

END USER LICENSE AGREEMENT FOR ESKER ON DEMAND SOFTWARE (DECEMBER 2022)

These end user license terms and conditions (hereinafter “the Agreement”) are an agreement between ESKER SA (or one of its affiliates) (hereinafter “Esker”) and the customer which has purchased, via an Esker partner, a subscription to access and use the Software and Associated Services. The Agreement shall therefore govern the rights granted to the Customer in relation with the software as a Service Esker on Demand and Esker’s undertakings as regards availability, monitoring and hosting services.

IF YOU COMPLY WITH THIS AGREEMENT, YOU HAVE THE RIGHTS DEFINED BELOW. BY ACCESSING AND USING THE SOFTWARE, YOU CONFIRM THAT YOU ACCEPT AND WILL COMPLY WITH THIS AGREEMENT.

ANY USE OF THE SOFTWARE IMPLIES FULL AND UNRESERVED ACCEPTANCE BY THE CUSTOMER OF THIS AGREEMENT, TO THE EXCLUSION OF ANY OTHER DOCUMENT.

1. DEFINITIONS

Throughout this Agreement the following words shall have the following meanings unless the context otherwise requires:

“**Associated Services**” means professional services related to the Software, such as implementation, configuration and technical support, performed by the Partner for the benefit of Customer under the terms and conditions of the Partner Customer Agreement.

“**Customer**” means any natural or legal person acting as a skilled professional in the exercise of its professional activity, and which has purchased through a Partner a subscription to access and use the Software and the Associated Services.

“**Customer Data**” means the data made available by the Customer on the Platform and Software, including Personal Data.

“**Document**” means any incoming and outgoing document (e.g. a letter, fax, invoice or sales order) uploaded in the Software by the Customer via a secure Internet connection for processing, delivery to a recipient and/or electronic archiving.

“**Documentation**” means operating manuals, user and technical documentation and/or any other related material (in any form) relating to the Software, including any online help and functional specifications designed and/or made available by Esker. Functional specifications expose the features of solutions made available on the Platform as pre-configured, available as standard in the Documentation, before customization by Partner for the needs of Customer.

“**Intellectual Property Rights**” means copyright, rights in software, trademarks, trade names, trade secrets, service marks, design rights, logos, patents, know-how, confidential information, rights in inventions, processes and formulae, domain names, and all and any other intellectual property rights related to the Software.

“**Partner**” means the person or entity to which Esker has granted the right to market and distribute the Software and Associated Services and from which Customer has purchased the Software and Associated Services under the terms and conditions of the Partner Customer Agreement.

“**Platform**” means a group of infrastructures, composed of software and hardware developed by Esker on which the Software is running.

“**Partner Customer Agreement**” means the agreement concluded between the Customer and the Partner under which the Customer

has purchased a subscription to access and use the Software and the Associated Services.

“**Software**” means the software as a service Esker on Demand.

“**Term**” means the term of the Customer’s subscription to access and use the Software, as granted under to the Customer under the Partner Customer Agreement.

2. INTELLECTUAL PROPERTY – GRANT OF RIGHTS

2.1. The Software (and any modifications to it), the Platform, the Documentation, the Intellectual Property Rights and all programs, services, processes, technologies and all materials comprising of or affixed to the Platform and the Software are wholly and exclusively owned by Esker, and its affiliates, and/or, as the case may be by Esker’s licensors, suppliers, and service providers except where expressly stated otherwise. Except the right to use the Software granted in accordance with article 2.2 of the Agreement, the Customer shall not have any rights to or in any such Intellectual Property Rights, or any other rights whatsoever in respect of the Software and Platform.

2.2. Subject to payment in full of all licence fees by the Partner to Esker, Esker grants to Customer, during the Term only, and subject to compliance with this Agreement, a non-exclusive, non-transferable, non-sub-licensable and world-wide right and licence to access and use the Software, the Platform and Documentation solely within the framework of his professional activity.

