

TERMS OF USE

These Terms of Use (**Agreement**), govern the relationship between Ares Technologies, Inc. d/b/a Gradient (**Gradient**) and The Customer (**Customer**). The parties agree as follows:

1.

1.1 Definitions. The term **Product** means Gradient's Zero Trust Access (ZTA) for SSO, and associated client software components and services, together with all other software, hardware, documentation, updates, data, know-how, recommendations and other information received from Gradient or its representatives Gradient's as set forth in the Gradient Cybersecurity Mesh: Zero Trust Access for SSO Service Description (ZTA Service Description) available at the following URL: <https://www.gradient.tech/service-descriptions>

1.2 License. In accordance with its Quote, Gradient will deliver one or more Products, and Services to Customer. Subject to all terms and conditions of this Agreement, Gradient grants Customer a nonexclusive, nontransferable license to use the Products and Services during the Term. Customer shall access and use the Products and Services only for Customer's business purposes and, not for any research, product development or other purpose.

1.3 Installation. Gradient will provide initial training as reasonably appropriate to permit Customer to install and use the Product. At Customer's request, Gradient will reasonably assist Customer to install and verify operation of the Product. Customer is solely responsible for backing-up or otherwise protecting all software, data and other information on its systems prior to installing, using or removing the Product.

1.4 [Intentionally Removed].

1.5 Services and Support. Gradient shall provide the support and related services for Customer as specified in the ZTA Service Description (the **Services**).

1.7 Cooperation. Customer shall provide such access to its information and property as may be reasonably required to permit Gradient to perform its obligations.

1.8 Compensation and Fees. Except as expressly set forth herein: (a) this is a fixed fee contract for a total amount as set forth in the Quote; (b) Customer shall not be obligated to pay Gradient any amount in excess of the total amount set forth herein; (c) costs in excess of the amounts set forth herein will be incurred at Gradient's sole liability; and (d) authorization to increase the total amount must be in writing duly signed by the agent who signs this Agreement or an authorized representative.

1.10 Invoices. Invoices shall be submitted no more often than monthly. An original invoice shall be submitted and must specify the purchase order number, the period covered by the invoice, and work performed therein. Payment shall be due within thirty (30) days after Customer Accounts Payable receives a reasonably adequate invoice statement. In no event shall Customer be liable for interest, penalties, expenses, or attorney's fees for late payments. No payment made hereunder shall constitute or be construed as final acceptance or approval of that part of the Services to which such payment relates or relieve Gradient of any

of its obligations hereunder with respect thereto.

2. PROPRIETARY RIGHTS.

2.1 Confidentiality. Each party agrees to treat this Agreement and all information, documents, electronic materials and other materials obtained in connection with the Product or Services or provided by or on behalf of Customer (regardless whether disclosed in writing, electronically, visually, or orally) as confidential and privileged (the "Confidential Information"). Each party agrees to protect the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event using less than a reasonable standard of care, and shall not disclose any Confidential Information to any third party, or use it for any purposes except fulfilling its obligations hereunder, without the prior written consent of the other party on each occasion, Confidential Information shall not include any information that (a) is or becomes generally known to the public; (b) was rightfully known to a party prior to its disclosure by the other party; (c) is lawfully received from a third party without breach of any obligation owed to the other party; or (d) was independently developed by a party without breach of any obligation owed to the other party. If a party is compelled by law to disclose Confidential Information of the other party, it shall provide prompt notice of such compelled disclosure and shall reasonably cooperate in any efforts to contest or limit the scope of such order or disclosure.

2.2 Restrictions. Customer is responsible for all activities conducted by its authorized users of the Product. For purposes of this Agreement, Customer shall not unless authorized by Gradient (a) use any Product to specify, design or develop any similar hardware, software, data or documentation, (b) decompile, disassemble or otherwise reverse engineer any Product, or use any similar means to discover the design, source code or trade secrets therein, or otherwise circumvent any technological measure that controls access thereto, (c) encumber, transfer, sublicense, distribute, reproduce, create derivative works of or modify any Product, (d) use any Product in any commercial product or service, or (g) permit any third party to do any of the foregoing. Any use of the Product in breach of this Agreement by Customer or its authorized users that in Gradient's judgment threatens the security, integrity or availability of the Product or Services may result in Gradient's immediate suspension of Customer's access to the Service; however, Gradient will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to such suspension.

2.3 No Implied Licenses. Except for the limited rights expressly granted hereunder, no other license is granted, no other use is permitted and Gradient and its licensors shall retain all rights, title and interests (including patent rights, copyright rights, trade secret rights and other intellectual property rights) in and to the Product and Services (including, without limitation any and all software,

products, outputs from the Services and/or analytics, works, and other intellectual property and moral rights related thereto or created, used, or provided by Gradient for the purposes of this Agreement, including any copies and derivative works of the foregoing). Customer shall not obscure, alter or remove any proprietary or legal notice displayed by or contained on or in any Product, or take any other action inconsistent with Gradient's ownership.

