

## **General Terms and Conditions**

These General Terms and Conditions (these “General Terms” or this “Agreement”) govern the use of any and all of the services provided by Mimecast (collectively, the “Services”). These General Terms are hereby incorporated into the transactional documents such as a “Customer Quote” or a “Customer Confirmation” (each, a “Services Order”) entered into by the customer (the “Customer”) and the applicable Mimecast entity (“Mimecast”), as each is identified in the Services Order. In the event of any conflict between these General Terms and a Services Order, the Services Order will control.

Customer may subscribe to the Services directly from Mimecast or through a reseller (the “Reseller”). In either event, Customer and Mimecast each agree to these General Terms as a condition of the provision of the Services by Mimecast. These General Terms also include provisions that are specific to certain geographic regions. Those region-specific terms are set forth at the end of this document.

### **1. Services.**

1.1 Provision of Services. Mimecast will provide the Services described in each Services Order in accordance with the provisions of the applicable Services Order, these General Terms and the applicable Services documentation available at <https://community.mimecast.com/community/knowledge-base> (“Documentation”). Each Services Order will include the following:

- ) A description of the specific Services to be provided to Customer (each, a “Services Description”)
- ) The number of users of the Services (individuals employed by or otherwise under the Customer’s control) (each, a “Permitted User”)
- ) The term of the Services subscription (“Subscription Term”)
- ) Identification of the country where Customer Data will be stored (the “Hosting Jurisdiction”)
- ) Any additional terms agreed to by the parties

1.2 Support and SLA. Mimecast will provide certain on-going support services in connection with Customer’s use of the Services, as described in the “Support Description”. In addition, Mimecast will maintain certain service levels as described in the “Service Levels”. The Support Description and Service Levels are available at <http://www.mimecast.com/SLA>. A copy of the then-current Support Description and Service Levels may be attached to the applicable Services Order at Customer’s request.

1.3 Implementation and Professional Services. At Customer’s request, Mimecast will provide professional services to Customer, as further described in an agreed-to Services Order. Mimecast will perform any such services in a professional and workmanlike manner, consistent with industry standards. In the event Mimecast’s performance does not conform to the terms of the applicable Services Order, Customer will notify Mimecast of such failure in performance within fifteen days after the delivery of the services (“Acceptance Period”). Promptly after receipt of Customer’s notice, Mimecast will re-perform the non-conforming services at no additional cost to Customer. After the Acceptance Period, any additional services will be subject to a new Services Order.

### **2. Data Protection.**

#### 2.1 Protection of Data.

(a) Customer Data. “Customer Data” means the data generated through Customer’s use of the Services, including without limitation the content of all files and emails sent by or to Permitted Users. Mimecast acknowledges that, as between the parties, Customer owns and controls all right, title and interest in and to the Customer Data. Mimecast will use and process the Customer Data solely to the extent necessary for the performance of the Services and will obtain no rights in Customer Data by virtue of its use under these General Terms. Customer acknowledges and agrees that, in the course of providing the Services to Customer, it may be necessary for Mimecast to access the Customer Data to respond to technical problems or Customer queries and to ensure the proper working of the Services.

(b) Aggregated Data. Notwithstanding Section 2.1(a), Mimecast owns the aggregated data derived from the Services, including, without limitation, utilization statistics, reports, logs, and information regarding spam, viruses or other malware processed by the Services as aggregated with usage data from Mimecast’s other customers (“Aggregated Data”). Nothing herein shall limit Mimecast from utilizing the Aggregated Data for its business purposes or from sharing Aggregated Data with third parties, provided that: (i) such use will not reveal the identity, whether directly or indirectly, of Customer or any of Customer’s permitted users and (ii) any third parties receiving Aggregated Data from Mimecast will have undertaken confidentiality obligations no less than restrictive than those contained in Section 2.2 herein. For the avoidance of doubt, Mimecast agrees that in no event will the Aggregated Data

include any personally identifiable Customer Data.

