rely on any representations, whether written or oral, not expressly set out in this EULA) that it shall have no remedy in respect of such representations and (in either case) the Service Provider shall have no liability in any circumstances otherwise than in accordance with the express terms of this EULA.
- 6.9. All references to the Service Provider in this Clause 6 shall, for the purposes of this Clause 6 only, be treated as including all employees, subcontractors and suppliers of the Service Provider and its Affiliates, all of whom shall have the benefit of the exclusions and limitations of liability set out in this Clause 6.

7. CONFIDENTIALITY

- 7.1. Each Party may be given access to Confidential Information from the other Party in order to perform its obligations under this EULA. A Party's Confidential Information shall not be deemed to include information that:
 - (a) is or becomes publicly known other than through any act or omission of the receiving Party;
 - (b) was in the other Party's lawful possession before the disclosure;
 - (c) is lawfully disclosed to the receiving Party by a third party without restriction on disclosure;
 - (d) is independently developed by the receiving Party, which independent development can be shown by written evidence; or
 - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 7.2. Each Party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this EULA.
- 7.3. Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this EULA.
- 7.4. Without prejudice to Clause 7.3, neither Party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 7.5. The End User acknowledges that details of the Software constitute the Service Provider's Confidential Information.
- 7.6. The Service Provider acknowledges that the End User Data is the Confidential Information of the End User.
- 7.7. This Clause 7 shall survive termination of this EULA, however arising.
- 7.8. No Party shall make, or permit any person to make, any public announcement concerning this EULA without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

8. INDEMNITY

- 8.1. The End User shall defend, indemnify, and hold harmless the Service Provider against claims, actions, proceedings, losses, damages, expenses, and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the End User's breach of this EULA, provided that:
 - (a) the End User is given prompt notice of any such claim;
 - (b) the Service Provider provides reasonable co-operation to the End User in the defence and settlement of such claim, at the End User's expense; and
 - (c) the End User is given sole authority to defend or settle the claim.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. The End User acknowledges that all Intellectual Property Rights in the Software and any Maintenance Releases belong and shall belong to the Service Provider or the relevant third-party owners (as the case may be), and the End User shall have no rights in or to the Software (including the Software in source code form) other than the right to use it in accordance with the terms of this EULA.
- 9.2. The Service Provider grants the End User, or shall procure the direct grant to the End User of, a fully paid-up, worldwide, non-exclusive, royalty-free, and revocable licence, solely to the extent necessary for the purpose of receiving and using the Software during the Term and in accordance with the terms of this EULA.