3. TERM AND TERMINATION.

3.1 Term. This Agreement commences on the Effective Date and terminates upon expiration of the Term as stated in the Quote. Either party may terminate this Agreement earlier, at any time, effective upon 30 days prior written notice of material breach that remains uncured by the end of the notice period.

3.2 Effects of Termination. Upon any expiration or termination of this Agreement, all rights, obligations and licenses shall cease, except that (a) all obligations that accrued prior to the effective date of termination and any remedies for breach shall survive, Customer (b) the provisions of Sections 1.2, 1.4, 2 (Proprietary Rights), 4 (Warranty), 5 (Liability Limitations), 6 (General Provisions) and this Section 3 shall survive.

4. WARRANTY; INDEMNIFICATION.

4.1 WARRANTY. Gradient warrants that during the Subscription Term the applicable Service ("SaaS Warranty") and Product ("Software Warranty") will substantially conform in all material respects to the ZTA Service Description. Customer will provide prompt written notice of any non-conformity. Gradient may modify the ZTA Service Description in its sole discretion, provided the functionality of the Product and Services, as applicable, will not be materially decreased during the Term. The Software Warranty does not apply to: (a) Software that has been modified by any party other than Proofpoint; or (b) Software that has been improperly installed or used in a manner other than as authorized under the Agreement. Customer's sole and exclusive remedy and Gradient's entire liability for any breach of the SaaS Warranty or the Software Warranty, subject to any SLA credits Customer may be entitled to receive per the ZTA Service Description, Gradient will (a) use reasonable efforts to fix, provide a work around, or otherwise repair or replace the Product or Services, as applicable, or if Gradient is unable to do so, (b) terminate the license to use such component of the Product or Services and return the subscription fees paid for such allegedly defective Product or Services, as applicable, for the period commencing from Customer's notice of nonconformity through the remainder of the Term, as applicable. Gradient will comply with all laws and regulations applicable to the provision of the Product and Services EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH HEREIN, GRADIENT (AND ITS LICENSORS) DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, EITHER IN FACT, STATUTORY, BY OPERATION OF LAW OR OTHERWISE, REGARDING THE PRODUCT, SERVICES AND OTHER SUBJECT MATTER HEREOF, INCLUDING WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, ACCURACY, INTEGRATION, QUIET ENJOYMENT,

MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND ALL IMPLIED WARRANTIES ARISING OUT OF ANY COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE.

4.2 Indemnification. Gradient shall indemnify, defend and hold harmless Customer and its officers, directors, employees, affiliates and its and their respective representatives (*Indemnitees*) from and against any and all third party claims, liabilities, damages and/or costs (including, but not limited to, reasonable attorneys' fees) arising out of or related to any claim that the Product or Services provided by Gradient or that the Product or Services violate the intellectual property rights of any third party or any applicable law.

4.3 Indemnification Procedure. Gradient's obligations under Section 4.2 shall be conditioned upon the Indemnitee providing the Gradient with: (a) prompt written notice of any claim (provided that a failure to provide such notice shall only relieve the Indemnitor of its indemnity obligations if the Gradient is materially prejudiced by such failure); (b) sole control over the defense and settlement of any claim (provided that the Indemnitee may participate in such defense and settlement at its own expense and that Gradient shall not settle any such claim unless such settlement includes an unconditional release of the Indemnitee from all liability or obligations related to such claim except to the extent such liability or obligation is assumed or performed by Gradient (e.g. payment of a negotiated amount)); and (c) reasonable information and assistance in connection with such defense and settlement (at the Gradient's expense).

4.4 Indemnification Exclusions. The foregoing obligations of Gradient under Section 4.2 do not apply with respect to the Services, Product or any information, technology, materials or data (or any portions or components of the foregoing) to the extent (a) not provided by Gradient or its agents or subcontractors, (b) modified after delivery by Gradient without Gradient's approval, (c) combined with other products, processes or materials not provided or approved by Gradient, (d) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (e) Customer's use of the Product or Services is not strictly in accordance herewith.

4.5 Security. Gradient maintains appropriate administrative, physical and technical safeguards to protect the security and integrity of the Product and Services, in accordance with industry standards including the NIST Cybersecurity Framework (CSF) as well as NIST 800-171. Gradient will promptly notify Customer's primary point of contact upon becoming aware of a security breach in the Product or Services according to Gradient's Incident Response Policy and Procedures. Specifically, within 24 hours of declaration of Incident by Gradient's CISO, Gradient will send a notification via email and phone.

5. LIABILITY LIMITATIONS.

5.1 LIABILITY LIMITATIONS. IN NO EVENT SHALL CUSTOMER OR GRADIENT (OR ITS LICENSORS) BE LIABLE

TO THE OTHER PARTY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT FOR ANY CAUSE WHATSOEVER REGARDLESS OF THE FORM OF ANY CLAIM OR ACTION (WHETHER IN CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), FOR ANY (A) MATTER BEYOND ITS REASONABLE CONTROL, (B) LOSS OR INACCURACY OF DATA, LOSS OR INTERRUPTION OF USE, OR COST OF PROCURING SUBSTITUTE TECHNOLOGY, GOODS OR SERVICES, OR (C) INDIRECT, PUNITIVE, INCIDENTAL, RELIANCE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF BUSINESS, REVENUES, PROFITS OR GOODWILL EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY REMEDY PROVIDED HEREIN.