3. CUSTOMER’S OBLIGATIONS

3.1. The Customer shall:

- (i) comply with all applicable laws and regulations with respect to its use of the Software;
- (ii) use the Software in accordance with this Agreement;
- (iii) ensure that it has all necessary internet and network communications, computer equipment and a suitable web browser required in order to access and use the Software and complies with all other technical requirements notified to it from time to time.
- (iv) declare complete and accurate information when registering, and update them in case of change.

3.2. The Customer shall not:

- (i) use the Software in any way that breaches any applicable local, national or international law, regulation or code of practice, or is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect, or infringes any Intellectual Property Right from Esker or any Third Party or right to privacy;
- (ii) use its passwords and/or logins for purposes other than their strict authentication purpose. In this regard, the Customer must not, without this list being exhaustive, communicate, diffuse, share, make accessible, in any way, its identification elements to third parties,
- (iii) impersonate or attempt to connect to another account than its own,
- (iv) access, store, distribute or transmit any viruses, or any other material that (i) is deemed to be unlawful, harmful, threatening, defamatory, obscene, infringing, abusive, harassing or racially or ethnically offensive or discriminatory; (ii) may facilitate or promote illegal activity; or (iii) may cause damage or injury to any person or property;

- (v) attempt to access without authority, interfere with, damage or disrupt any part of the Software or Esker's IT systems;
 - (vi) except as expressly permitted by this Agreement and as may be allowed by any applicable law, attempt to reverse, compile, decompile, disassemble or reverse engineer any part of the Software, or copy, modify, translate, create derivative works from, transmit, or distribute all or any part of the Software and/or Documentation in any form or media;
 - (vii) access all or any part of the Software in order to build a product or service which competes with the Software; or
 - (viii) license, sell, rent, lease, transfer, assign, distribute, disclose, or otherwise commercially exploit, or otherwise make the Software available to any third party,
- and Esker reserves the right, without liability, to suspend or terminate access to the Software in the event of a virus being transmitted or other material security threat relating to the Software occurring, or in the event that the Customer's or any of the Customer's use of the Software is in breach of this clause 3.2.

3.3. The Customer is solely responsible for the content it publishes on the Software, including its identification elements. The Customer guarantees that its content respects public order and morality, does not infringe the rights of third parties, especially regarding intellectual property, privacy, reputation and image of third parties, does not contain any comments denigrating, defamatory or discriminating against Esker and third parties and that it complies with the relevant regulations.

4. TERM – SUSPENSION – TERMINATION

4.1. This Agreement shall only be effective once the Customer's request to use the Software and benefit from the Associated Services (submitted via the Partner) has been accepted by Esker and access has been granted by Esker to the Software. The Agreement is entered into for the Term as specified in the Partner Customer Agreement, unless terminated earlier in accordance with its terms.

4.2. Esker may, at its sole discretion and with immediate effect, suspend Customer's access to the Software if (i) Customer fails to comply with Agreement and especially with clause 3, and/or (ii) a virus has been transmitted or any other material security threat relating to the Software occurs, and/or (iii) Partner fails to pay any fee or other amount payable by it on its due date.

4.3. As an exception to clause 4.1, each Party may *ipso jure* terminate the Agreement, upon thirty (30) days written notice (showing its intention to enforce the hereby clause) of the other Party's material breach (including without limitation Customer's and/or Partner's failure to pay any fees due for the Software and/or the Associated Services, failure to comply with the Agreement, failure to respect Intellectual Property Rights) unless the breach is cured during that thirty (30) day period.

4.4. This termination will take effect immediately if the breach cannot be remedied. In case the partnership between Esker and the Partner is terminated, Esker may (depending on Customer's choice):

(a) directly provide the Software and Associated Services to the Customer pursuant to Esker's then-current terms of service for mutually-agreed subscription fees; or (b) recommend to Customer other partners or third parties for the provision of the affected Software and Associated Services.

4.5. On expiry or termination of this Agreement for any reason:

- (i) the licence and rights granted to the Customer under this Agreement shall immediately terminate and Esker shall with immediate effect stop the Customer's access to the Software;
- (iii) the accrued rights of the Parties as at termination shall not be affected or prejudiced, nor the continuation after termination of any provision expressly stated to survive or implicitly surviving termination.