(c) **Security.** Mimecast will maintain appropriate administrative, technical and physical security measures to protect Customer Data against unauthorized access, disclosure and loss. Mimecast will store Customer Data solely in the Hosting Jurisdiction.

(d) **Data Protection Laws.** With respect to protection of the Customer Data, Mimecast will comply with the applicable laws and regulations of the Hosting Jurisdiction, including without limitation, as applicable, the UK Data Protection Act 1998 and the US Health Insurance Portability and Accountability Act. As required by law or as otherwise agreed by the parties, data protection measures may be described in more detail in an amendment to this Agreement (each, a "Data Processing Addendum").

## 2.2 **Confidentiality Obligations.**

(a) **Definitions.** "**Confidential Information**" means information designated by the party disclosing such information (the "**Disclosing Party**") as "confidential" or "proprietary" or that a reasonable person would understand to be confidential given the nature of the information and the circumstances of the disclosure. Customer's Confidential Information includes Customer Data. Confidential Information does not include information that: (i) is or becomes generally known to the public through no fault of the party that receives such information from the Disclosing Party (the "**Receiving Party**"); (ii) is in the Receiving Party's possession prior to receipt from the Disclosing Party; (iii) is acquired by the Receiving Party from a third party without breach of any confidentiality obligation to Disclosing Party; or (iv) is independently developed by Receiving Party without reference to the Disclosing Party's Confidential Information.

(b) **Obligations.** The obligations set forth in this Section 2.2(b) are in addition to Mimecast's obligations under Section 2.1. Confidential Information is and will remain the exclusive property of the Disclosing Party. Receiving Party will: (i) use Disclosing Party's Confidential Information solely for the purpose of its performance of the activities contemplated by these General Terms; (ii) disclose such information only to its employees, agents, and contractors who are bound by obligations of confidentiality at least as strict as those contained in this Section; (iii) protect Disclosing Party's Confidential Information against unauthorized use or disclosure using the same degree of care it uses for its own Confidential Information, which in no event will be less than reasonable care; and (iv) upon written request, return or destroy all copies of the Disclosing Party's Confidential Information that are in its possession or control.

## 3. **Customer Activities.**

3.1 **Customer Use.** Customer will use the Services for its own internal business purposes and will not transfer, resell, license or otherwise make available the Services to third parties. Customer will use the Services as reasonably directed by Mimecast. Customer will allow only the number of Permitted Users shown in the applicable Services Order to access and use the Services.

3.2 **Access Control.** Customer will implement and maintain reasonable and appropriate controls to ensure that user accounts are used only by the Permitted Users to whom they are assigned and to manage and monitor Permitted Users, including designating one or more administrators responsible for access control. Customer is solely responsible for the acts or omissions of any user who obtains access to the Services through Customer or Customer's systems. Customer will notify Mimecast promptly when it becomes aware of any unauthorized access or use.

3.3 **Restrictions.** Customer will not: (a) use the Services in any manner that violates any applicable law or regulation (including but not limited to where Customer is required to obtain permissions or authorizations to permit Mimecast to perform its obligations hereunder); (b) use the Services in a manner that violates any industry standards concerning unsolicited email; (c) use the Services in a manner that introduces any viruses, malicious code, or any other items of a harmful nature; or (d) engage in any activity that could reasonably be expected to interfere with or disrupt the Services (for example, an activity that causes Mimecast to be blacklisted by any internet service provider). Customer will defend and indemnify Mimecast in the event of any third party claim or regulatory action arising out of Customer's breach (or alleged breach) of the terms of this Section 3.3.

4. **Payment.** The following terms will apply only if Customer purchases the Services directly through Mimecast. If Customer purchases the Services through a Reseller, the pricing and invoicing terms will be agreed to between Customer and Reseller directly and the following terms will not apply.

4.1 **Fees and Payment Terms.** Customer will pay any fees set forth in any agreed to Services Order. Fees are due net thirty days from the invoice date. Mimecast will provide instructions for payment in the applicable Services Order or through some other reasonable means. If Customer is contracting with Mimecast North America, Inc., then recurring fees will increase by 5% at the start of each renewal Subscription Term.

