

EFT Arcus Subscription Agreement

BY ACTIVATING, SUBSCRIBING TO OR OTHERWISE USING EFT ARCUS, YOU AGREE AND ARE SUBJECT TO THE LICENSE TERMS SET FORTH BELOW. If You do not agree to the terms of this Subscription Agreement ("Agreement"), do not activate or otherwise use EFT Arcus.

1. DEFINITIONS. As used in this Agreement, the following defined terms shall apply:

1.1 "Administrator Interface" means a console which allows the administrator to manage the use of the Software.

1.2 "Documentation" means any electronic or printed media, materials, or documentation provided with the Software.

1.3 "EFT Arcus" means the hosted solution where the Software is made available to You as a service and is deployed by Globalscape or an authorized provider on third party infrastructure chosen by Globalscape or its authorized provider.

1.4 "Evaluation Period" shall mean, with respect to a Subscription to EFT Arcus, the period of time set forth in the Invoice.

1.5 "Globalscape" means GlobalSCAPE, Inc.

1.6 "Invoice" means the invoice issued by Globalscape or an approved channel partner, in the form of a digital or physical sales receipt or similar document, which states the Software or services purchased and the applicable fees. For subscriptions purchased through a public cloud service such as Microsoft Azure or Amazon AWS, the Invoice may be set forth by a public cloud infrastructure provider in its marketplace.

1.7 "Software" means the software included within EFT Arcus.

1.8 "Subscription" means a subscription to EFT Arcus for the period of time set forth in the Invoice.

1.9 "Term" shall mean the duration of the Subscription as set forth on the Invoice.

1.10 "You" means the individual accepting this Agreement or the entity for which such individual is accepting this Agreement.

2. GRANT OF LICENSE.

A. EVALUATION LICENSES. Globalscape may grant You a subscription at no charge for the purpose of evaluating EFT Arcus which may be used only for testing, demonstration or evaluation during the Evaluation Period. The Evaluation Period for EFT Arcus will be set forth in the Invoice and begins on the day EFT Arcus is accessed

or used for the first time. You must pay the agreed upon fees to continue having a Subscription to EFT Arcus after the Evaluation Period.

B. EFT ARCUS SUBSCRIPTION.

(i) **SUBSCRIPTION LICENSE.** You may access EFT Arcus according to the Tier which You have purchased as a subscription to the Software as set forth in Your Invoice and for the Term set forth in Your Invoice, and You agree to pay the fees determined based on such Tier and level of data You transmit through EFT Arcus. For so long as You have an active Subscription to EFT Arcus the administrators designated by You may use the Software's Administrator Interface. If You have also purchased a subscription to the Advanced Workflow Engine ("AWE") module, You may use AWE as indicated on Your Invoice. You may not utilize the AWE module independently from Your use of EFT Arcus. Certain consents required to be obtained from Globalscape pursuant to this Agreement may also require the consent of Network Automation, Inc. ("NAI"). You acknowledge that You have only the limited, non-exclusive right to use and copy the AWE module as expressly stated in this Agreement and that Globalscape and/or NAI, as the case may be, retains title to the Software and all other rights not expressly granted herein.

(ii) **AUTHORIZATION OF ACTIVITY.** You represent and warrant to Globalscape on a continuing basis that You and Your personnel are duly authorized to submit the data You transmit using EFT Arcus, that Your personnel and the recipients of any file availability notice are duly authorized to access the data requested or retrieved by You or Your personnel in connection with the use of EFT Arcus, and that Globalscape is duly authorized to receive, process, and transmit the data as contemplated in this Agreement.

C. TERM. The Term of Your Subscription to EFT Arcus is as indicated on Your Invoice.

(i) **TERM GENERALLY.** If Your invoice reflects your term is month to month, you can terminate on thirty (30) days written notice.

(ii) **TERM FOR ANNUAL COMMITMENT.** If Your invoice reflects Your term is one with an Annual Commitment, the Term of Your Subscription shall be one year and shall automatically renew for additional one (1) year terms. In the event You desire to terminate prior to the end of the current annual term, You agree to (i) provide Globalscape a written notice of termination at least thirty (30) days prior to the date of termination; and (ii) pay the difference between the Annual Commitment Obligation set forth in Your Invoice and the amounts You paid prior to the date of termination (the "Early Termination Fee").

