

General Data Protection Regulation Data Processing Addendum

This General Data Protection Regulation Data Processing Addendum (this "**Addendum**") is made and entered into by and between **Eze Castle Software LLC** ("**Processor**") and Customer (the "**Controller**").

WHEREAS, Controller has engaged Processor to provide software applications and services as set forth in that certain EMS Subscriber Agreement (and its equivalent forms) by and between Processor and Controller (the "**Agreement**");

WHEREAS, notwithstanding anything in the Agreement to the contrary, Processor may receive Personal Data (as defined in Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (the "**GDPR**")) from Controller (such Personal Data, "**Controller Personal Data**") in connection with the performance of Processor's obligations under the Agreement;

WHEREAS, Controller and Processor wish to ensure that processing of Controller Personal Data by Processor is governed by a binding agreement between Controller and Processor.

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, Processor and Controller hereby agree to all of the terms and conditions of this Addendum effective as May 25, 2018.

1. **Terms and Conditions.** This Addendum is incorporated within and is a part of the EMS Subscriber Agreement by this reference. This Addendum shall apply if and to the extent Processor receives and processes Controller Personal Data in connection with the performance of its obligations under the Agreement. This Addendum is subject to and governed by the terms and conditions set forth in the Agreement. All terms of the Agreement not specifically modified by this Addendum remain in full force and effect as set forth in the Agreement. Capitalized terms used but not defined herein have the meanings given to such terms in the Agreement; provided, however, that for the purposes of this Addendum, (a) the terms "Data Controller", "Data Processor", "Data Subject", "Personal Data", "Personal Data Breach", "Process", "Processing", "Member State" and "Union" have the meanings given to such terms in the GDPR; and (b) "Personal Data" also refers to legal persons solely to the extent that relevant national data protection law or implementation of the GDPR is extended to legal persons as well as natural persons.
2. **Processing Instructions.** For the purposes of this Addendum, Controller and Processor agree that Controller is the Data Controller of Controller Personal Data and Processor is the Processor of Controller Personal Data, except where Controller acts as a Processor of Controller Personal Data, in which case Processor is a subprocessor. Controller hereby instructs Processor to Process Controller Personal Data as a Processor on behalf of Controller in any of the ways contemplated in, and for the purposes of carrying out any of the terms of, the Agreement and any purposes ancillary thereto.
3. **Processor's Obligations as Processor of Controller Personal Data.** Processor will:
 - a. Process Controller Personal Data only on documented instructions from Controller, including with regard to transfers of Controller Personal Data (if any) to a third country or an international organization, unless required to do so by Union or Member State law to which Processor is subject; in such a case, Processor shall inform Controller of that legal requirement before Processing Controller Personal Data, unless that law prohibits disclosure of such information on important grounds of public interest;
 - b. ensure that any person authorized to Process Controller Personal Data is subject to a duly enforceable contractual or statutory confidentiality obligation;
 - c. implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk as required pursuant to Article 32 of the GDPR;

- d. respect the following conditions for engaging another Processor of Controller Personal Data:
 - i. Processor will not engage another Processor of Controller Personal Data without prior specific or general written authorisation of Controller. In the case of general written authorisation, Processor will inform Controller of any intended changes concerning the addition or replacement of other Processors of Controller Personal Data, thereby giving Controller the opportunity to object to such changes.
 - ii. Where Processor engages another Processor of Controller Personal Data for carrying out specific processing activities on behalf of Controller, the same data protection obligations as set out in this Addendum will be imposed on that other Processor of Controller Personal Data by way of a contract or other legal act under Union or Member State law, in particular providing sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Processing of Controller Personal Data will meet the requirements of the GDPR. Where that other Processor of Controller Personal Data fails to fulfill its data protection obligations, Processor will remain fully liable to Controller for the performance of the obligations of that other Processor of Controller Personal Data.
 - e. taking into account the nature of the Processing of Controller Personal Data, assist Controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of Controller's obligation to respond to requests for exercising the Data Subject's rights laid down in Chapter III of the GDPR;
 - f. assist Controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of Processing of Controller Personal Data and the information available to Processor;
 - g. at the choice of Controller, delete or return all Controller Personal Data to Controller after the end of the provision of the services relating to the Processing of Controller Personal Data under the Agreement, and delete existing copies, unless Union or Member State law requires storage of Controller Personal Data;
 - h. make available to Controller all information necessary to demonstrate compliance with the obligations laid down in this Addendum and allow for and contribute to audits, including inspections, conducted by Controller or another auditor mandated by Controller;
 - i. immediately inform Controller if, in Processor's opinion, an instruction from Controller infringes the GDPR or other Union or Member State data protection provisions; and
 - j. if Processor receives a request from Controller's Data Subject to exercise one or more of such Data Subject's rights under the GDPR, Processor will notify Controller of such request and/or redirect such Data Subject to make its request directly to Controller.
4. **International Data Transfers.** To the extent that Processor Processes Controller Personal Data under this Addendum outside the Union, such Processing is subject in the following order of precedence: Union legal adequacy determinations (such as those for Switzerland, Canada), Union-approved standard contract clauses, consent or other applicable derogations under Article 49 of the GDPR.
 5. **Personal Data Breach Notification.** Processor will notify Controller without undue delay after becoming aware of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Controller Personal Data transmitted, stored or otherwise Processed by Processor.
 6. **Governing Law.** This Addendum shall be governed by the laws of the jurisdiction specified in the Agreement.