4.2 **Professional Services Fees.** Fees for any professional services to be performed by Mimecast under the Agreement shall be invoiced in full promptly after the effective date (unless otherwise indicated on a Services Order). If such professional services include import of historical Customer Data into the Services, then Customer must provide the

amount of Customer Data targeted for import shown on the Services Order to Mimecast within twelve months of the Effective Date. Customer Data received for import by Mimecast after the expiration of the twelve month period will be subject to a separate charge. If the amount of Customer Data actually provided to Mimecast for import within twelve months of the effective date of the Services Order exceeds the amount shown on the Services Order, Mimecast will invoice Customer a pro-rated amount based on the per gigabyte charge listed in the Services Order.

4.3 **Disputed Invoices.** If Customer disputes any portion of the amount due, then Customer will notify Mimecast in writing within fifteen days of receipt of the applicable invoice. Such notice will include a description of the basis for Customer's dispute. If only part of an invoice is disputed, then Customer will pay the undisputed amount as provided herein. The parties will work together in good faith to resolve any such dispute promptly.

4.4 **Late Payment.** Customer will be notified in the event payment has not been received in accordance with the terms of this Section. If any undisputed amount due is not paid within fourteen days of such notice, then Mimecast may charge interest on any unpaid amount due at the rate of one percent (1%) per month, or at the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date such amount is paid. In the event any action is taken to pursue collection of any fees payable hereunder, Customer will pay the costs and fees associated with such collection.

4.5 **Taxes.** The fees and any other charges hereunder do not include any taxes, withholdings, levies or duties of any nature (including without limitation, local, state, federal, VAT or foreign taxes) that may be assessed at any time in connection with the Services during the term of these General Terms. Customer is responsible for paying any such taxes, excluding taxes based on Mimecast's net income.

5. **Disclaimer.** WITHOUT LIMITING MIMECAST'S EXPRESS OBLIGATIONS UNDER THESE GENERAL TERMS, MIMECAST HEREBY DISCLAIMS ALL GUARANTEES, CONDITIONS, WARRANTIES AND REPRESENTATIONS, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE CONCERNING ANY SERVICES, SOFTWARE, DOCUMENTATION OR OTHER MATERIALS PROVIDED BY MIMECAST, INCLUDING BUT NOT LIMITED TO, THOSE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. MIMECAST DOES NOT REPRESENT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE OR MEET CUSTOMER'S REQUIREMENTS.

## 6. IP Indemnification

6.1 **Indemnification.** Mimecast will defend, indemnify and hold harmless Customer, its officers, directors, employees and consultants against any third party claim, suit, proceeding or regulatory action alleging that the Services infringe any copyright, moral right, trade secret, trade or service mark, or patent issued in the applicable Hosting Jurisdiction. Customer will provide prompt written notice of the applicable claim to Mimecast and cooperate in Mimecast's defense, as reasonably requested by Mimecast and at Mimecast's expense. Mimecast will have sole control of the defense and settlement of the applicable matter.

6.2 **Additional Terms.** Mimecast may, at its expense and discretion, attempt to resolve any indemnified claim by: (a) modifying the Services to avoid the alleged infringement; (b) obtaining a license to permit Customer's use of the Services as contemplated by these General Terms; or (c) terminating the rights set forth in these General Terms and giving Customer a refund for any fees paid for the remainder of the then-effective Subscription Term. Customer will cooperate fully with Mimecast in the implementation of any above-described resolution. Mimecast will have no liability under this Section to the extent any patent or similar claim results from the combination of the Services with third party products, data or business processes used by Customer.

6.3 **Entire Liability.** This Section 6 sets forth Mimecast's entire liability and Customer's sole remedy in connection with any matters concerning any intellectual property rights relating to the Services. Customer agrees that any and all implied indemnification obligations that may apply to these General Terms are hereby excluded.