- 9.3. The End User shall not sub-license, assign or otherwise transfer the rights granted in Clause 9.2 to any third party whatsoever.
- 9.4. In relation to the End User Materials, the End User:
- (a) and its licensors shall retain ownership of all IPRs in the End User Materials; and
 - (b) grants to the Service Provider a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the End User Materials for the term of this EULA for the purpose of making the Software available to the End User.
- 9.5. The Service Provider:
- (a) warrants that the receipt and use of the Software by the End User shall not infringe the rights, including any Intellectual Property Rights, of any third party;
 - (b) shall, subject to Clause 6.4 and Clause 6.6, indemnify the End User against all liabilities, costs, expenses, damages, and losses suffered or incurred by the End User arising out of or in connection with any claim brought against the End User for actual or alleged infringement of a third party's Intellectual Property Rights, arising out of, or in connection with, the receipt, use or supply of the Software; and
 - (c) shall not be in breach of the warranty at Clause 9.5(a), and the End User shall have no claim under the indemnity at 9.5(b), to the extent the infringement arises from:
 - (i) the use of the End User Materials in the development of, or the inclusion of the End User Materials in the Software;
 - (ii) any modification of the Software, other than by or on behalf of the Service Provider; or
 - (iii) compliance with the End User's specifications or instructions.
- 9.6. If the Service Provider is required to indemnify the End User under this Clause 9, the End User shall:
- (a) notify the Service Provider immediately and in any event within 10 Business Days of the issue arising, in writing of any claim against it in respect of which it wishes to rely on the indemnity at Clause 9.5(b) ("**IPRs Claim**");
 - (b) allow the Service Provider, at its own cost and in its own discretion, to conduct all negotiations and proceedings and to settle the IPRs Claim, always provided that the Service Provider shall obtain the End User's prior approval of any settlement terms, such approval not to be unreasonably withheld, in which case the End User shall also:
 - (i) provide the Service Provider with such reasonable assistance regarding the IPRs subject to reimbursement by the Service Provider of the End User's costs so incurred; and
 - (ii) not, without prior consultation with the Service Provider, make any admission relating to the IPRs Claim or attempt to settle it, provided that the Service Provider considers and defends any IPRs Claim diligently, using competent counsel and in such a way as not to bring the reputation of the End User into disrepute.
- 9.7. If any IPRs Claim is made, or in the Service Provider's reasonable opinion is likely to be made, against the End User, the Service Provider may at its sole option and expense:
- (a) procure for the End User the right to continue to use the Software (or any part thereof) in accordance with the terms of this EULA;
 - (b) modify the Software so that it ceases to be infringing;
 - (c) replace the Software with non-infringing software; or
 - (d) terminate this EULA immediately by notice in writing to the End User and refund any of the fees paid by the End User as at the date of termination (less a reasonable sum in respect of the End User's use of the Software to the date of termination) on return of the Software and all copies thereof,
- provided that if the Service Provider modifies or replaces the Software, the End User shall have the same rights in respect thereof as it would have had under those Clauses had the references to the Effective Date been references to the date on which such modification or replacement was made.
- 9.8. This Clause 9 constitutes the End User's exclusive remedy and the Service Provider's (including the Service Provider's employees', agents' and sub-contractors') only liability in respect of IPRs Claims and, for the avoidance of doubt, is subject to Clause 6.4 and Clause 6.6.

10. EXPORT

- 10.1. Neither Party shall export, directly or indirectly, any technical data acquired from the other Party under this EULA (or any products, including software, incorporating any such data) in breach of any applicable laws or regulations ("**Export Control Laws**"), including United States export laws and regulations, to any country for which the government or any agency thereof at the time of export requires an export licence or other governmental approval without first obtaining such licence or approval.
- 10.2. Each Party undertakes:
- (a) contractually to oblige any third party to whom it discloses or transfers any such data or products to make an undertaking to it in similar terms to the one set out above; and

- (b) if requested, to provide the other Party with any reasonable assistance, at the reasonable cost of the other Party, to enable it to perform any activity required by any competent government or agency in any relevant jurisdiction for the purpose of compliance with any Export Control Laws.

11. FORCE MAJEURE

- 11.1. Neither Party shall be liable to the other for failure to perform their non-monetary obligations hereunder if and to the extent such failure to perform results from causes beyond their reasonable control, all of which causes herein are called "**force majeure**," including but not limited to strikes, lockouts or other industrial disputes (whether involving the workforce of either Party to this EULA), failure of a utility service or transport network, act of God, war, riot, civil commotion, terrorist attack, epidemic or pandemic, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, unusual climatic conditions or default of suppliers or subcontractors. Financial difficulty shall not be considered a cause beyond a Party's control.
- 11.2. The Party unable to perform as a result of force majeure shall promptly notify the other at the beginning and ending of each such period and shall act with due diligence and in good faith to recommence performance at the earliest possible date.
- 11.3. If any period of force majeure continues for thirty (30) days or more, either Party shall have the right to terminate this EULA upon ten (10) days' prior written notice to the other Party provided that, the Party relying on the force majeure to excuse its performance hereunder shall not have any such right to terminate, unless such Party has been acting with due diligence and in good faith to recommence performance hereunder since occurrence of the force majeure.

12. ASSIGNMENT AND SUBCONTRACTING

- 12.1. The End User shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this EULA.
- 12.2. The Service Provider may at any time, provided that it gives prior written notice of such dealing to the End User, assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this EULA to any person to which it transfers that part of its business to which this EULA relates, provided that the assignee undertakes in writing to the End User to be bound by the Service Provider's obligations under this EULA.

