



EXHIBIT A – TERMS AND CONDITIONS

These terms of service (the "**Terms**") together with any other agreements or terms incorporated by reference, govern the use of the Services. These Terms constitute a binding and enforceable legal contract between Element Security Ltd. ("**Element Security**") and the customer (the "**Customer**") entering into an order form incorporating these Terms by reference (an "**Order**"). By accepting these Terms through execution of an Order, or by using the Services, Customer agree to these Terms.

1. Services; License

1.1. Subject to the terms and conditions of this Agreement, Element Security shall provide Customer with its proprietary attack surface management tools ("**Services**") through its proprietary technology as hosted on a third party cloud service (the "**Element Security Platform**").

1.2. During the Term and subject to Customer's compliance with the terms and conditions of this Agreement, Element Security grants Customer a non-exclusive, non-transferable, non-sublicensable, limited, revocable right (i) for Customer employees, agents, representatives and contractors who are permitted access to the Services by Element Security up to the number specified in the Order ("**Authorized Users**") to access the Element Security Platform, for Customer's internal business use; and (ii) use the APIs necessary to connect to the Element Security Platform according to Element Security's documentation ("**Documentation**").

2. Customer's Obligations. Customer hereby undertakes to:

2.1. implement the APIs provided by Element Security according to the Documentation to allow Element Security access to the Customer's account (the "**Account**"), and provide Element Security with Customer credentials to the Account. Customer acknowledges that if Customer does not provide accurate and up to date credentials, the Services may be negatively impacted, or may not be provided at all;

2.2. use the Element Security Platform, the Services, and all related software and Documentation in compliance with all applicable laws and regulations, including but not limited to applicable data security and privacy laws. Customer represents and warrants that no third party agreement prevents it from using the Element Security Platform as contemplated hereunder, including any terms governing Customer's use of the Integrated Accounts; and

2.3. manage and secure all API keys and login credentials used by Authorized Users in connection with their use of the Element Security Platform, and protect the same against unauthorized use or disclosure.

3. Fees. In consideration for the Services, Customer shall pay Element Security the Fees. Fees shall be payable within 30 days of issuance of the applicable invoice. All payments not made when due, shall be subject to a late charge of 1.5% per month compounded annually. Payment of Fees shall be made by wire transfer to the account designated by Element Security. The Fees are exclusive of Vat. Element Security may increase the Fees by no more than 5% annually, by written notice to the Customer at least 45 days prior to such change taking effect.

4. Intellectual Property Rights; Confidentiality

4.1. All intellectual property rights in the Element Security Platform, Services, Documentation and any part thereof, including any and all derivatives, changes and improvements thereof lie exclusively with Element Security. Customer shall (i) not attempt to infiltrate, hack, reverse engineer, decompile, or disassemble the Element Security Platform, Service or any part thereof for any purpose or use it to build a competitive service or product; (ii) not represent that it possesses any proprietary interest in Element Security Platform, Service, Documentation or any part or derivative thereof; (iii) not directly or indirectly, take any action to contest Element Security's intellectual property rights or infringe them in any way; (iv) except as specifically permitted in writing by Element Security, not use the name, trademarks, trade-names, and logos of Element Security (v) except as specifically permitted herein, not copy any part or content of the Element Security Platform, reports or documentation other than for Customer's own internal business purposes; (vi) not copy any features, functions or graphics of the Element Security Platform or use it to build a competitive product or service; and (vii) not remove the copyright, trademark and other proprietary notices contained on or in Element Security's Platform,



products, services or documentation. All intellectual property rights in the data stored on Integrated Accounts and in any modifications, enhancements and derivatives thereof (collectively, "**Customer IPR**") lie exclusively with Customer or its licensors. Customer shall take no action, directly or indirectly, to register Element Security trademarks (or their variation), domain names, or copyrights in its own name and shall provide commercially reasonable assistance to Element Security to prevent the occurrence of such activity by any third parties.

4.2. Customer hereby grants to Element Security a non-exclusive, non-sublicensable, revocable, non-transferable, royalty-free, worldwide license during the Term to use, reproduce, and prepare derivative works of all data provided to Element Security by Customer in connection with this Agreement solely to permit Element Security to perform the Services to Customer as set forth in this Agreement, and to analyze anonymized data obtained through Services in order to provide Customer with analytics and reports, all subject to Element Security's compliance with applicable law and privacy regulations.

4.3. The receiving party agrees (i) not to disclose the disclosing party's Confidential Information to any third parties other than to its directors, employees, advisors, or consultants (collectively, its "**Representatives**") on a "need to know" basis and provided that such Representatives are bound by confidentiality obligations not less restrictive than those contained herein; (ii) not to use or reproduce any of the disclosing party's Confidential Information for any purposes except to carry out its rights and responsibilities under this Agreement; (iii) to keep the disclosing party's Confidential Information confidential using at least the same degree of care it uses to protect its own confidential information, which shall in any event not be less than a reasonable degree of care. Notwithstanding the foregoing, if the receiving party is required by legal process or applicable law, rule, or regulation to disclose any of the disclosing party's Confidential Information, then prior to such disclosure, if legally allowed, receiving party will give prompt notice to the disclosing party so that it may seek a protective order or other appropriate relief. The confidentiality obligations hereunder shall expire five years from the date of termination or expiration of this Agreement (and with respect to trade secrets- in perpetuity) and shall supersede any previous confidentiality undertakings between the parties.