## 7. Limitation of Liability

7.1 **Exclusion of Damages.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE FOR ANY (A) INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, (B) LOSS OF PROFITS, (C) LOSS OF ANTICIPATED SAVINGS, OR (D) LOST MANAGEMENT TIME OF ANY KIND WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THESE GENERAL TERMS OR ANY OF THE SERVICES PROVIDED OR AGREED TO BE PROVIDED BY MIMECAST, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY THEREOF. THE TERMS OF THIS SECTION WILL NOT APPLY TO ANY AMOUNTS PAYABLE IN CONNECTION WITH THE INDEMNIFICATION OBLIGATIONS STATED HEREIN.

7.2 **Liability Cap.**

(a) General. Except with respect to Data Claims as described in subsection 7.2(b) below, each party's maximum liability for any and all causes of action arising out of or relating to these General Terms or the Services (collectively, "**General Claims**"), whether in contract, tort, statute or otherwise, will be limited to an amount equal to the fees paid by Customer to Mimecast (or Reseller) for the applicable Services during the twelve months preceding the incident giving rise to the General Claim; provided that, the foregoing cap will not apply to: (i) the indemnification obligations set forth in these General Terms, (ii) Customer's obligations under Section 3.3 (Restrictions), (iii) Customer's payment obligations or (iv) Data Claims (as defined in subsection 7.2(b) below).

(b) Data-related Claims. Mimecast's maximum liability for any and all Data Claims will be limited to an amount equal to the greater of: (i) USD \$100,000 (or the equivalent in the currency of the applicable Hosting Jurisdiction at the time the claim arose) or (ii) two times the fees paid by Customer to Mimecast (or Reseller) for the applicable Services during the twelve months preceding the event giving rise to the Data Claim. The liability cap described in this subsection 7.2(b) is intended to cover Data Claims only and may not be combined with the cap described in subsection (a) in connection with the same set of underlying facts. Customer agrees that the limitations of liability set forth in these General Terms are intended to apply to any Data Agreement entered into by the parties and that such limitations will control in the event of any conflict between such agreements. "**Data Claims**" means, collectively, any and all causes of action arising out of or relating to Mimecast's breach of the obligations set forth in Section 2 (Data Protection) or in any Data Agreement, whether in contract, tort, statute or otherwise.

7.3 Limitations. Notwithstanding the terms of any other provision of these General Terms, neither party's liability is excluded or limited by these General Terms in the event of: (a) death or personal injury caused by its negligence; (b) fraudulent misrepresentation; or (c) any other liability which may not lawfully be excluded or limited.

## 8. Term and Termination

8.1 Term. These General Terms will remain in effect until the conclusion of all agreed-to Services Orders between Customer and Mimecast. Each Subscription Term will renew automatically, unless one party gives the other party written notice of its intent not to renew the applicable subscription at least thirty days prior to the end of the then-current Subscription Term.

### 8.2 Termination.

(a) Opt-out. Customer may terminate its initial Services Order with Mimecast at any time within thirty days of the effective date of such Services Order. If any fees have been paid in advance, such fees will be promptly refunded. If notice of termination is not received within the thirty-day time period, then the Subscription Term described in the Services Order will continue unaffected.

(b) For Breach. Either party may terminate these General Terms immediately on giving notice in writing to the other party if the other party commits any material breach of any term of these General Terms or related Services Orders and has not cured such breach within thirty days of its receipt of written notice of the breach. Additionally, if Customer has purchased the Services through a Reseller, Mimecast may terminate these General Terms and all related Services Orders if Customer has not paid Reseller in a timely manner and has not cured such non-payment within fifteen days of its receipt of written notice.

8.3 Changes to Services. Customer acknowledges that the Services are offered as software-as-a-service and that the details of the offerings themselves, including the terms of the Service Levels and Support Description, will change over time. If such changes result in a material degradation of the Services, then Customer may provide written notice to Mimecast including a description of the degradation. If the identified material degradation is not corrected by Mimecast within thirty days of Mimecast's receipt of such notice from Customer, then Customer may terminate these General Terms and all applicable Services Orders and receive a refund of any fees paid for the remainder of the then-effective Subscription Term.