13. TERMINATION

- 13.1. Either Party may terminate this EULA in its entirety with immediate effect by giving written notice to the other Party if:
 - (a) the other Party is, or becomes insolvent, or unable to pay its debts within the meaning of the Companies Act 2014 (as amended) or suspends or threatens to suspend making payments with respect to all or any class of its debts;
 - (b) an order has been made, petition presented, resolution passed or meeting convened for the winding up of the other Party or the appointment of an examiner to the other Party;
 - (c) a liquidator, receiver, administrator, or examiner has been appointed over the whole or any part of the property, assets, business and/or undertaking of the other Party;
 - (d) a composition in satisfaction of debts, scheme of arrangement, or compromise or arrangement with creditors or members (or any class of creditors or members) has been proposed, sanctioned, or approved in relation to the other Party;
 - (e) the other Party is or becomes related to any other company for the purpose of section 2(10) of the Companies Act 2014 (as amended), and becomes liable to an order made under section 599 of that act by virtue of any act (whether of commission or omission);
 - (f) an encumbrance takes possession of, or a liquidator or receiver or similar officer is appointed in respect of, all or any part of the business or assets of the other Party, or distress or any form of execution is levied or enforced upon or sued out against any such assets and is not discharged within seven (7) calendar days of being levied, enforced or sued out;
 - (g) anything analogous to any of the events described in paragraphs (a) to (f) inclusive, occurs under the laws of any applicable jurisdiction;
- 13.2. Without affecting any other right or remedy available to it, the Service Provider may terminate this EULA in its entirety with immediate effect by giving written notice to the End User, if the End User fails to pay any amount due under this EULA on the due date for payment and remains in default not less than thirty (30) days after being notified in writing to make such payment.
- 13.3. On termination of this EULA for any reason:
 - (a) all licences granted under this EULA shall immediately terminate and the End User shall immediately cease all use of the Software;
 - (b) the End User shall immediately pay to the Service Provider any sums due to the Service Provider under this EULA;
 - (c) the End User shall immediately and permanently delete or remove the Software from all computer equipment in its possession, and immediately destroy or return to the Service Provider (at the Service Provider's option) all copies of the Software then in its possession, custody or control and, in the case of destruction, certify to the Service Provider that it has done so;
 - (d) any rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of this EULA which existed at or before the date of termination shall not be affected or prejudiced; and
 - (e) the following Clauses shall continue in force: Clause 1 (INTERPRETATION), Clause 6 (LIMITATION OF LIABILITY), Clause 7 (CONFIDENTIALITY), Clause 9 (INTELLECTUAL PROPERTY RIGHTS), Clause 14 (DATA PROTECTION) and Clause 22 (GOVERNING LAW AND JURISDICTION).

13.4. Save in the circumstances set out at Clause 9.7(d), early termination of this EULA, under Clause 13.1, Clause 13.2 or otherwise, during the course of the Term will not entitle the End User to a refund of any fees paid by the End User for the use of the Software (or any part thereof).

14. DATA PROTECTION

14.1. For the purposes of this Clause 14, the terms “**data subject**” and “**personal data breach**” shall have the meaning given to them in the Applicable Data Protection Laws.

14.2. The End User shall own all right, title and interest in and to all of the End User Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such End User Data. The Service Provider shall not be responsible for any loss, destruction, alteration or disclosure of End User Data caused by any third party.

14.3. Both Parties will comply with all applicable requirements of Applicable Data Protection Laws. This Clause 14 is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under Applicable Data Protection Laws.

14.4. The Parties have determined that, for the purposes of Applicable Data Protection Laws:

- (a) the Service Provider shall act as controller of the Service Provider Personal Data; and
- (b) the Service Provider shall process the End User Personal Data as a processor on behalf of the End User.

14.5. Should the determination in Clause 14.4 change, then each Party shall work together in good faith to make any changes which are necessary to this Clause 14.

14.6. By entering into this EULA, the End User consents to (and shall procure all required consents, from its personnel, representatives and agents, in respect of) all actions taken by the Service Provider in connection with the processing of Service Provider Personal Data, provided these are in compliance with the then-current version of the Service Provider's privacy policy available on www.edgescan.com (“**Privacy Policy**”). In the event of any inconsistency or conflict between the terms of the Privacy Policy and this EULA, the Privacy Policy will take precedence.

14.7. Without prejudice to the generality of Clause 14.2, the End User will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Service Provider Personal Data and End User Personal Data to the Service Provider and lawful collection of the same by the Service Provider for the duration and purposes of this EULA.

14.8. Without prejudice to the generality of Clause 14.2 the Service Provider shall, in relation to End User Personal Data:

- (a) process that End User Personal Data only on the documented instructions of the End User, unless the Service Provider is required by Applicable Laws to otherwise process that End User Personal Data. Where the Service Provider is relying on Applicable Laws as the basis for processing End User Processor Data, the Service Provider shall notify the End User of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Service Provider from so notifying the End User on important grounds of public interest. The Service Provider shall inform the End User if, in the opinion of the Service Provider, the instructions of the End User infringe Applicable Data Protection Legislation;
- (b) implement appropriate technical and organisational measures (in particular those required under the GDPR) to protect against unauthorised or unlawful processing of End User Personal Data and against accidental loss or destruction of, or damage to, End User Personal Data, having regard to the state of technological development and the cost of implementing any measures;
- (c) ensure that any personnel engaged and authorised by the Service Provider to process End User Personal Data have committed themselves to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- (d) assist the End User insofar as this is possible (taking into account the nature of the processing and the information available to the Service Provider), and at the End User's cost and written request, in responding to any request from a data subject and in ensuring the End User's compliance with its obligations under Applicable Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (e) notify the End User without undue delay on becoming aware of a personal data breach involving the End User Personal Data;
- (f) at the written direction of the End User, delete or return End User Personal Data and copies thereof to the End User on termination of this EULA unless the Service Provider is required by Applicable Law to continue to process that End User Personal Data. For the purposes of this Clause (f) End User Personal Data shall be considered deleted where it is put beyond further use by the Service Provider; and
- (g) maintain records to demonstrate its compliance with this Clause 14.

14.9. The End User hereby provides its prior, general authorisation for the Service Provider to:

- (a) appoint processors to process the End User Personal Data, provided that the Service Provider:
 - i. shall ensure that the terms on which it appoints such processors comply with Applicable Data Protection Laws, and are consistent with the obligations imposed on the Service Provider in this Clause 14;
 - ii. shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of the Service Provider; and
 - iii. shall inform the End User of any intended changes concerning the addition or replacement of the processors, thereby giving the End User the opportunity to object to such changes provided that if the End User objects to the changes and cannot demonstrate, to the Service Provider's reasonable satisfaction, that the objection is due to an actual or likely breach of Applicable Data Protection Law, the

End User shall indemnify the Service Provider for any losses, damages, costs (including legal fees) and expenses suffered by the Service Provider in accommodating the objection;

- (b) transfer End User Personal Data outside of Ireland as required for the Purpose, provided that the Service Provider shall ensure that all such transfers are effected in accordance with Applicable Data Protection Laws. For these purposes, the End User shall promptly comply with any reasonable request of the Service Provider, including any request to enter into standard data protection clauses adopted by the EU Commission from time to time.

15. MODIFICATION

No change in, addition to, or waiver of any of the provisions of this EULA shall be binding upon either Party unless in writing signed by an authorised representative of each Party.

16. WAIVER

No waiver by either Party of any breach by the other Party of any of the provisions of this EULA shall be construed as a waiver of any subsequent breach, whether of the same or of a different provision in this EULA.

17. SUCCESSORS AND ASSIGNS

This EULA shall inure to the benefit of and be binding upon the successors and permitted assigns of the parties hereto.

18. SEVERABILITY

In the event that any of the provisions, or portions or applications thereof, of this EULA are held to be unenforceable or invalid by any court of competent jurisdiction, the Service Provider and the End User shall negotiate an equitable adjustment in the provisions of this EULA with a view toward effecting the purpose of this EULA and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby.

