

Appendix A – Terms and Conditions of Service and End User License Agreement

Terms and Conditions of Service and End User License Agreement

Demisto Inc.

1. ACKNOWLEDGMENT AND ACCEPTANCE

1.1. Please read these Terms and Conditions of Service and End User License Agreement (“TOS” or “Terms”) before using or accessing in any form or any of the products, application and/or services available through or in connection with Demisto’s website, (www.demisto.com) and/or the Demisto products, e.g. DBOT available from https://dbot.demisto.com (hereinafter the “Products and Services”). These Terms constitute a binding agreement between you and Demisto Inc. and its affiliates (“Demisto” or the “Company”) and by using and/or merely downloading any of the Products and Services in any form and manner you agree to abide, and that you are bound, by these Terms. By using any of the Products and Services you hereby declare that you are at least 18 years old. If you are a minor, you are required to obtain a parental consent for and prior to using the Products and Services.

1.2. These TOS and the use of the terms “you” or “users” are applicable to all types of users of the Products and Services, including owners who initially set up the Products and Services and/or are granted ownership privileges by the initial owner(s), administrators, who manage and run a team, channel, or group and users who are invited to join an existing group and/or team that has already been created.

1.3. If you are entering into these TOS on behalf of a company or other legal entity, you represent that you have the authority to bind such entity, its affiliates and users to this TOS. In that case, the terms “you” or “your” shall also refer to such entity, and its affiliates, as applicable. If you do not have such authority, or if you do not agree with this TOS, you may not use the Products and Services.

1.4. To avoid any doubt, our Product, DBOT, an add-on to Slack is NOT endorsed by, sponsored by, or associated with Slack Technologies, Inc., its products or services.

IMPORTANT NOTES:

ANY AND ALL USE OF THE PRODUCTS AND SERVICES SHALL BE SUBJECT TO THE FEES, FEATURES, SCOPE, DURATION AND SUCH ADDITIONAL TERMS AND CONDITIONS, WHICH ARE SPECIFIED UNDER A CORRESPONDING ORDER FORM OR AGREEMENT WITH THE CORRESPONDING DEMISTO'S RESELLER/DISTRIBUTOR, THAT WAS EXPRESSLY PRE-APPROVED IN WRITING BY DEMISTO ("RESELLER"), ATTACHED AND INCORPORATED BY REFERENCE TO THESE TERMS, WHICH YOU HAVE EXECUTED, SIGNED OR OTHERWISE AUTHORIZED IN CONJUNCTION WITH THE PURCHASE OF THE RIGHT TO USE THE PRODUCTS AND SERVICES (“ORDER FORM”). THE TERMS AND CONDITIONS OF THE ORDER FORM ARE HEREBY INCORPORATED BY REFERENCE INTO THESE TERMS, AND ANY REFERENCE TO “AGREEMENT” SHALL ALSO REFER TO THE THESE TERMS AS WELL AS TO THE ORDER FORM.

2. THE DEMISTO SERVICE – GRANT OF RIGHTS; RIGHT OF DEMISTO TO MODIFY

2.1. Subject to the terms and conditions hereunder, including timely payment of all applicable fees specified under the Order Form, you are hereby granted with a non-exclusive, non-transferrable, right to use the Products and

Services, for your own internal use, within the scope and for the limited term specified under the Order Form, subject to earlier termination or expiration of the Agreement (the "**Term**").

2.2. Other than the rights expressly licensed hereunder to you, no other rights or interest whatsoever in any of the Products and Services and/or any component thereof, are transferred or granted. Without limiting the foregoing, you may not: (i) use the Products and Services or any part thereof, for purposes other than those explicitly set forth hereunder; (ii) reverse engineer or de-compile, modify or revise Products and Services, or any part thereof, or create derivative works thereof; (iii) sub-license, resell or re-offer the Products and Services, or any part thereof or use the Products and Services to offer services to any third parties; (iv) otherwise commercially utilize the Products and Services, or any part thereof except as expressly permitted under your written agreement with Demisto.

2.3. You acknowledge and agree that Demisto has the right, at any time and for any reason redesign or modify the organization, structure, specifications, "look and feel," navigation, features and other elements of the Products and Services and/or any part thereof, provided that such do not result in the Products and Services being materially and adversely different than the Products and Services as first made available following the execution of this Agreement.

3. USE OF THE PRODUCTS AND SERVICES

You agree that you will not use the Products and Services for any of the following purposes.

- 3.1. Any unlawful, invasive, infringing, defamatory or fraudulent purpose;
- 3.2. To send unsolicited bulk commercial email ("Spam") of any kind, regardless of the content or nature of such messages;
- 3.3. To send any harmful code or attachment with the Products and Services;
- 3.4. To use the Products and Services in a way that has a detrimental effect upon Demisto, its Users or the Products and Services, as determined by Demisto at its sole discretion;
- 3.5. To use or attempt to use the Products and Services in breach of these Terms;
- 3.6. To transmit harassing, obscene, racist, malicious, abusive, libelous, illegal or deceptive messages or files;
- 3.7. To commit or attempt to commit a crime or facilitate the commission of any crime or other illegal or tortious act;
- 3.8. To interfere with the use of the Products and Services by other Users;
- 3.9. To alter, tamper with or circumvent any aspect of the Products and Services;
- 3.10. To test or reverse engineer any of the Products and Services in order to find limitations or vulnerabilities.

You acknowledge and agree that you are responsible for your use of the Products and Services. You are fully responsible for the control of and/or access to your account, including limiting access to user names and passwords and you agree to take all reasonable precautions to protect your user name and password and access to your account. You agree that you will immediately notify Demisto in the event that you discover or believe that your account or user name or password has been accessed in any unauthorized way. Demisto shall not be liable to you or any third party for any failure by you to prevent unauthorized access to your account.

The Products and Services cannot and should not be relied to detect all malicious or other harmful or problematic files or data. Alternatively, Demisto is not responsible in the event that the Products and Services may designate some files or data as malicious or harmful, when they are not.

4. USER RESPONSIBILITY FOR CONTENT

4.1. The Products and Services cannot and should not be relied upon to detect all malicious or other harmful or problematic files or data, and you are responsible for all data and content that you post and/or access, even if it was monitored by the Products and Services. Demisto is not responsible in any way to the monitored or other content and materials nor does such monitoring guarantee detection of all malicious or other harmful or problematic files or data.

4.2. We urge you not to access or read any suspicious files and/or information even if those were monitored using a Demisto product.

4.3. You understand that all information (such as data files, written text, computer software, code, music, audio files or other sounds, photographs, videos or other images, etc.) which you may be monitoring using the Products and Services are the sole responsibility of the person from which such content originated. All such information is referred to below as the “Content”.

4.4. You understand that although you are using the Products and Services you may be exposed to Content that you may find harmful, unlawful, offensive, indecent or objectionable and that you use the Products and Services at your own risk.

4.5. You agree that you are solely responsible for (and that Demisto has no responsibility to you or to any third party for) any Content that you access, use, transmit or display while using the Products and Services and for any consequences that your actions may have (including any loss or damage which Demisto may suffer) by doing so.

4.6. You agree that you will not engage in any activity that interferes with or disrupts the Products and Services or the servers and networks which are connected to the Products and Services.

5. ACCURACY AND RETENTION OF INFORMATION; COMPLIANCE WITH LAWS

5.1. You agree that any registration information you give to Demisto will always be accurate, correct and up to date.

5.2. You agree to use the Products and Services only for purposes that are permitted by (a) the Terms and (b) any applicable law, regulation in the relevant jurisdictions.

5.3. You acknowledge and agree that in connection with the provisions of the Products and Services Demisto may gain access to certain information and data with respect to your name, email address and the messages accessed (including with other users) through the affiliate integrated products (e.g. Slack).

5.4. Demisto’s privacy policy is set out in the attached policy accessible at www.demisto.com/privacy. You acknowledge and agree that you have read and understood the policy and agree to be bound by its terms.

6. CONSIDERATION

In consideration for the rights and services granted under this Agreement, you shall pay to the Reseller the fees specified under the Order Form in accordance with the payment and other terms specified thereunder.

7. COMMUNICATIONS

Notices to you will be addressed via contact information provided by you during the account registration process unless you have notified Demisto of any changes.

8. SUPPORT

During a period commencing on the entry into force of this Agreement and ending on the earlier of: (i) termination or expiration of this Agreement; or (ii) 3 (three) years following the entry into force of this Agreement, and for as long as you have timely paid all fees payable under this Agreement, Demisto shall provide support for the Products and Services in accordance with the below:

Designated Level of Support:

~~☐ Silver Support~~

✓ **Gold Support**

Problem Severity	Definition	Response time	Availability	Available Communication Method
Critical	Critical business process such as production stops	<2 hours	24X7	Call/Slack/Mail/Web
High	Demisto system failure / not functioning	<8 hours	24X7	Call/Slack/Mail/Web
Medium	Demisto error / functionality issue	<24 hours	12X5	Slack/Mail/Web
Low	User “how to” queries	<72 hours	12X5	Slack/Mail/Web

9. INDEMNITY

Demisto agrees at its sole cost and expense to indemnify, defend and hold you harmless your officers, directors, employees, contractors and permitted successors and assigns from and against any and all third party claims, damages, costs, liabilities or expenses incurred (including reasonable attorneys’ fees), finally awarded against you in a settlement or by a court, to the extent arising from any claims, suits or proceedings brought by third parties: i) arising out of Demisto’s gross negligence or willful misconduct hereunder; or ii) alleging that the Products and Services and/or Support Services infringe or misappropriate any patent, copyright, trademark, trade secret or other intellectual property rights of any third party.

The above duty to indemnify is contingent on you providing Demisto without delay of any such claim, allowing Demisto to control the defense and settlement of any such claim and reasonably cooperating (at Demisto's expense) with Demisto in connection with the foregoing.

Demisto shall have no duty to indemnify to the extent that the liability arises from: (i) modification to the Products and Services or any part thereof made not by Demisto; (ii) use of the Products and Services not in accordance with this Agreement and/or the Documentation; or (iii) where the liability arises from the combination of the Products and Services with other product, software or platform, where the Products and Services standing-alone would not have caused such liability.

10. DISCLAIMER OF WARRANTIES AND LIABILITIES

THE PRODUCTS AND SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. NEITHER THE TERMS, DEMISTO’S ORDER FORM, NOR ANY DOCUMENTATION FURNISHED UNDER THEM ARE INTENDED TO EXPRESS OR IMPLY ANY WARRANTY THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, OR ERROR-FREE. YOU ACKNOWLEDGE THAT THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE PRODUCTS AND SERVICES IS WITH YOU. SHOULD THE PRODUCTS AND SERVICES PROVE INADEQUATE IN ANY WAY, YOU AND NOT DEMISTO ASSUME THE ENTIRE COST OF ANY COSTS OR DAMAGES INCURRED BY YOU. DEMISTO DOES NOT WARRANT THAT YOU WILL HAVE UNINTERRUPTED OR ERROR-FREE USE OF THE PRODUCTS AND SERVICES, THAT ANY DATA SENT BY OR TO YOU WILL BE TRANSMITTED IN SECURE OR UNCORRUPTED FORM OR WITHIN A REASONABLE OR DEFINED PERIOD OF TIME, OR THAT THE PRODUCTS AND SERVICES WILL PREVENT FROM OCCURRING THAT WHICH THEY ARE DESIGNED TO PREVENT. YOU ACKNOWLEDGE THAT ANY DATA OR INFORMATION DOWNLOADED OR OTHERWISE OBTAINED, RECEIVED OR SUBMITTED THROUGH THE PRODUCTS AND SERVICES ARE AT YOUR SOLE RISK AND THAT DEMISTO WILL NOT BE LIABLE OR RESPONSIBLE FOR ANY HARM OR DAMAGE TO YOU OR YOUR PROPERTY (INCLUDING ANY DATA, PERSONAL COMPUTER EQUIPMENT OR STORAGE MEDIA). DEMISTO IS NOT RESPONSIBLE FOR THE CONTENT OF DATA, INFORMATION OR ATTACHMENTS WHICH ARE MONITORED THROUGH DEMISTO’S PRODUCTS AND SERVICES.

11. EXPORT CONTROL COMPLIANCE WITH LAWS

Export Restrictions. The Products and Services delivered to you under this Agreement are subject to U.S. export control laws and regulations and may also be subject to import and export laws of the jurisdiction in which it was obtained, if outside of the U.S. You shall abide by all applicable export control laws, rules and regulations applicable to the Products and Services. Without derogating from the generality of the foregoing, you agree that you will not export, re-export, or transfer the Products and Services, in whole or in part, to any country, person, or entity subject to U.S. export restrictions. To avoid any doubt, the use of the Products and Services, in whole or in part, in any country, subject to U.S. or any other applicable jurisdiction export restrictions is not allowed. You specifically agree not to export, re-export, or transfer the Products and Services (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country; (ii) to any person or entity who you know or have reason to know will utilize the Products and Services or portion thereof in the design, development, production or use of nuclear, chemical or biological materials, facilities, or weapons; or (iii) to any person or entity who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government. You agree that you shall use the Products and Services solely in a manner that complies with all applicable laws in the jurisdictions in which you use the Products and Services, including, but not limited to, applicable restrictions concerning copyright and other intellectual property rights.

12. LIMITATION OF LIABILITY

EXCEPT FOR A EITHER PARTY'S WILLFUL MISCONDUCT UNDER THESE TERMS, UNDER NO CIRCUMSTANCES WHATSOEVER WILL EITHER PARTY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, BE RESPONSIBLE OR LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS AND LOST BUSINESS OPPORTUNITIES), SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES THAT RESULT FROM OR RELATE IN ANY MANNER WHATSOEVER TO THESE TERMS (INCLUDING TO AVOID ANY DOUBT ANY RELATED ORDER FORM AND/OR AGREEMENT). EXCEPT FOR EITHER PARTY'S WILLFUL MISCONDUCT UNDER THESE TERMS (INCLUDING TO AVOID ANY DOUBT ANY RELATED ORDER FORM AND/OR AGREEMENT), THE INDEMNIFICATION OBLIGATIONS CONTAINED IN SECTION 9, IN NO EVENT SHALL THE AGGREGATE TOTAL LIABILITY OF EITHER PARTY UNDER THESE TERMS (INCLUDING TO AVOID ANY DOUBT ANY RELATED ORDER FORM AND/OR AGREEMENT) EXCEED: THE AMOUNTS RECEIVED BY DEMISTO FROM THE RESELLER IN CONNECTION WITH THE ORDER FORM IN THE 12 MONTH PERIOD PRECEDING THE EVENT OF LIABILITY; IN NO EVENT SHALL THE AGGREGATE TOTAL LIABILITY OF THE INDEMNIFICATION OBLIGATIONS UNDER SECTION 9 ABOVE EXCEED AN AGGREGATE TOTAL AMOUNT OF EQUAL TO 3 (THREE) TIMES THE AMOUNTS RECEIVED BY DEMISTO FROM THE RESELLER IN CONNECTION WITH THE ORDER FORM. THE LIMITATIONS IN THIS SECTION ARE COMPREHENSIVE AND THE EXAMPLES GIVEN ARE NOT EXHAUSTIVE. THE LIMITATIONS IN THIS SECTION ARE SEPARATE AND INDEPENDENT OF ANY OTHER LIMITATIONS IN THESE TERMS AND SHALL NOT FAIL IF SUCH OTHER LIMITATION OR REMEDY FAILS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

13. OWNERSHIP

You acknowledge and agree that Demisto is the exclusive owner of the Demisto Products and Service, including, without limitation, any and all derivatives, enhancements, modifications and/or improvements thereto, and any and all intellectual property or proprietary rights under any and all of the foregoing.

14. NOTICES

Any notices or communications under these Terms to you will be addressed to the electronic address specified in the Order Form, as you may update such information from time to time, and will be deemed delivered immediately upon sending in the case of electronic mail and three days after mailing in the case of standard written mail. Notices to Demisto shall be addressed to Demisto Inc. 10061 Bubb Road., Ste 300, Cupertino, CA 95014, or to such other address as Demisto may provide to you.

15. ASSIGNMENT

Demisto may assign these Terms without your notice or consent. You, however, may not assign these Terms or any rights hereunder.

16. GENERAL

The Terms and the relationship between you and Demisto are governed by the laws of the State of Delaware without regard to its conflict of law provisions. Any dispute or claim arising out of or in connection with the Terms will be

submitted to the exclusive jurisdiction of the competent courts in State of Delaware. Demisto's failure to exercise or enforce any right or provision of the Terms will not constitute a waiver of such right or provision. If any provision of the Terms is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and agree that the other provisions of the Terms remain in full force and effect. Neither party to the Terms will be liable to the other for any delay or failure in performance under the Terms resulting directly or indirectly from acts of nature or causes beyond its reasonable control. The Terms constitutes the entire agreement between the parties with respect to the Service and supersede all previous proposals, both oral and written, representations, writings, and all other communications between the parties.