8.4 Suspension of Services. Mimecast may suspend the Services in the event Customer fails to pay any undisputed amount within fifteen days of Mimecast's (or Reseller's) notice to Customer of such failure to pay. Additionally, in the event Customer's account is the subject of denial of service attacks, hacking attempts or other malicious activities, or Customer's activities reasonably appear to be in breach of Section 3.3 (Restrictions), Mimecast will work with Customer to resolve such matters as soon as possible. In such circumstances, to protect Mimecast's own systems, Customer acknowledges that Mimecast may be required to suspend the Services until the issues are resolved. Mimecast will provide advance notice to Customer of such suspension where reasonably practicable.

8.5 Survival. Customer's payment obligations, the provisions of this Section and the provisions of the following Sections will survive any termination of these General Terms: Section 2 (Data Protection), Section 3.3 (Restrictions), Section 5 (Disclaimer), Section 6 (Indemnification), Section 7 (Limitation of Liability) and Section 9 (General).

## 9. General

9.1 Transition from Reseller. If Customer transitions from its then-current Reseller to a new authorized Mimecast reseller, Customer will notify Mimecast in writing. In that event, Customer agrees that the terms and conditions of these General Terms will continue to apply to Customer's use of the Services (in addition to the pricing and other terms provided by Customer's new reseller). In the event Mimecast terminates its relationship with Customer's then-current Reseller, Mimecast will notify Customer in writing and will provide a description of the plan to maintain the Services through the end of the applicable Subscription Term. At the end of such term, Customer may continue to receive the Services through the authorized reseller of its choice.

9.2 Ownership of the Services. Mimecast and its third party licensors will retain all ownership interest in and to the Services and its underlying systems (for clarity, specifically excluding Customer Data, which the parties acknowledge is owned by Customer). Customer's rights are limited to those expressly stated in these General Terms. Notwithstanding any provision herein to the contrary, nothing in these General Terms is intended to limit Customer's liability in the event of Customer's violation of the intellectual property rights of Mimecast and any claim with respect to such violation will not be deemed governed by these General Terms.

9.3 Legal Demands. Notwithstanding any provision herein to the contrary, Customer Data may be retained and disclosed by Mimecast as required to comply with applicable laws, regulations, subpoenas or court orders or to otherwise enforce its rights under these General Terms. Where allowed by law, Mimecast will provide reasonable prior written notice to Customer to permit Customer to seek a protective order and will cooperate in Customer's activities under this Section, at Customer's expense. Mimecast will disclose only that information that is reasonably necessary to meet the applicable legal order or requirement.

9.4 Force Majeure. Neither party will be liable for any delay in performance or failure to perform its obligations under these General Terms due to any cause or event outside its reasonable control including, acts of God, civil or military authority, act of war, accidents, third party computer or communications failures, natural disasters or catastrophes, strikes or other work stoppages or any other cause beyond the reasonable control of the affected party.

9.5 Assignment. Customer may assign these General Terms in whole or in part to a successor in interest in the event of a sale or merger of Customer. Otherwise, Customer may not assign these General Terms or any Services Orders in whole or in part without Mimecast's prior written consent, which consent will not be unreasonably withheld. These General Terms will be binding upon the parties hereto and any authorized assigns.

9.6 Notices. Any business communications in connection with these General Terms may be provided by email. Any legal notices relating to these General Terms must be provided in writing and sent to the receiving party at the address set out in the applicable Services Order or any address later provided by such party. All notices will be sent by major commercial delivery courier service or mailed in a manner that requires signature by the recipient.

9.7 Entire Agreement. Each party hereby acknowledges that no reliance is placed on any representation not provided in these General Terms. The parties further acknowledge that Reseller is not entitled to modify the terms of these General Terms, including the Support Description or Services Levels or to otherwise make promises, representations or warranties on behalf of Mimecast. No purchase order or other communication will add to or vary these General Terms. Any purchase order or other terms provided by Customer will be accepted by Mimecast for invoicing purposes only.