D. DOCUMENTATION. You may use the Documentation solely in connection with Your Subscription to EFT Arcus.

3. SUBSCRIPTION TRANSFER RESTRICTIONS. You may use the Software, Documentation and Your Subscription to EFT Arcus solely for Your internal business process as contemplated by this Agreement and shall not license, sub-license, sell, re-sell, rent, lease, lend, transfer, assign, distribute, time share or otherwise commercially exploit or make the Software or Documentation available to any third party, other than as contemplated by this Agreement, without the prior written consent of Globalscape. You shall not sell, sell access to, or sell use of the Software, EFT Arcus or Documentation or utilize the Software or EFT Arcus as the basis for any software as a service or application service provider solution that You offer for sale or license to third parties. You shall not use the Software, EFT Arcus or the Documentation in connection with the provision of a service to any third party that includes file transfer or any other service that is a substitute for some or all the Software's functions without the prior written consent of Globalscape. You may not transfer a Subscription to EFT Arcus without the prior consent of Globalscape. A license granted solely for an Evaluation Period may not be sold or transferred to another person or entity in any manner. Transfer in violation of this Agreement, in whole or in part, will be void *ab initio*.

4. INFORMATION COLLECTION AND PRIVACY. EFT Arcus includes features that measure your level of usage based on the aggregate size of files transmitted. The Software reports usage information to Globalscape, and Globalscape uses this information to generate an invoice at the end of Your billing cycle. Globalscape may tie this information to personally identifiable information it has about You. Globalscape may use any non-proprietary information You provide as part of obtaining support services for Globalscape's business purposes, including product support and development. Globalscape's policies related to this information are further provided in the Privacy Policy available at www.globalscape.com. Additionally, when You utilize EFT Arcus for file transfers, the transferred files may be stored on a public cloud service such as Microsoft Azure for a period of time to facilitate the file transfer. Globalscape does not view or utilize the data in that file for any purpose.

5. SUBSCRIPTION USE RESTRICTIONS. You may not reduce the Software to human readable (or source code) form, reverse engineer, de-compile, disassemble, merge, adapt, or modify the Software or access it in order to copy any ideas, features, content, functions or graphics of the Software or EFT Arcus, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. You shall not (i) modify, copy or create derivative works based on the Software or EFT Arcus; or (ii) create Internet "links" to or reproduce any content forming part of the Software or EFT Arcus, other than for Your own internal business purposes. You shall not knowingly introduce or permit to be introduced into EFT Arcus any virus, worm, trojan horse or other software routine program or mechanism to permit unauthorized access into, to disable, to erase in whole or in part or otherwise to adversely affect the Software or EFT Arcus, including but not limited to data stored on EFT Arcus or any equipment maintained or used by Globalscape, its host or its customers. You may not use the Software to perform any unauthorized transfer of

information, such as copying or transferring a file in violation of a copyright, in violation of any laws related to the transfer of encrypted data or for any illegal purpose. You may not utilize the Software or EFT Arcus to (i) violate the law or rights of any person or entity, including sending spam, unlawful or tortious material; (ii) intentionally send or store software viruses, worms Trojan horses or other harmful computer code, files, scripts, agents or programs; (iii) intentionally interfere with or disrupt the integrity of any third party system, including EFT Arcus or the data contained therein; or (iv) intentionally attempt to gain unauthorized access to EFT Arcus or its related systems or networks. You may not use the Software or EFT Arcus to engage in, foster, or promote illegal, abusive, or irresponsible behavior, including: (i) unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures; (ii) monitoring data or traffic on any network or system without the express authorization of the owner of the system or network; (iii) interference with the provision of EFT Arcus to any other user or other network including, without limitation, mail bombing, flooding, deliberate attempts to overload a system and broadcast attacks; (iv) using an Internet account or computer without the owner's authorization; (v) using any false, misleading, or deceptive TCP-IP packet header information in an email; (vi) using the Software or EFT Arcus to distribute software that covertly gathers information about a user or covertly transmits information about the user; (vii) any conduct that is likely to result in retaliation against Globalscape or its host, or their respective employees, officers or other agents, including engaging in behavior that results in any server being the target of a denial of service attack (DoS); or (viii) the transmittal or storage of any content or links to any content that Globalscape reasonably believes: (a) constitutes, depicts, fosters, promotes or relates in any manner to child pornography, bestiality, or non-consensual sex acts; (b) is excessively violent, incites violence, threatens violence, or contains harassing content or hate speech; (c) is unfair or deceptive under the consumer protection laws of any jurisdiction, including chain letters and pyramid schemes; (d) is defamatory or violates a person's privacy; (e) creates a risk to a person's safety or health, creates a risk to public safety or health, compromises national security, or interferes with an investigation by law enforcement; (f) improperly exposes trade secrets or other confidential or proprietary information of another person; (g) is intended to assist others in defeating technical copyright protections; (h) infringes on another person's copyright, trade or service mark, patent, or other property right; (i) promotes illegal drugs, violates export control laws, relates to illegal gambling, or illegal arms trafficking; (j) is otherwise illegal or solicits conduct that is illegal under laws applicable to You, Globalscape or its host; (k) the upload, download, publishing, distribution, or otherwise copying or use in any manner of any text, music, software, art, image, or other work protected by copyright law unless sender has been expressly authorized by the owner of the copyright for the work to copy the work in that manner; or sender is otherwise permitted by established copyright law to copy the work in that manner; or (l) is otherwise malicious, fraudulent, or may result in retaliation against

Globalscape or its host by offended viewers or recipients, or is intended to harass or threaten.

6. **MAINTENANCE AND TECHNICAL SUPPORT SERVICES.** EFT Arcus includes the provision, during the Term of Your Subscription license to the Software, of updates and upgrades concurrently with release to other licensees or as deployed by Globalscape for EFT Arcus. The provision of updates, upgrades and helpdesk support services shall be as further described in the Globalscape Maintenance and Support Guide accessible at http://www.globalscape.com/files/GS_Support_Guide.pdf, as the same may be updated from time to time by Globalscape in its discretion.

7. **PAYMENT TERMS.**

A. **Generally.** Your payments shall be due and payable as set forth in Your Invoice (provided the Early Termination Fee shall be due and payable concurrently with any notice of termination pursuant to Section 2(C)(ii)). Thereafter, unless otherwise set forth in the Invoice, full payment is due within thirty (30) days from the date You receive a statement of any amounts due for renewals of Your subscription. Statements of payments due shall be transmitted on the date of issuance via electronic or postal mail to the primary or billing contact listed on Your account. Amounts not paid when due shall bear interest at 1.5% per month, or the highest non-usurious rate permitted under applicable law, whichever is less. If Globalscape is required to take legal action to collect any overdue amount, You shall also pay Globalscape's reasonable costs of collection, including reasonable attorneys' fees.

B. **Annual Commitment Obligation.** If Your Invoice reflects an Annual Commitment, You shall pay the Annual Commitment Obligation set forth in Your Invoice for each year of the Term of this Agreement. In the event Your actual use in each year of the Term does not meet or exceed Your Annual Commitment Obligation listed in the Invoice, You shall pay the difference between Your Annual Commitment Obligation and Your actual usage within thirty (30) days of end of each year of the Term.

8. **SECURITY.** The Software creates a means for others to gain access to Your servers and/or computers. Although we have taken commercially reasonable measures to prevent unauthorized persons from gaining access via the Software, we cannot foresee or control the actions of third parties. Therefore, use of the Software will make You vulnerable to security breaches that You might not otherwise face and could result in the loss of Your privacy or property. You agree that Globalscape is not liable to You for security breaches resulting from Your use of the Software or otherwise. You are solely responsible for the security and confidentiality of passwords by You and Your users.

9. **TERMINATION.** This Agreement terminates if You fail to comply with its terms and conditions or upon expiration of any Subscription to EFT Arcus, including all obligations to make payment and restrictions on Your use of the Software. If this Agreement terminates, You must discontinue access to EFT Arcus and the

Documentation and certify to Globalscape that You have complied with this obligation. The termination of this Agreement does not limit Globalscape's other rights it may have by law. The provisions in Sections 7, 10, 11, 12, 13, 14, 15, and 16 shall survive the termination of this Agreement.

10. **INTELLECTUAL PROPERTY; CONFIDENTIALITY.** You acknowledge that You have only the limited, non-exclusive right to use and copy the Software and Documentation as expressly stated in this Agreement and that Globalscape retains title, title and interest in the intellectual property rights and technology in the Software and Documentation and all other rights not expressly granted. This subscription is not a sale of the Software or any copy of the Software or any part thereof. You agree not to remove or modify any copyright, trademark, patent, or other proprietary notices that appear, on, in or with the Software or Documentation. The Software, Documentation and all derivatives thereof are protected by United States copyright, patent and trademark law, and rights granted by international treaties related to intellectual property rights. The Software and Documentation is copyright (c) 2004-2018 Globalscape, Inc. All rights reserved. You will keep confidential and refrain from disclosing any and all technical information, know-how, and inventions disclosed by Globalscape in relation to this Agreement and the license granted hereunder, except when, after, and to the extent that the information, know-how, and inventions are generally known to the public by means not related to Your disclosure thereof.

11. **EXPORT RESTRICTIONS. THE SOFTWARE CONTAINS ENCRYPTION TECHNOLOGY THAT IS CONTROLLED FOR EXPORT BY THE U.S. GOVERNMENT.** You agree to comply fully with all relevant export laws and regulations of the United States ("Export Laws") to assure that the Software and Documentation is not (i) exported, directly or indirectly (including as a result of providing access to the Software or Documentation to or otherwise permit access to EFT Arcus by a national or resident of an embargoed or restricted country), in violation of Export Laws, or the applicable laws of any other jurisdiction or (ii) provided to anyone on the U.S. Treasury Department's list of Specially Designated Nationals or the U.S. Commerce Department's Table of Denial Orders or Entity List. Among other things, the Export Laws provide that the Software and Documentation may not be exported or re-exported to certain countries that are embargoed or restricted, or to certain restricted persons as described in more detail at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>. Embargoed and restricted countries are subject to change but may include, but are not limited to, Cuba, Iran, Libya, North Korea, Russia, Somalia, Sudan, Syria, and Yemen. In addition to other restrictions described in this Section, You may not use the Software and Documentation, or export the Software and Documentation to any destination where You know or have reason to know that the Software or Documentation may be used, in connection with the proliferation of nuclear, chemical or biological weapons or missiles. You shall indemnify and hold Globalscape harmless in connection with any breach of this Section.

12. NO WARRANTIES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE, DOCUMENTATION, SUBSCRIPTIONS TO EFT ARCUS AND ANY MAINTENANCE AND SUPPORT SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, PERFORMANCE AND NON-INFRINGEMENT. IF APPLICABLE LAW REQUIRES A WARRANTY, THE REQUIRED WARRANTY IS LIMITED TO NINETY (90) DAYS FROM THE FIRST USE OF EFT ARCUS. COMPUTER PROGRAMS ARE INHERENTLY COMPLEX, AND THE SOFTWARE AND DOCUMENTATION MAY NOT BE FREE OF ERRORS. THE SOFTWARE, DOCUMENTATION AND RELATED SERVICES ARE PROVIDED WITH ALL FAULTS AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY AND EFFORT IS WITH YOU. GLOBALSCAPE DISCLAIMS ALL LIABILITY FOR ANY ACTION THAT YOU, YOUR DESIGNEE, OR YOUR AGENTS MIGHT TAKE IN CONNECTION WITH, OR IN RELIANCE UPON, THE TRANSMISSION OR RECEIPT OF ANY MESSAGE USING THE SOFTWARE OR RELATED SERVICES. SOME STATES DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES SO THESE LIMITATIONS MAY NOT APPLY TO YOU.

THE SOFTWARE IS NOT FAULT-TOLERANT AND IS NOT DESIGNED OR INTENDED FOR USE IN HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING WITHOUT LIMITATION, IN THE OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION OR COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, WEAPONS SYSTEMS, DIRECT LIFE-SUPPORT MACHINES, OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE SOFTWARE COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH RISK ACTIVITIES"). IN FURTHERANCE OF THE DISCLAIMER OF THE IMPLIED WARRANTY OF FITNESS CONTAINED ABOVE, ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS FOR HIGH RISK ACTIVITIES IS EXPRESSLY DISCLAIMED. YOU MAY NOT USE THE SOFTWARE OR EFT ARCUS IN ANY SITUATION WHERE FAILURE OR FAULT COULD LEAD TO DEATH OR SERIOUS BODILY INJURY OF ANY PERSON, OR TO PHYSICAL OR ENVIRONMENTAL DAMAGE. FOR EXAMPLE, YOU MAY NOT USE, OR PERMIT ANY OTHER PERSON TO USE, THE SOFTWARE OR EFT ARCUS IN CONNECTION WITH AIRCRAFT OR OTHER MODES OF HUMAN MASS TRANSPORTATION, NUCLEAR OR CHEMICAL FACILITIES, OR CLASS III MEDICAL DEVICES UNDER THE FEDERAL FOOD, DRUG AND COSMETIC ACT.