5. CONDITIONS OF PERFORMANCE OF THE PLATFORM

5.1 Platform availability

Esker performs the Platform 24 hours a day, 7 days a week with 99,5% minimum availability, except in case of planned downtime and any unavailability caused by circumstances beyond Esker's reasonable control, including without limitation force majeure events or Internet service provider failures or delays. This availability is measured on a monthly basis thanks to the Esker monitoring systems and available to Customer on the web site www.trustesker.com.

5.2 Monitoring and updates

Esker reserves the right to momentarily interrupt the Platform for monitoring purposes including but not limited to: bug corrections, release of new features, testing, traffic performance enhancement or upgrading the Platform.

Esker performs updates at any time to enhance the Platform (back office updates) or release new features of the Software ("Front Office updates"). Depending on their nature, these Front Office updates are

- (i) either available to Customer upon release,
- (ii) may need minor configuration or,
- (iii) may need major customization.

The online help displays and categorizes these features.

Esker makes its best efforts to schedule monitoring and update of the Platform to the extent practicable outside working days. Any planned unavailability of the Platform exceeding 30 minutes will be announced on www.trustesker.com website, which Customer may visit at any time.

6. CUSTOMER DATA

6.1 General statements

6.1.1 The Customer shall own all rights in the Customer Data and shall have sole responsibility for the legality, reliability, integrity and accuracy of the Customer Data. Esker shall have no responsibility or liability for the legality, reliability, integrity or accuracy of the Customer Data.

Esker shall have no liability in respect of, or any responsibility to back up, any data or information (including Customer Data) inputted to or held on any third party software (whether or not via or accessed through the Software) from time to time.

6.1.2 Customer's Data uploaded in the Software within the framework of the Agreement is and remains the property of Customer. Esker shall not be entitled to use or access any Customer Data except as necessary for the performance of its obligations under the Agreement or as otherwise expressly authorised in writing by Customer. Customer grants Esker permission to access, copy, use, store, and/or transmit the Customer Data displayed on the Software solely as required for the purpose of hosting Customer Data and Documents. Such use may include troubleshooting to prevent, find, and fix problems within the framework of monitoring and update as described in clause 5.

6.1.3 Esker ensures that persons authorised to process Customer Data (i) have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality and (ii) have received an appropriate data protection training.

6.1.4 Esker shall ensure that access to Customer Data is limited to those personnel who require such access to perform the Agreement.

6.1.5 At the end of the Agreement, Esker erases all data disclosed by Customer after a two- month storage period unless required by the law or otherwise decided by Customer with the Partner.

6.1.6 Customer will defend Esker against claims brought against Esker, its affiliates and subcontractors by any third party related to Customer Data.

Customer will indemnify Esker against all damages finally awarded against Esker, its affiliates and subcontractors (or the amount of any settlement Customer enters into) with respect to these claims.

6.2 Personal Data

In the course of the performance of the Agreement, Esker may be involved in the processing of personal data ("Personal Data"). The Parties undertake to comply with any applicable data protection law and the General Data Protection Regulation ((EU) 2016/679) (hereinafter named "Applicable Law").

a) Nature, purposes and duration of the processing: Nature of the operations performed by Esker on Personal Data are limited to: collection, extraction, organisation, storage, consultation, use and deletion of Personal Data for the Term. Purpose of the said processing consists in hosting and storage of Documents, Customer Data and Personal Data (hereinafter "Hosting and Storage Processing") for their processing and routing, via the Partner, to recipients and information systems (by mail, email, fax or sms).

b) Type of Personal Data and categories of data subjects: Types of Personal Data collected for the performance of the Agreement mainly consist in first name, last name, postal or email address, phone/fax number, job title the case maybe, cookies, IP address.