4.4. For the purposes hereof, "**Confidential Information**" means any proprietary or trade secret

information disclosed by one party to the other which can be reasonably understood under the circumstances to be confidential, but excluding any information that: (i) is now or subsequently becomes generally available in the public domain through no fault or breach on the part of receiving party; (ii) the receiving party can demonstrate in its records to have had rightfully in its possession prior to disclosure of the Confidential Information by the disclosing party; (iii) the receiving party rightfully obtains from a third party who has the right to transfer or disclose it, without default or breach of this Agreement; (iv) the receiving party can demonstrate in its records to have independently developed, without breach of this Agreement and/or any use of or reference to the Confidential Information. For avoidance of doubt, Customer IPR shall be deemed Customer Confidential Information.

5. Warranties; Disclaimer; Limitation of Liability

5.1. **EXCEPT AS EXPLICITLY SET FORTH IN THIS AGREEMENT, ELEMENT SECURITY PROVIDES THE ELEMENT SECURITY PLATFORM, SERVICES, AND DOCUMENTATION TO CUSTOMER ON AN "AS IS" BASIS, WITHOUT WARRANTIES OR REPRESENTATION OF ANY KIND, AND ELEMENT SECURITY EXPRESSLY DISCLAIMS ALL WARRANTIES - STATUTORY, EXPRESS, IMPLIED OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR ACCURACY. ELEMENT SECURITY FURTHER DISCLAIMS ANY WARRANTY THAT THE OPERATION OF THE ELEMENT SECURITY PLATFORM OR ANY RELATED SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.**

5.2. Customer acknowledges that the quality and accuracy of the Services are dependent on the accuracy and completeness of the information provided. **CUSTOMER ACKNOWLEDGES THAT ELEMENT SECURITY SHALL NOT BEAR ANY LIABILITY OR RESPONSIBILITY FOR FAULTS, ERRORS OR ERRONEOUS RECOMMENDATIONS PROVIDED ON THE BASIS OF UNTIMELY, INCOMPLETE, INACCURATE, FALSE OR MISLEADING INFORMATION PROVIDED INTENTIONALLY BY CUSTOMER OR THE AUTHORIZED USERS.**

5.3. **EXCEPT FOR WILLFUL MISCONDUCT OR FRAUD OR BREACH OF CONFIDENTIALITY, OR WITH RESPECT TO INDEMNIFICATION OBLIGATIONS UNDER SECTION 5.4, AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY UNDER, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO ELEMENT SECURITY**



DURING THE 12 MONTHS PRECEDING THE DATE THE LIABILITY FIRST ARISES. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA (INCLUDING END-USER INFORMATION), COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, OR FOR SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

5.4. Element Security shall defend, indemnify and hold harmless Customer from and against any claims, damages, costs, liabilities and expenses (including reasonable attorneys' fees) arising out of or related to any third party claim that the Element Security Platform, Services and/or Documentation infringes any third party intellectual property right. Indemnification hereunder shall be conditioned upon: (a) Customer notifying Element Security of the claim immediately upon becoming aware thereof, (b) Customer allowing Element Security to assume full control of the defense and settlement of such claim, and (c) Customer reasonably cooperating with Element Security in the defense and settlement of the claim.

6. **Term; Termination**

6.1. This Agreement shall commence on the Effective Date and will continue for the Initial Term; thereafter, the Agreement shall renew for additional successive twelve (12) month periods unless either party provides notice of termination in writing at least 30 days prior to the end of the then current Term.

6.2. Either party may terminate this Agreement immediately by giving written notice to the other party if: (i) the other party breaches a material provision of this Agreement and fails to cure the breach within seven days after being given written notice thereof; (ii) the other party is judged bankrupt or insolvent, makes a general assignment for the benefit of its creditors, a trustee or receiver is appointed for such party; or any petition by or on behalf of such party is filed under any bankruptcy or similar laws.

6.3. Upon termination of this Agreement, Customer will immediately cease use of the Element Security Platform and any Service, each party shall return to the other party or destroy (at disclosing party's option) all of

the other party's Confidential Information in its possession and any outstanding undisputed Fees shall become due and payable. Sections 4.1, 4.3 and 4.4 shall survive any expiration or termination of this Agreement.

7. **Notices.** All notices or other communications hereunder shall be in writing and given in person, by registered mail, by an overnight courier service which obtains a receipt to evidence delivery, or by facsimile or email transmission with written confirmation of receipt, addressed to the address set forth in the Order or to such other address as any party hereto may designate to the other in accordance with the aforesaid procedure. All notices and other communications delivered in person or by courier service shall be deemed to have been given upon delivery, those given by facsimile or email transmission shall be deemed given on the business day following transmission, and those sent by registered mail shall be deemed given three calendar days after posting.

8. **Publicity.** Customer agree to become Company's reference. Company may refer prospects to Customer from time to time for reference. following Customer approval.

9. **General.** This Agreement constitutes the entire agreement between Element Security and Customer and supersedes any previous agreements or representations, either oral or written, with respect to the subject matter of this Agreement. All amendments will be made only in writing. Customer may transfer or assign its rights or obligations under this Agreement to any third party. Any purported assignment contrary to this section shall be void. If any part of this Agreement is declared invalid or unenforceable for any reason, such part shall be deemed modified to the extent necessary to make it valid and operative and in a manner most closely representing the intention of the parties, or if it cannot be so modified, then eliminated, and such elimination shall not affect the validity of any remaining portion, which shall remain in force and effect. Any failure by a party to insist upon or enforce performance by the other of any of the provisions of this Agreement or to exercise any rights or remedies under this Agreement or otherwise by law will not be construed as a waiver or relinquishment of any right to assert or rely upon the provision, right or remedy in that or any other instance. This Agreement is governed by the laws of the State of Israel, without regard to its conflict of laws principles, and any dispute arising from this Agreement shall be brought exclusively before the courts of Tel-Aviv, Israel, or if agreed, London, UK.