9.8 Modifications; Severability. Except as expressly provided herein, any modification to these General Terms must be made in writing and signed by an authorized representative of each party. If any provision of these General Terms is held to be unenforceable, such provision will be reformed to the extent necessary to make it enforceable, and such holding will not impair the enforceability of the remaining provisions.

9.9 Waiver. The failure by a party to exercise any right hereunder or to insist upon or enforce strict performance of any provision of these General Terms will not waive such party's right to exercise that or any other right in the future.

9.10 No Third Party Beneficiaries. These General Terms are entered into solely between, and may be enforced only by, Mimecast and Customer. These General Terms will not be deemed to create any third party rights or obligations thereto.

9.11 Independent Contractors. Each party to these General Terms will be acting as an independent contractor, and nothing herein will be construed to create a partnership, joint venture or any type of agency relationship between Mimecast and Customer or any Permitted User.

9.12 Limitations of Liability. Mimecast acknowledges that any limitation of liability set forth in these General Terms is intended to apply only to the extent permitted by applicable law.

9.13 Export Restrictions. Each party agrees to comply with all applicable regulations of the United States Department of Commerce and with the United States Export Administration Act, as amended from time to time, and with all applicable laws and regulations of other jurisdictions with respect to the export and import of the Services.

#### **10. Regional Terms for the United States of America.**

The following terms will apply if the party contracting for Mimecast (as set forth in the applicable Services Order) is located in the United States of America:

10.1 Governing Law (US). These General Terms and any disputes hereunder will be governed by the laws of the Commonwealth of Massachusetts, without regard to its conflict of law principles, and any litigation concerning these General Terms shall be submitted to and resolved by a court of competent jurisdiction in Boston, Massachusetts. Notwithstanding the foregoing, either party may seek equitable, injunctive or declaratory relief to enforce any of its intellectual property rights or rights in the Customer Data or Confidential Information in any court of appropriate jurisdiction.

10.2 Waiver of Jury Trial (US). Where applicable, each party hereby waives its respective rights to a jury trial of any claim or cause of action relating to or arising out of these General Terms. This waiver is intended to encompass any and all disputes that may be filed in any court and that relate to the subject matter of these General Terms, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party further represents and warrants that it has consulted with legal counsel concerning this waiver and that it provides the waiver under this Section knowingly and voluntarily.

10.3 Termination for Bankruptcy (US). Either party may terminate these General Terms and any then-current Services Orders immediately on giving notice in writing to the other party if the other party files for bankruptcy, becomes or is declared insolvent, or is the subject of any process or proceedings related to its wind-down, liquidation, insolvency or the appointment of a receiver, trustee or similar officer.

#### **11. Regional Terms for the United Kingdom.**

The following terms will apply if the party contracting for Mimecast (as set forth in the applicable Services Order) is located in the United Kingdom:

11.1 Governing Law (UK). These General Terms and any court proceedings shall be governed by the laws of England and Wales and held in England. Notwithstanding the foregoing, either party may seek equitable, injunctive or declaratory relief to enforce any of its intellectual property rights or rights in the Customer Data or Confidential Information in any court of appropriate jurisdiction.

11.2 Termination for Bankruptcy (UK). Either party may terminate these General Terms immediately on giving notice in writing to the other party if an Insolvency Event happens in respect of the other party. “**Insolvency Event**” means any of the following: (a) a meeting of creditors of that person being held or an arrangement or composition with or for the benefit of its creditors (including a voluntary arrangement as defined in the Insolvency Act 1986) being proposed by or in relation to that person; (b) a chargeholder, receiver, administrative receiver or other similar person taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged within seven days) on the whole or a material part of the assets of that person; (c) that person ceasing to carry on business or being deemed to be unable to pay its debts within the meaning of section 123 Insolvency Act 1986; (d) that person or its directors or the holder of a qualifying floating charge giving notice of their intention to appoint, or making an application to the court for the appointment of, an administrator; (e) a petition being presented (and not being discharged within 28 days) or a resolution being passed or an order being made for the administration or the winding-up, bankruptcy or dissolution of that person; or (f) the happening in relation to that person of an event analogous to any of the above in any jurisdiction in which it is incorporated or resident or in which it carries on business or has assets.