13. LIMITATION OF LIABILITY. NEITHER GLOBALSCAPE NOR ITS THIRD PARTY LICENSORS (INCLUDING WITHOUT LIMITATION NAI AND DEI) SHALL BE LIABLE TO YOU FOR ANY PUNITIVE, CONSEQUENTIAL, SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES OF ANY KIND ARISING OUT OF THE DELIVERY,

PERFORMANCE, OR USE OF THE SOFTWARE OR DOCUMENTATION OR RECEIPT OF ANY SERVICES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, DATA, GOODWILL, WORK STOPPAGE, COMPUTER FAILURE OR MALFUNCTION, SECURITY BREACHES RESULTING IN DISCLOSURE OF CONFIDENTIAL INFORMATION OR ANY AND ALL OTHER DAMAGES OR LOSSES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU. UNLESS APPLICABLE LAW PROVIDES OTHERWISE, THE LIABILITY OF GLOBALSCAPE AND ITS THIRD PARTY LICENSORS (INCLUDING WITHOUT LIMITATION NAI AND DEI) FOR ANY CLAIM RELATED TO YOUR PURCHASE OF A LICENSE FOR OR USE OF THE SOFTWARE OR DOCUMENTATION OR THE RECEIPT OF SERVICES, WHETHER IN CONTRACT, TORT, OR ANY OTHER THEORY OF LIABILITY WILL NOT EXCEED THE GREATER OF U.S. \$5.00 OR THE FEES PAID BY YOU UNDER THIS AGREEMENT IN THE PRIOR TWELVE MONTHS.

14. U.S. GOVERNMENT. The Software is commercial computer software developed solely at private expense. The rights of civilian and non-civilian agencies of the U.S. Government to use, disclose and reproduce the Software are governed by the terms of this Agreement. Publisher is Globalscape, Inc., 4500 Lockhill-Selma, Suite 150, San Antonio, Texas, 78249, USA.

15. PUBLICITY. Notwithstanding anything in this Agreement to the contrary, Globalscape may identify You as a customer of Globalscape and Your company name, logos and other marks in press releases, general advertising materials, case studies, and other promotional materials, provided that Globalscape will include protective legends necessary to protect Your rights in and to Your trademarks, service marks, or copyrighted materials. Any other use made by Globalscape will only occur upon the receipt of prior written approval from You.

16. MISCELLANEOUS. This Agreement, the entire relationship of the parties hereto, and all matters arising out of or relating to this Agreement (whether grounded in this Agreement, tort, statute, law or equity) shall be governed by, construed in accordance with, and interpreted pursuant to the laws of the State of Texas, without giving effect to its choice of laws principles. This Agreement is performable within the State of Texas. Any lawsuit or other legal proceeding between the parties shall be brought only in the civil district courts or federal courts located within the State of Texas. The parties hereby consent to the personal and exclusive jurisdiction and venue of these courts. This Agreement is not governed by the United Nations Convention on Contracts for the International Sale of Goods. Notwithstanding the foregoing, GlobalSCAPE may seek injunctive relief in any court to prevent imminent harm. Notices shall be sent to Globalscape at 4500 Lockhill-Selma, Suite 150, San Antonio, Texas, 78249, USA and to You at the address where bills are to be transmitted pursuant to the Invoice. If either

party engages outside counsel to enforce this Agreement, and in any action or proceeding between the parties relating to this Agreement, the enforcing or prevailing party will be entitled to recover its reasonable attorneys' fees. In the case of an action of proceeding and any appeal in connection therewith, such attorneys' fees, as well as the prevailing party's other costs and expenses, will be awarded in addition to any other relief awarded or granted. This Agreement and the Invoice constitutes the complete and exclusive agreement between us, notwithstanding any provision in any purchase order or other written document that You may issue or provide. In the case of a conflict between this Agreement and the Invoice and any fees set forth on the GlobalSCAPE website, the Invoice shall control. This Agreement may only be modified by a written document signed by Globalscape. No Globalscape authorized provider, marketplace, dealer or distributor is authorized to change the terms of this Agreement. If any portion hereof is found to be void or unenforceable, then such provision shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable when applied to such facts or circumstances, with the objective of achieving as nearly as legally possible the same effect. Failure to exercise or delay in the exercise of any right or remedy under this Agreement shall not operate as a waiver thereof. English is the official language of this Agreement, and all communications relating to this Agreement must be in the English language. If You are located outside the United States, then the following provision applies: Les parties aux présentes confirment leur intention que cette convention ainsi que tous les documents afférents soient rédigés dans la langue anglaise. (Translation: "The parties confirm that this Agreement and all related documentation is and will be in the English language.")

Should You have any questions concerning this Agreement, or if You desire to contact Globalscape for any reason, please contact Globalscape by mail at: 4500 Lockhill-Selma, Suite 150, San Antonio, Texas, 78249 USA, by telephone at: +1 (210) 308-8267, or by electronic mail to legal@globalscape.com.

Please print a copy of this Agreement for Your records.

3.30.2018