

GOLDPHISH CUSTOMER AGREEMENT

This GoldPhish Customer Agreement (the “Agreement”) is between you and GoldPhish Limited (registered in England under registration no/ 10333752 and with a registered address at 2 Woodberry Grove, Finchley, London, N12 0DR). If you are agreeing to this Agreement not as an individual but on behalf of your company, then “Customer” or “you” means your company, and you are binding your company to this Agreement. If the legal entity that you represent does not agree with these terms and conditions, you must not accept this Customer Agreement or use or access the Products as an authorized representative.

By clicking on the “I agree” (or similar button) that is presented to you at the time of your Order, or by using or accessing GoldPhish products, you indicate your assent to be bound by this Agreement.

1. SCOPE OF THE AGREEMENT

1.1 This Agreement governs your initial purchase as well as any future purchases made by you that reference this Agreement.

1.2 This Agreement includes our Privacy Policy, any Orders, and any other referenced policies and attachments.

1.3 You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of GoldPhish which is not set out in the Agreement. Any samples, drawings, descriptive matter, or advertising issued by GoldPhish and any descriptions or illustrations contained in GoldPhish's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Agreement or any other contract between GoldPhish and you for the supply of Products.

2. PRODUCTS

2.1 This Agreement governs (a) GoldPhish’s cloud-based platform solutions, (b) GoldPhish’s reporting and consulting services, and (c) any related support or maintenance services provided by GoldPhish.

2.2 Provision of Products. GoldPhish shall make the Products available to you pursuant to the Order which forms a part of the Customer Agreement during each Subscription Term. You agree that your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by GoldPhish regarding future functionality or features.

2.3 Modification to Products. GoldPhish have the right, in our sole discretion, to revise, update, or otherwise modify the Products or alter your access to the Products; and for material changes, to the extent reasonably possible, GoldPhish will provide you with reasonable notice either posted on the website hosting the Products or to the Administrator’s (as defined below) email address. In the event GoldPhish need to maintain the security of the system or comply with any laws or regulations, GoldPhish reserve the right to modify the Products immediately, and to provide you with electronic or written notice within thirty (30) days after any material modifications. You may reject any changes to the Products by discontinuing use of the Products to which such changes relate. Your continued use of the Products will constitute your acceptance of and agreement to such changes.

3. RESPONSIBILITIES

3.1 GoldPhish Responsibilities. GoldPhish shall: (i) provide to you basic support for the Products at no additional charge, and/or upgraded support if purchased, (ii) use reasonable efforts to make the Products available for 24 hours each day, 7 days per week, except for: (a) planned downtime (of which GoldPhish shall give at least 7 hours' notice via the Products and which GoldPhish shall schedule to the extent practicable during the weekend hours from 6:00 p.m. and (iii) provide the Products only in accordance with applicable laws and government regulations. These responsibilities shall accord with the Order.

3.2 Customer Responsibilities. You shall (i) be responsible for its Authorised Users' compliance with this Customer Agreement, (ii) be solely responsible for the accuracy, quality, integrity and legality of the Customer Data and of the means by which it acquired the Customer Data, (iii) use reasonable efforts to prevent unauthorised access to or use of the Products, and notify GoldPhish promptly of any such unauthorised access or use, and (iv) use the Products only in accordance with the Order and applicable laws and government regulations. You shall not (a) make the Products available to anyone other than Authorised Users, (b) sell, resell, rent or lease the Products, (c) use the Products to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Products to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Products or third-party data contained therein, or (f) attempt to gain unauthorised access to the Products or their related systems or networks. You agree not to use any functions other than those described in the Products' "help text" even if your account has access to them.

4. **ORDERS**

4.1 Orders Directly with GoldPhish. GoldPhish's Product ordering documentation or quotation ("Order") will specify your authorised scope of use for the Products, which may include the number and type of Authorised Users, and number of licenses.