19. NOTICES

19.1. Any notice or other communication whether required or permitted to be given under this EULA shall be given in writing either in hard copy or electronic form and shall be deemed to have been duly given if:

- (a) delivered by hand to the addressee;
- (b) sent by registered post to the addressee at the address as such Party may from time to time designate in writing to the other Party; or
- (c) delivered by electronic mail.

19.2. Any such notice given under Clause 19.1(a) or (b) above shall be deemed to have been duly given if delivered, at the time of delivery, if sent by registered post, seventy-two (72) hours after posting. Any such notice given under Clause 19.1(c) shall be deemed to occur (twelve) 12 hours after the time the electronic email is sent provided that the sender has not received a notice of delivery failure in which latter case the electronic communication shall not be a notice for the purposes of this EULA.

19.3. For the purposes of the Electronic Commerce Act 2000, or equivalent law in another jurisdiction, the Parties consent to the use of electronic communications and electronic signatures, for all purposes under this EULA

20. ENTIRE AGREEMENT

This EULA sets forth the full and complete agreement between the End User and the Service Provider with respect to the subject matter hereof and supersedes all prior negotiations and dealings, including but not limited to letters of intent, pertaining to the subject matter hereof.

21. DISPUTE RESOLUTION

- 21.1. For the purposes of this EULA, and specifically for the purposes of this Clause 21, a “**Dispute**” means any difference or dispute arising out of or in connection with this EULA or the performance, validity or enforceability of it, including issues or events occurring during the term of this EULA or post-termination of it, and for the avoidance of doubt specifically includes but is not limited to any differences or disputes relating to fees.
- 21.2. For the purposes of the Agreement, the Parties will first engage in informal discussion in an attempt to resolve a Dispute. In the case of a Dispute raised by the End User in relation to the performance of the Services, as part of the informal discussions the Service Provider will have the option to attempt to rectify any issues.
- 21.3. If the Parties are for any reason unable to resolve the Dispute within ten (10) Business Days of commencing the informal discussions at Clause 21.2, formal discussions shall commence between the Parties. This attempted resolution may be undertaken by way of discussions, emails, meetings, or a combination of these.
- 21.4. If the Parties are for any reason unable to resolve the Dispute within ten (10) Business Days of commencing the formal discussions at Clause 21.3, the Dispute will be referred to a single arbitrator in the Republic of Ireland to be agreed between the Parties.
- 21.5. Failing such agreement, within ten (10) Business Days of the request by one Party to the other, that a matter be referred to arbitration in accordance with this Clause 21, such reference will be to an arbitrator appointed by the President for the time being of the Law Society of Ireland.
- 21.6. The decision of such arbitrator will be final and binding on the Parties. The Arbitration Act 2010 and any statutory amendment(s) thereof will apply to such arbitration.

21.7. Nothing contained in this Clause 21 shall restrict the Parties' freedom to seek a preliminary injunction or such other provisional judicial relief as it considers necessary to avoid irreparable damage or to preserve any legal right or remedy (including the protection of any Intellectual Property Rights).

22. GOVERNING LAW AND JURISDICTION

22.1. This EULA and any dispute arising out of or in connection with it or its subject matter or formation (including Disputes as defined in Clause 21 and any non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of the Republic of Ireland.

22.2. Save for any matters governed by dispute resolution procedures in Clause 21, each Party irrevocably agrees that the courts of the Republic of Ireland shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims).

Schedule 1 – The Software

The Software known as “Edgescan” refers to the Service Provider’s online software service for full stack vulnerability management available through the Service Provider’s website, www.edgescan.com (and related web sites), as well as other services provided by the Service Provider and on which a link to these terms of service is displayed.

The functionality of the Software varies on the subscription level you have chosen as indicated in the sales invoice sent to you by the Service Provider. Please refer to www.edgescan.com for more information. In the event of any significant changes to the functionality of your service or change to the terms and conditions of this EULA, you will be informed via email or through an in-product alert to the changes in the specification or the revised terms and conditions. End User’s continued use of the Software shall, in itself, constitute acceptance of any change.