#### **12. Regional Terms for the Republic of South Africa.**

The following terms will apply if the party contracting for Mimecast (as set forth in the applicable Services Order) is located in the Republic of South Africa:

12.1 Governing Law (RSA). These General Terms and any disputes hereunder will be governed by the laws of the Republic of South Africa, without regard to its conflict of law principles. The parties hereby consent and submit to the non-exclusive jurisdiction of the South Gauteng High Court, Johannesburg for the purpose of all or any legal proceedings arising from or concerning these General Terms.

12.2 Termination for Bankruptcy (RSA). Either party may terminate these General Terms immediately on giving notice in writing to the other party if an Insolvency Event happens in respect of the other party. “**Insolvency Event**” means any of the following: (a) a party is wound-up, liquidated, deregistered or placed under business rescue, in any such

event whether or not provisionally or finally and whether or not voluntarily or compulsorily, or pass a resolution providing for any such event; (b) a party has any application or other proceedings brought against or in respect of it in terms of which it is sought to be deregistered, wound-up, liquidated or placed under business rescue, in any such event whether provisionally or finally; (c) a party is deemed to be unable to pay its debts or have any business rescue proceedings commenced against it in terms of the Companies Act No. 71 of 2008 of 2008; or passes a resolution to place itself under business rescue; or (d) a party compromises or attempt to compromise with, or defer or attempt to defer payment of debts owing by it to, its creditors generally.

**13. Regional Terms for the Commonwealth of Australia.** The following terms will apply if the party contracting for Mimecast (as set forth in the applicable Services Order) is located in the Commonwealth of Australia:

13.1 Governing Law (AU). These General Terms and any arbitration and court proceedings shall be governed by the federal laws of Australia and the State of Victoria and held in Melbourne, Australia. Section 5 (Disclaimer), Section 6.3 (Entire Liability) and 7.1 (Exclusion of Damages) will apply only to the extent that they are consistent with non-excludable Australian laws and nothing in those Sections or these General Terms limit any consumer guarantees or other rights Customer may have under non-excludable Australian laws. Customer hereby consents to the jurisdiction of such courts over Customer and stipulates to the convenience, efficiency and fairness of proceeding in such courts, and covenant not to assert any objection to proceeding in such courts based on the alleged inconvenience, inefficiency or unfairness of such courts.

13.2 Termination for Bankruptcy (AU). Either party may terminate these General Terms immediately on giving notice in writing to the other party if an Insolvency Event happens in respect of the other party. "Insolvency Event" means any of the following: (a) the party suspends payment of its debts generally, or is or becomes unable to pay its debts when they are due, or is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth); (b) the party enters into, or resolves to enter into, any arrangement, composition or compromise with, or assignment for the benefit of, its creditors or any class of them; (c) the party ceases, or threatens to cease, to carry on business; or (d) a receiver, receiver and manager, administrator, trustee or similar official is appointed over any of the party's assets or undertakings, an application or order is made for the winding up or dissolution of the party, or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the party, except for the purpose of an amalgamation or reconstruction which has the terminating party's prior consent.

13.3 Disclaimer (AU). THE DISCLAIMER SET FORTH IN SECTION 5 DOES NOT EXCLUDE OR LIMIT ANY STATUTORY OR IMPLIED GUARANTEE, CONDITION OR WARRANTY THAT MAY NOT BY OPERATION OF LAW BE EXCLUDED OR LIMITED. TO THE EXTENT PERMITTED BY LAW, MIMICAST LIMITS ITS LIABILITY UNDER ANY STATUTORY OR IMPLIED CONDITION, WARRANTY OR GUARANTEE THAT CANNOT BE EXCLUDED TO, AT THE OPTION OF MIMICAST, THE RESUPPLY OF THE SERVICES OR THE PAYMENT OF THE COST OF DOING THE SAME.