4.2 Reseller Orders. this Agreement applies whether you purchase our Products directly from GoldPhish or through GoldPhish Partners or other authorised resellers (each, a "Reseller"). If you purchase through a Reseller, your Scope of Use shall be stated in the Order placed by Reseller for you, and Reseller is responsible for the accuracy of any such Order. Resellers are not authorised to make any promises or commitments on GoldPhish's behalf, and we are not bound by any obligations to you other than what we specify in this Agreement.

5. **AUTHORISED USERS**

Only the specific individuals for whom you have paid the required fees and whom you designate through the applicable Product ("Authorised Users") may access and use the Products. Some Products may allow you to designate different types of Authorised Users, in which case pricing and functionality may vary according to the type of Authorised User. Authorised Users may be you or your Affiliates' employees, representatives, consultants, contractors, agents, or other third parties who are acting for your benefit or on your behalf. You may increase the number of Authorised Users permitted to access your instance of the Product by placing a new Order or, in some cases, directly through the Product. In all cases, you must pay the applicable fee for the increased number of Authorised Users. You are responsible for compliance with this Agreement by all Authorised Users. All use of Products by you and your Authorised Users must be within the Scope of Use and solely for the benefit of you or your Affiliates.

6. **FEES AND PAYMENT**

6.1 User Subscriptions. Unless otherwise specified herein, (i) Products are provided on a subscription basis on an annual contract, (ii) additional User Subscriptions purchased during the Subscription Term will have a pro rata term ending on the last day of the pre-existing Product Term. User Subscriptions are for designated Authorised Users and cannot be shared or used by more than one Authorised User, but may be reassigned to new Authorised Users replacing former Authorised Users who no longer require on-going use of the Products.

6.2 Payment for Products. The Products are licensed on an annual contract basis to the Customer that pays for the Product. You shall pay all fees in accordance with the specified billing period and currency in each Order. All amounts are non-refundable, non-cancelable and non-creditable. Unless otherwise specified in the Order, all subscriptions will automatically renew for periods equal to your initial Subscription Term (and you will be charged at the then-current rates) unless you cancel your subscription through info@goldphish.com. If you cancel, your subscription will terminate at the end of then-current annual contract.

6.3 Reseller payment. If you purchase any Products through a Reseller, you owe payment to the Reseller as agreed between you and the Reseller, but you acknowledge that GoldPhish may terminate your rights to use the Products if GoldPhish do not receive the corresponding payment from the Reseller.

6.4 Taxes. Your payments under this Customer Agreement exclude any taxes or duties payable in respect of the Products in the jurisdiction where the payment is either made or received. To the extent that any such taxes or duties are payable by GoldPhish, you must pay to GoldPhish the amount of such taxes or duties in addition to any fees owed under this Customer Agreement.

6.5 The per-unit pricing during any automatic renewal term shall be the same as that during the immediately prior Subscription Term unless GoldPhish has given you written notice of a pricing increase at least 60 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter. GoldPhish shall notify you before the 60 day notice period begins to run.

6.6 If your payment and registration information is not accurate, current, and complete and you do not notify GoldPhish promptly when such information changes, GoldPhish may suspend or terminate your account and refuse your use of the Products.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 GoldPhish reserves all rights, title and interest in and to the Products, including all related intellectual property rights. No rights are granted to you hereunder other than as expressly set forth herein.

7.2 Restrictions. You shall not (i) permit any third party to access the Products except as permitted herein, (ii) create derivative works based on the Products, (iii) copy, frame or mirror any part or content of the Products, other than copying or framing on your own intranets or otherwise for its own internal business purposes, (iv) reverse engineer the Products, or (v) access the Products in order to either build a competitive product or service, or copy any features, functions or graphics of the Products.