Categories of data subjects are mainly Customer's employees or agents, employees of Customer's customers, employees of Customer's suppliers or any recipient/sender of messages addressed to or sent by Customer by mails/fax/sms/emails.

c) Receivers of the Personal Data: Personal Data that may be collected for the Hosting and Storage Processing of this Agreement can be used by Esker, its subsidiaries and/or partners who can process the Personal Data on behalf of Esker for the purpose of this Agreement.

d) Esker's obligations: as regards the Hosting and Storage Processing performed by Esker, it undertakes to

- process the Personal Data in accordance with the documented instructions from the Customer. Where Esker considers that an instruction infringes the applicable data protection law, it shall immediately inform the Customer thereof,
- Ensure that technical and organisational measures as implemented for Hosting and Storage Processing provide sufficient guarantees to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access;
- Promptly notify Customer of any Personal Data breach in relation with the Hosting and Storage Processing if Esker becomes aware of any unlawful access to said Personal Data hosted and stored on Esker's equipment/facility;
- Upon termination of the Agreement and according to the Customer's choice, delete Personal Data (without prejudice to any backup archives), or let Customer download its Personal Data on its own servers, by developing a web service administration tool giving access to the Platform.
- make available to Customer all information relating to the Hosting and Storage Processing necessary to demonstrate compliance with the obligations laid down in this section and allow for and contribute to audits, including inspections, conducted by Customer. In this respect, audits conducting by Customer, at its own costs, will comply with the following conditions:
 - o Before conducting any physical inspection at Esker's premises, Customer will send a remote Personal Data security assessment questionnaire of the Hosting and Storage Processing rendered by Esker as it solely relates to the Customer's account, upon thirty (30) days advanced written notice to Esker;
 - o If the result of this remote audit does not fit the needs of Customer, an independent auditor selected by parties may conduct an onsite audit to Esker's premises, after giving a 15-day prior notice, it being understood that such audit shall be

performed during normal business hours and not last than 2 Business Days;

- o Any audit may be performed only one (1) time per year;
- o Any audit can only relate to processing of Personal Data by Esker in relation with the Hosting and Storage Processing.

e) Sub-processors: Customer accepts that Esker may engage sub processor(s) to conduct specific processing activities of the Hosting and Storage Processing, it being understood that the list of sub processor is available on demand. The selected sub-processor is obliged to comply with the obligations hereunder. Esker ensures that the sub-processor provides the same sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the Hosting and Storage Processing meets the requirements of the Applicable Law. Where the sub-processor fails to fulfil its data protection obligations, Esker remains fully liable with regard to the Customer for the sub-processor's performance of its obligations.

f) Transfers of Personal Data: In the event that the Parties transfer personal data to third countries for the performance of the Agreement, the Parties shall carry out Personal Data in compliance with the applicable data protection law and shall protect Personal Data with the level of protection required under the Applicable Law.

Customer is informed that Personal Data processed for the purposes of the Hosting and Storage Processing may be transferred to Esker Inc., a wholly-owned subsidiary of Esker S.A. located in the United States of America and that EU-Standard Contractual Clauses have been signed to govern such transfer.

The Customer authorizes Esker S.A. to conclude EU-Standard Contractual Clauses with the importer of personal data in the name and on behalf of Customer in order to ensure sufficient data protection guarantees for processing in a third country.

g) Esker DPO: euprivacy@esker.com.

h) Information of data subjects: It is the Customer's responsibility to inform the data subjects concerned by the Hosting and Storage Processing at the time Personal Data are being collected, in compliance with applicable law.

i) Rights of data subjects: Customer shall comply with the Applicable Law regarding the data subject's rights when data of the latter are processed by Esker. If a data subject raises a data request directly to Esker, the latter will forward the request to Partner who will contact Customer.

7. LIMITATION OF LIABILITY

Except as expressly provided in the Agreement, neither Esker nor its subcontractors make any representation or warranties, express or implied, statutory or otherwise, regarding any matter, including the merchantability, suitability, originality, or fitness for a particular use or purpose, non-infringement or results to be derived from the use of or integration with any products or services provided under the Agreement, or that the operation of any products or services will be secure, uninterrupted or error free. Customer agrees that it is not relying on delivery of future functionality, public comments or advertising of Esker or product roadmaps in obtaining subscriptions for any Software.