5.2 EXCLUSIONS FROM LIMITATION OF LIABILITY. THE LIMITATIONS SET FORTH IN SECTION 5.1 SHALL NOT APPLY WITH RESPECT TO: (A) DAMAGES CAUSED BY THE FRAUDULENT, OR WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF A PARTY; OR (B) DAMAGES OCCASIONED BY CUSTOMER'S BREACH OF SECTION 2.2.

6. GENERAL PROVISIONS.

6.1 Third Party Software. The Products may include software or other technology (*Licensed Materials*) owned and licensed to Gradient by third parties (*In-Licensors*), the use of which may be subject to additional terms set forth in the applicable open source, community source or other license as identified in documentation delivered to Customer. Customer unconditionally agrees that the In-Licensors (a) make no representation or warranty to Customer, concerning the Products or otherwise and (b) have no obligation or liability to customer as a result of this Agreement.

6.2 Entire Agreement. This Agreement constitutes the entire agreement, and supersedes all prior negotiations, understandings or agreements (oral or written), between the parties about the subject matter of this Agreement. This Agreement may be executed in one or more counterparts, each of which shall be an original, but taken together constituting one and the same instrument. Execution of a facsimile copy (including PDF) shall have the same force and effect as execution of an original, and a facsimile signature shall be deemed an original and valid signature. No waiver, consent or modification of this Agreement shall bind either party unless in writing and signed by the party against which enforcement is sought. The failure of either party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights. If any provision of this Agreement is determined to be illegal or unenforceable, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement is in English only, which language shall be controlling in all respects. No version of this Agreement in another language shall be binding or of any effect.

6.3 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware,

USA, without regard to its conflicts of law provisions. In the event of any conflict between US and foreign laws, regulations and rules, US laws, regulations and rules shall govern. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. In any action or proceeding to enforce this Agreement, the prevailing party will be entitled to recover from the other party its costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment or order obtained if awarded by a court of competent jurisdiction.

6.4 Remedies. Unless specifically provided otherwise, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. Customer and Gradient agree that any breach or threatened breach of Section 2 will cause the other party irreparable damage for which it will have no adequate remedy at law. Accordingly, a party shall be entitled to seek injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of proving actual damages or posting any bond.

6.5 Notices. Any notice or communication hereunder shall be in writing and either personally delivered or sent via confirmed facsimile, recognized express delivery courier or certified or registered mail, prepaid and return receipt requested, addressed to the other party at its address specified herein, or at such other address designated in a subsequent notice. All notices shall be in English, effective upon receipt.

6.6 Assignment. This Agreement and the rights and obligations hereunder are personal to Customer and may not be assigned or otherwise transferred, in whole or in part, without Gradient's prior written consent. Gradient may assign this Agreement to any of its affiliates or to any successor to all or substantially all of its business which concerns this Agreement (whether by sale of assets or equity, merger, consolidation or otherwise). This Agreement shall be binding upon, and inure to the benefit of, the successors, representatives and permitted assigns of the parties.

6.7 Independent Contractors. The parties shall be independent contractors under this Agreement, and nothing herein will constitute either party as the employer, employee, agent or representative of the other party, or both parties as joint venturers or partners for any purpose. The relationship is non-exclusive. Each party is free to pursue relationships and opportunities with others similar to those contemplated by this Agreement. Nothing in this Agreement shall be construed as obligating the parties to enter into any subsequent agreement or relationship.

6.8 Use of Name. Neither party shall use the other party's name, logo or trademarks, or any variation, adaptation, or abbreviation thereof, or the name of any of its trustees, officers, employees, or agents, in any promotional materials or other public announcement or disclosure without the express written approval of the other party. Notwithstanding the foregoing, Gradient may identify Customer in an alphabetical client list of all customers (minimum of 5 customers), Customer's name to be weighted equally with other customers and without use of Customer's logo.

6.9 Force Majeure. Neither party shall be liable for any delay or

default in performing hereunder if such delay or default is caused by conditions beyond its reasonable control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), war, terrorism, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected.

laws and regulations of the Export Administration Regulations (“EAR”, 15 CFR Part 730 et seq.) and the regulations administered by the Treasury Department’s Office of Foreign Assets Control (“OFAC regulations”, 31 CFR Part 500 et seq.), as amended from time to time. Each party represents that it is not named on any U.S. government list of persons or entities with which U.S. persons are prohibited from transacting, nor owned or controlled by or acting on behalf of any such persons or entities.

6.10. Export Control. Each party agrees to comply, and shall be responsible for its own compliance, with applicable export control

IN WITNESS WHEREOF, intending to be legally bound, the parties have caused their duly authorized officers to execute this Agreement as a sealed instrument, as of the Effective Date.

GRADIENT

Customer

By: _____
Name: _____
Title: _____
Date: _____

By: _____
Name: _____
Title: _____
Date: _____