8. FEEDBACK

If the Customer, including Authorised Users, provides any feedback, comments, suggestions, ideas, description of processes, or other information to GoldPhish about or in connection with the Products, including without limitation any ideas, concepts, know-how or techniques contained therein ("Feedback"), then you grant GoldPhish a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, without any compensation to you or any restriction or obligation on account of intellectual property rights or otherwise. For clarity, no Feedback will be deemed your Confidential Information, and nothing in this Customer Agreement (including without limitation Section 6 (Confidentiality)) limits GoldPhish's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

9. CONFIDENTIALITY

9.1 Definition of Confidential Information. As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of the Customer shall include Customer Data; Confidential Information of GoldPhish shall include the Products; and Confidential Information of each party shall include the terms and conditions of this Customer Agreement, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Customer Data) shall not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

9.2 Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, (i) the Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing

Party for any purpose outside the scope of this Customer Agreement, and (ii) the Receiving Party shall limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Customer Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.

9.3 Protection of Customer Data. Without limiting the above, GoldPhish shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. GoldPhish shall not (a) modify Customer Data, (b) disclose Customer Data except as compelled by law in accordance with the "Compelled Disclosure" section below or as expressly permitted in writing by Customer, or (c) access Customer Data except to provide the product functionality and prevent or address product or technical problems, or at Customer's request in connection with customer support matters.

9.4 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable costs of compiling and providing secure access to such Confidential Information.

9.5 Agreed Disclosure. You agree to allow GoldPhish to reference you as a customer using GoldPhish technology on GoldPhish's website and in print copy or marketing collateral, provided that GoldPhish obtains your prior written consent. You will provide GoldPhish with an approved company logo that GoldPhish may publish on GoldPhish's website and/or marketing collateral to communicate such relationship.

10. DATA PROTECTION

10.1 The parties shall comply with all applicable data protection laws, including without limitation, in the case of GoldPhish acting as a data processor, compliance with the requirements of the Data Protection Act 1998 as amended from time to time.

10.2 Personal Data. If you are providing data to GoldPhish that is not personal to you, you agree that you have either provided the owner of such personal data notice or received permission from the owner of such personal data, as required by applicable law, for GoldPhish to: (i) use or disclose the data in accordance with our Privacy Policy, (ii) move the data outside of the country of residence of such owner of the personal data, if applicable, (iii) provide the data to Third Party Products that you approve, and (iv) otherwise use and disclose the data in accordance with this Customer Agreement. You acknowledge and agree that GoldPhish may provide data in your account to any Additional Authorised Users to which that data is applicable or personal to.

10.3 Public Content. As an Authorised User, you may have the opportunity to share their data, Content, or ways in which they aggregate data ("Account Content") with other Authorised Users, other GoldPhish customers, and other third parties. When sharing any Account Content, you agree not to share any confidential information. If you have the option of accessing another Authorised User's Account Content, you understand and agree that the Account Content is being provided by the Authorised User, and not GoldPhish, for information and guidance purposes only, and GoldPhish and such Authorised User are not responsible in any way for your use the Account Content.

11. WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

11.1 GoldPhish Warranties. GoldPhish warrants that (i) the Products shall perform materially in accordance with the Order, and (ii) the functionality of the Products will not be materially decreased during a Subscription Term. For any breach of either such warranty, your exclusive remedy shall be as provided in the "Termination for Cause" and "Refund or Payment upon Termination" sections below.

11.2 Mutual Warranties. Each party represents and warrants that (i) it has the legal power to enter into this Customer Agreement, and (ii) it will not transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party). Further, both parties warrant that the Products referred to more particularly in the Order shall not be used in any way that causes any form of damage whatsoever to the other party.

11.3 Disclaimer. Except as expressly provided herein, neither party shall make any warranties whether express or implied of merchantability or fitness for purpose.

11.4 Failure to comply with the terms of the Customer Agreement or Order will not be deemed a breach of the Customer Agreement if the non-compliance relates to a Force Majeure Event. This is an event beyond the reasonable control of either party, including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

12. INDEMNIFICATION

Indemnification by the Customer. You shall defend GoldPhish against any Claim made or brought against GoldPhish by a third party alleging that the Customer Data, or your use of the Products in violation of this Customer Agreement, infringes or misappropriates the intellectual property rights of a third party or violates applicable law, and shall indemnify GoldPhish for any damages finally awarded against GoldPhish in connection with any such Claim.

13. LIMITATION OF LIABILITY

13.1 Limitation of Liability. In no event shall either party's liability arising out of or related to this Customer Agreement, whether in contract, tort or under any other potential liability exceed the total amount paid by you under the terms of this Customer Agreement.

13.2 Exclusion of Consequential and Related Damages. In no event shall either party have any liability to the other party for any loss of profits for any indirect special incidental consequential cover or punitive damages, howsoever caused.

14. TERM AND TERMINATION

14.1 Term of Agreement. This Customer Agreement commences on the Effective Date, specified in the Order, and continues until all User Subscriptions granted in accordance with this Customer Agreement have expired or been terminated at the end of the Subscription Term referred to in the Order.

14.2 Term of User Subscriptions. User Subscriptions commence on the start date specified in the Order and continue for the Subscription Term specified therein.

14.3 Termination for Cause. A party may terminate this Customer Agreement for cause (i) upon 30 days' written notice to the other party of a material breach if such breach remains unresolved at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, or (iii) if you fail to make payment of the invoices within 60 of receipt of the same.

14.4 Return of Customer Data. Upon request by the Customer made within 30 days after the effective date of termination, GoldPhish will make available to you for download a file of the Customer Data in comma separated value (.csv) format along with attachments in their native format. After such 30-day period, GoldPhish shall have no obligation to maintain or provide any Customer Data and shall thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

14.5 Surviving Provisions. The sections titled "Fees and Payment," "Intellectual Property Rights," "Confidentiality," "Warranties and Disclaimers," "Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Return

of Customer Data," "Surviving Provisions" and "General Provisions" shall survive any termination or expiration of this Customer Agreement.

15. GENERAL PROVISIONS

15.1 Relationship of the Parties. The parties are independent contractors. This Customer Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

15.2 Term of User Subscriptions. User Subscriptions commence on the Effective Date specified in the Order and continue for the Subscription Term specified therein. Except as otherwise specified herein, all User Subscriptions shall automatically renew for additional periods equal to the expiring Subscription Term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 60 days before the end of the relevant Subscription Term.

15.3 Third-Party Beneficiaries. There are no third-party beneficiaries to this Customer Agreement.

15.4 Notices. Except as otherwise specified in this Customer Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after mailing, (iii) the second business day after sending by confirmed facsimile, or (iv), except for notices of termination or an indemnifiable claim ("Legal Notices"), the first business day after sending by email.

15.5 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Customer Agreement shall constitute a waiver of that right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

15.6 Force Majeure Event. If a Force Majeure Event occurs which prevents a party (the "Affected Party") from performing any of its obligations under an Order, or causes a delay in performance, the Affected Party shall not be liable to the other party (the "Other Party") and shall be released from its obligations under the relevant Order to the extent that its ability to perform such obligations has been affected by the Force Majeure Event, provided that the following take place:

15.6.1 The Affected Party notifies the Other Party in writing as soon as reasonably practicable of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon the Other Party;

15.6.2 The Affected Party takes all reasonable steps to mitigate the impact of the Force Majeure Event on the Other Party and in particular continues to perform those obligations affected by the Force Majeure Event but whose performance has not been rendered impossible to the highest standard reasonably practicable in the circumstances; and

15.6.3 The Affected Party resumes normal performance of all affected obligations as soon as the impact of the Force Majeure Event ceases and notifies the Other Party in writing of such resumption.

15.7 Severability. If any provision of this Customer Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Customer Agreement shall remain in effect.

15.8 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld or delayed).

15.9 Entire Customer Agreement. This Customer Agreement, including all Orders, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, Orders or representations, written or oral, concerning its subject matter.

15.10 Governing law. This Customer Agreement, and all disputes and claims arising out of or in connection with its subject matter, are governed by, and construed in accordance with English law.

15.11 Jurisdiction. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute that arises out of or in connection with this Customer Agreement.

Last Updated: 8 September 2017