Esker shall ensure the availability and continuity of the Platform and the Software under conditions set forth in clause 5. However, Esker shall not in any way be held responsible for any malfunction of the Software due to Associated Services, installation, configuration, maintenance, technical problems, network congestion or failure of any other remote transmission system, which could prevent the Software from functioning. Esker does not guarantee the continuity and quality of the communication links with the Customer. Thus, access to the Software may be interrupted without notice for a reasonable period of time, in particular for maintenance reasons or for any other reason than a fault of Esker.

Esker will not be responsible under this Agreement (i) if the Software is not used in accordance with the Documentation, or (ii) if the defect or liability is caused by Partner, Customer or any third-party product or service, or (iii) if the Software is used in conjunction with any product or service not provided by Esker, or (iv) for any Customer activities not permitted under this Agreement.

Notwithstanding any other provision in this Agreement, except for damages resulting from (i) gross negligence or wilful misconduct; and (iii) death or personal injury arising from Esker's gross negligence or arising from Esker's wilful misconduct, under no circumstances and regardless of the nature of any claim will Esker be liable to Customer or any other person or entity for an amount in excess of the subscription fees paid by Customer to Partner in the three months period immediately preceding the events giving rise to the claim for the Software directly causing the damages or be liable in any amount for any indirect damages, loss of good will or business profits, work stoppage, data loss, computer failure or malfunction, attorney's fees, court costs, or punitive damages.

In case Esker' liability would be engaged in any way, Esker may defeat such action, in its sole discretion, by correcting the defect or updating the Software.

8. MISCELLANEOUS

8.1 Third party services

The Software and Associated Services may include integrations with web services made available by third parties (other than Esker or its Affiliates) that are accessed through the Software and subject to terms and conditions with those third parties. These third-party web services are not part of the Software. Esker shall have no liability for any unavailability of or faults in any third-party services.

8.2 Independence

Partner is not an agent of Esker. It is an independent entity with no authority to bind Esker or to make representations or warranties on Esker's behalf. Esker will not be liable for reasonably relying on the accuracy and reliability of written information provided by Partner in making any decision that would give Esker ground to suspend the Software or terminate the Agreement. Esker will not be liable for the Partner when performing the Partner Customer Agreement and notably the Associated Services.

8.3 Force majeure

Neither Party shall be deemed in default or liable to the other Party for any matter whatsoever for any delays in performance or from failure to perform or comply with the terms of this Agreement due to any cause beyond a Party's reasonable control including, without limitation, acts of God, orders or acts of any Government authority, telecommunications network failures, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, sabotage, damage to equipment or facilities, strikes and other industrial disputes.

8.4 Waiver

A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the Party to whom the waiver is addressed and to the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

8.5 Voidness

If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the

provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

8.6 Confidentiality

Each party agrees that it shall not disclose to any third party any Confidential information of the other party, without prior written consent of such other party.

For the purposes of this Agreement, "Confidential information" means any information that was not expressly mentioned as being public by the disclosing party, the provisions of this Agreement, documents, files, computer programs or any other source related to EOD or any Documents or files or personal data provided to Esker by the Customer in the course of the Agreement.

Confidential information shall not include information: (a) that is, as of the signature date of the Agreement or thereafter, become publicly known, unless the receiving party is the source of the publication, (b) lawfully disclosed by a third party not under any obligation to maintain the confidentiality of either party, (c) independently developed by the receiving party without use of the disclosing party's Confidential information.

This obligation shall survive the termination or expiration of this Agreement for a period of five (5) years.

Notwithstanding the foregoing, this obligation is not applicable if a Party discloses Confidential Information in response to a valid order of a court or other governmental body or any other supervisory or judicial authority, entitled to require such disclosure.

The Parties commit to brief their personnel as well as non-third-party entities or legal persons on the confidential nature of the information disclosed by the other party and to bear the responsibility for any disclosure through their fault.

8.7 Governing law and jurisdiction

This Agreement and any disputes or claims arising out of or in connection with it (including non-contractual disputes or claims) are governed by the laws of France and the competent courts shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement.

Customer Name:

Represented by:

Signature Date:

Signature: